AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

H.R. 2266, THE REASONABLE PRUDENCE IN REGULATION ACT; AND H.R. 2267, THE INTERNET GAMBLING REGULATION, CONSUMER PROTECTION, AND ENFORCEMENT ACT

HEARING

BEFORE THE

COMMITTEE ON FINANCIAL SERVICES
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED ELEVENTH CONGRESS

FIRST SESSION

DECEMBER 3, 2009

Printed for the use of the Committee on Financial Services

Serial No. 111–92

U.S. GOVERNMENT PRINTING OFFICE

56–235 PDF WASHINGTON : 2010

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512–1800; DC area (202) 512–1800
Fax: (202) 512–2104 Mail: Stop IDCC, Washington, DC 20402–0001

HOUSE COMMITTEE ON FINANCIAL SERVICES

BARNEY FRANK, Massachusetts, *Chairman*

PAUL E. KANJORSKI, Pennsylvania
MAXINE WATERS, California
CAROLYN B. MALONEY, New York
LUIS V. GUTIERREZ, Illinois
NYDIA M. VELÁZQUEZ, New York
MELVIN L. WATT, North Carolina
GARY L. ACKERMAN, New York
BRAD SHERMAN, California
GREGORY W. MEEKS, New York
DENNIS MOORE, Kansas
MICHAEL E. CAPUANO, Massachusetts
RUBÉN HINOJOSA, Texas
WM. LACY CLAY, Missouri
CAROLYN McCARTHY, New York
JOE BACA, California
STEPHEN F. LYNCH, Massachusetts
BRAD MILLER, North Carolina
DAVID SCOTT, Georgia
AL GREEN, Texas
EMANUEL CLEAVER, Missouri
MELISSA L. BEAN, Illinois
GWEN MOORE, Wisconsin
PAUL W. HODES, New Hampshire
KEITH ELLISON, Minnesota
RON KLEIN, Florida
CHARLES A. WILSON, Ohio
ED PERLMUTTER, Colorado
JOE DONNELLY, Indiana
BILL FOSTER, Illinois
ANDRÉ CARSON, Indiana
JACKIE SPEIER, California
TRAVIS CHILDERS, Mississippi
WALT MINNICK, Idaho
JOHN ADLER, New Jersey
MARY JO KILROY, Ohio
STEVE DRIEHAUS, Ohio
SUZANNE KOSMAS, Florida
ALAN GRAYSON, Florida
JIM HIMES, Connecticut
GARY PETERS, Michigan
DAN MAFFEI, New York

SPENCER BACHUS, Alabama
MICHAEL N. CASTLE, Delaware
PETER T. KING, New York
EDWARD R. ROYCE, California
FRANK D. LUCAS, Oklahoma
RON PAUL, Texas
DONALD A. MANZULLO, Illinois
WALTER B. JONES, JR., North Carolina
JUDY BIGGERT, Illinois
GARY G. MILLER, California
SHELLEY MOORE CAPITO, West Virginia
JEB HENSARLING, Texas
SCOTT GARRETT, New Jersey
J. GRESHAM BARRETT, South Carolina
JIM GERLACH, Pennsylvania
RANDY NEUGEBAUER, Texas
TOM PRICE, Georgia
PATRICK T. McHENRY, North Carolina
JOHN CAMPBELL, California
ADAM PUTNAM, Florida
MICHELE BACHMANN, Minnesota
KENNY MARCHANT, Texas
THADDEUS G. McCOTTER, Michigan
KEVIN McCARTHY, California
BILL POSEY, Florida
LYNN JENKINS, Kansas
CHRISTOPHER LEE, New York
ERIK PAULSEN, Minnesota
LEONARD LANCE, New Jersey

JEANNE M. ROSLANOWICK, *Staff Director and Chief Counsel*

CONTENTS

	Page
Hearing held on:	
December 3, 2009	1
Appendix:	
December 3, 2009	29

WITNESSES

THURSDAY, DECEMBER 3, 2009

Aftab, Parry, Executive Director, WiredSafety	10
Brodsky, Michael, Executive Chairman, Youbet.com	18
Dowling, James F., President and Managing Director, Dowling Advisory Group	16
Martin, Hon. Robert, Tribal Chairman, Morongo Band of Mission Indians	9
Sparrow, Malcolm K., Professor, John F. Kennedy School of Government, Harvard University	12
Vallandingham, Samuel A., Chief Information Officer and Vice President, The First State Bank, on behalf of the Independent Community Bankers of America (ICBA)	7
Whyte, Keith S., Executive Director, National Council on Problem Gambling (NCPG)	14

APPENDIX

Prepared statements:	
King, Hon. Peter	30
McDermott, Hon. Jim	32
Aftab, Parry	35
Brodsky, Michael	39
Dowling, James F.	44
Martin, Hon. Robert	49
Sparrow, Malcolm K.	53
Vallandingham, Samuel A.	156
Whyte, Keith S.	163

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

Bachus, Hon. Spencer:	
Written responses to questions submitted to Samuel A. Vallandingham	166
Letter from the FBI, dated November 13, 2009	168
Letter from Concerned Women for America (CWA)	171
Letter from various sports leagues	172
Letter from Professor John Warren Kindt, with attachments	174
Letter from the Coalition Against Gambling in New York	186
Letter from CasinoFree PA	188
Letter from Stop Predatory Gambling	190
Letter from Focus on the Family	192
Letter from Citizens Against Casino Gambling in Erie County	193
Himes, Hon. Jim:	
"Internet Gambling, Issues & Solutions"	195
Map of 2,048 Global Internet Casino Sites	209
Miscellaneous Members:	
Written statement of the Alderney Gambling Control Commission Channel Islands	212
Written statement of Marie Alexander, President and CEO, Quova	228

Page

Miscellaneous Members—Continued
Written statement of Jay Cohen, President, Antiguan Online Gaming Association 233
Written statement of Rt Hon David Blunkett MP, Former Home Secretary and Cabinet Member in the United Kingdom 239
Written statement of Catania Ehrlich & Suarez, P.C. Law Offices 248
Written statement of the Credit Union National Association (CUNA) 250
Written statement of the European Sports Security Association (ESSA) ... 251
Written statement of Mary Williams, Chief Secretary, Isle of Man Government 253
Written statement of Francesco Rodano, Head of Remote Gaming, AAMS-Autonomous Administration of State Monopolies (Italy's Gaming Regulatory Body) 257
Written statement of Keith Marsden, Managing Director, 192business.com 262
Written statement of the National Association of Federal Credit Unions (NAFCU) 280
Written statement of Craig Pouncey, Partner, Herbert Smith LLP (Brussels) 290
Written statement of Chris Thom, Chairman, Secure Trading Inc. 293

H.R. 2266, THE REASONABLE PRUDENCE IN REGULATION ACT; AND H.R. 2267, THE INTERNET GAMBLING REGULATION, CONSUMER PROTECTION, AND ENFORCEMENT ACT

Thursday, December 3, 2009

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON FINANCIAL SERVICES,
Washington, D.C.

The committee met, pursuant to notice, at 10:04 a.m., in room 2128, Rayburn House Office Building, Hon. Barney Frank [chairman of the committee] presiding.

Members present: Representatives Frank, Maloney, Sherman, Moore of Kansas, Baca, Green, Cleaver, Perlmutter, Carson, Adler, Kosmas, Himes, Peters, Maffei; Bachus, King, Biggert, Capito, Campbell, Posey, Jenkins, and Lee.

The CHAIRMAN. The hearing will come to order.

I will recognize myself for 5 minutes to say that it is nice to be able to think legislatively about things other than the financial crisis which has consumed this committee to a great extent since September of last year, 2008. The question is raised sometimes why this committee is the committee that is dealing with the questions of gambling. Under a previous chairman, Mr. Leach, the committee initiated legislation to deal with the Internet gambling issue by controlling the payment method, and so that is why it continues to be in our jurisdiction. There are other committees that have jurisdiction over other aspects of this, such as the Wire Act, which does not come before us.

I continue to believe that it is a great mistake for the Congress of the United States to tell adults what to do with their own money on a voluntary basis. Some adults will spend their money unwisely. It is not the business of the Federal Government to prevent them legally from doing it. They should be given information, and they should be given consumer protections. In cases where an accumulation of bad individual decisions have a systemic impact, and arguably there was an element to that in the subprime crisis, then we have to step in. But I think John Stuart Mill got it right in the 19th Century, when people are making decisions to take actions that primarily affect them, they ought to be allowed to do that.

I am struck by, frankly, what seems to me an inconsistency on the part of some of my conservative colleagues who bemoan the "nanny state," who talk about limited government, who urge that the government ought to stay out of people's lives, and who also

argue that the Internet ought to be free of restrictions, but who then single out the Internet for restrictions on personal choices to be made by individuals. We have been told that this is just a screen for, or could be a screen for, terrorists and other activities.

I am encouraged by the strong support for the legislation repealing this and setting up a regulatory regime instead that comes from the ranking Republican and former chairman of the Homeland Security Committee, the gentleman from New York, Mr. King. No Member of this House exceeds him in his concern for public policies that protect us against terrorism. His advocacy for this, I think, is very important.

I am also glad to have the strong support here of the gentleman from Texas, Dr. Paul, who is acting consistently on his opposition to government intrusion, unlike others who appear to pick and choose.

It is true that if things are on the Internet, there is the possibility that underaged people can get at them. There are a whole range of things on the Internet which we would not like underaged people to avail themselves of: the sale of alcoholic beverages, sex-oriented material, purchases. People who are underage shouldn't be allowed to freely buy things in the name of the family.

The notion that because some people will abuse something, you prevent everybody from doing it, is as great a threat to the liberty of the individual as any philosophy I have ever seen. And it also, of course, stops nothing. There are people who gamble to excess, there are people who drink to excess, there are people who smoke to excess, there are young people who play video games to excess, there are people who diet to excess; they do all manner of things to excess. And again, in a free society individuals are given information and allowed to make their choices and not prohibited from doing it.

I do remember an argument that was made on the Floor of the House by the lead sponsor of the bill, originally the gentleman from Iowa, when he said, this Internet gambling adds nothing to the GDP, so we can ban it. Well, whether it does or doesn't is arguable, but I have to say the notion that if something does not add to the GDP, we have a right to ban it, is chilling and it has negative implications for personal freedom.

There are large numbers of people in this country who enjoy gambling on the Internet. I believe we should do what we can to regulate this as you regulate other activities. But the notion that this Congress should tell millions of adult Americans that we know better than they what they should do with their own money on their own time on their own computers seems to me to be a very grave error, and I hope that this whole legislation is repealed.

The CHAIRMAN. The gentleman from Alabama is now recognized for how much time?

Mr. BACHUS. For 10 minutes.

I thank the chairman. I think, as all of us know, Chairman Frank and I have very different views on this, and we approach this very differently. He wants to legalize Internet gambling, and then he wants to tax it. On the other hand, I believe that Internet gambling is and has been and will continue to be a substantial threat to our youth, and that any economic benefit from taxing

Internet gambling would be more than offset by the harm it causes our young people.

And we have had hearing after hearing where experts testified as to really what we have as a wave of young Americans who are addicted to gambling and the problems that causes, which are in many cases heartbreaking. I saw an article in The New York Times where one mother wrote a letter to the editor describing the horror that had been created from her son whom she basically has lost to Internet gambling.

Internet gambling characteristics are unique. Online players can gamble 24-hours-a-day, 7-days-a-week from home. Children may play without sufficient age verification, and they can bet with a credit card. We have had testimony before that this undercuts a player, particularly a young person's perception of the value of cash; that the younger you become engaged in this behavior, the more addictive it is. It actually wires the brains of some of our young people. It leads to addiction, bankruptcy, and crime. We have actually had testimony that one of the most outstanding young football players from a Florida university, his whole career was ruined, and that career started with Internet gambling at a young age. He, in fact, was arrested for burglarizing a business to pay for gambling debts.

Young people are particularly at risk because if you put a computer in a bedroom or a dorm room of a young person, it is a temptation that many fall prey to. It is simply asking too much of young people that they resist this temptation.

The chairman talks about America and what it stands for, and one of the things it stands for is not telling adults what they can and cannot do. But one thing that America also stands for, and I think every society, whether it is American society or any other society, I think one of our number one goals ought to be protecting our youth. We certainly do not allow people to come into their bedroom and serve them liquor at a young age or sell them pornography. And the fact that the chairman says, well, you know, you can buy pornography on the Internet, you can order liquor on the Internet, you ought to be able to allow Internet gambling, I think makes no sense whatsoever.

For more than a decade, the majority of this Congress has worked for and voted for legislation to combat illegal Internet gambling. It has always been illegal in the United States, but no one could enforce the law because these criminal enterprises operated offshore. They operated offshore because that removed them from the long arm of not only the Justice Department, but also other law enforcement agencies.

We have had letters from the great majority of attorneys general telling us that without some legislation such as the legislation that we passed in 2006, they were powerless to stop Internet gambling, which was against the law of all their States. And I will remind anyone who is interested in this subject that it is the States and the people of the States, adults in those States, who have gone to the polls or their legislative representatives have passed laws saying that illegal Internet gambling should be stopped. The States prohibit it, and the last time I looked, all of them did it through a democratic process.

In a nation of law, it only makes sense to try to put these illegal Internet criminal enterprises out of business and not reward them as the chairman would do. Congress took a major step towards protecting our youth and stopping this illegal activity with the passage of the 2006 Unlawful Internet Gambling Enforcement Act. It is that Act that the chairman continues to try to repeal or postpone enactment of, and obviously he has allies at the Treasury Department and the Federal Reserve who last week announced that they were again delaying implementation of the law another 6 months. These regulations should have been finalized and implemented more than 2 years ago. This Congress voted; the House voted by an overwhelming number, over 330 Members, as I recall, over three-fourths of the Congress, to stop illegal Internet gambling. And, Mr. Chairman, I think it is time for you, the Treasury, and the Fed to stop delaying the will of the great majority of this Congress and the American people. Quit the foot dragging and enforce this law.

The Fed is not here today. The chairman didn't ask the Fed or the Justice Department to come in and defend themselves because they really have no defense. It is they who ought to be testifying today and not most of the witnesses, many of whose studies are funded by the gambling industry or their associations are supported by the gambling industry.

The absence of the Justice Department and the Federal Reserve is particularly egregious in light of a letter I received from the FBI earlier this month. Without objection, I would like to submit that letter for the record now.

The CHAIRMAN. Without objection, it is so ordered.

Mr. BACHUS. In the letter, the FBI warns that technology exists to facilitate undetectable manipulation of online poker games. The FBI warns that technology can be used in peer-to-peer games to illegally transfer ill-gotten gains from one person to another. The FBI, in their letter, rejects claims from vendors who say they can validate age and location.

The witnesses today are going to again testify that technology is available to keep minors from gambling on the Internet. The FBI's letter rejects that contention. So the law enforcement agency, the Federal law enforcement agency, actually says that these so-called protections won't work.

Before the UIGEA, offshore Internet casinos were proliferating, raking in more than $6 billion annually from Americans, $6 billion. We found out through disclosures that about $40 million of that has been spent right here in Washington, D.C., hiring lobbyists. One of the first lobbyists they hired was Jack Abramoff. If Congress repeals the law, we will continue to have these online casinos.

In the next 5 years, Chairman Frank, I feel that if you are successful in creating a Federal right to gamble on the Internet, we will create a generation of tens of millions of Americans who from their youth will be addicted to Internet gambling and, therefore, lifelong problem gamblers. That is a problem for all of us. Gamblers will be able to place bets from their home computers, but also from their BlackBerries as they drive home from work, or their iPhones as they wait in line at the grocery store. One company has

already developed an iPhone gambling software and plans to release it whenever the law is reversed. They have announced that. I will do everything I can to make sure this never happens.

In conclusion, Mr. Chairman, supporters of the legalization of Internet gambling argue that prohibition has sent Internet gambling underground and left the vulnerable unprotected, but that was the case before our law. The vulnerable were unprotected because companies that tap the American market violated our laws and our protections. No amount of regulation can begin to protect against this particularly predatory and abusive intrusion into American homes and the harm it is causing our youth. No approach to blocking Internet gambling will ever be perfect, but what we have fashioned is our best hope.

I yield back the balance of my time.

The CHAIRMAN. I yield myself my remaining 5 minutes.

First, when we announced this hearing, a member of the Minority staff said that if we had a hearing, they would ask us for official representatives, but I received no such request. If the gentleman has a record of a request to me—he often writes me letters and asks for hearings. We had one yesterday at his request, but I don't recall a request to me for this one.

Mr. BACHUS. I supplied that request. Our staff repeatedly, over the last week or two, has asked that you call the members of the committee here. And I will introduce that for the record.

The CHAIRMAN. I was surprised. In writing?

Mr. BACHUS. Yes.

The CHAIRMAN. We are talking about oral staff-to-staff.

Mr. BACHUS. Not only that, but e-mail correspondence.

The CHAIRMAN. We got e-mail correspondence asking as of what date?

Mr. BACHUS. I will get that to you.

The CHAIRMAN. I haven't seen it. But I will say this: The gentleman from Alabama, when he was concerned about a hearing, asked about one or asked about witnesses, he has never brought this up to me.

Mr. BACHUS. Well—

The CHAIRMAN. I am sorry, my time. Those are the rules.

The gentleman said he asked this. We had a hearing yesterday at his request, as he noted. We frequently have hearings at the request of the Minority. We have a hearing on covered bonds coming up. I sit next to the gentleman. He is very vocal when he has things that he cares about, and he never referred that to me.

Secondly, I do want to say with regard to the delay, the gentleman said they have been dragging their feet for over 2 years. Let us be clear that the great bulk of that 2 years was under the Bush Administration. After all, it was the Bush Administration that was there for most of the time. They did—and here is one of the reasons why I think they should have been suspended—issue a midnight regulation. President Bush had said towards the end of his term that he wasn't going to issue last-minute regulations, and this one was issued at the very last minute just before he went out of office, not a practice that ought to be condoned.

It is also the case that there are two arguments here: one is about the law; and the other is about the extraordinary burden it

imposes on the banking industry. It co-opts them to be the antigambling cops. The fact is that overwhelmingly, people in the financial industry have said that putting the burden on them to decide what is or isn't a payment for gambling is a great burden on them at a bad time. And in fact, when the testimony came, particularly from the Federal Reserve, the Federal Reserve made it very clear that they didn't think much of this law, they didn't think—not from the standpoint of the morality of gambling or not, but from the standpoint of whether or not it was possible in a reasonable way to enforce it. And that is a very big issue here with the problems banks now have, and this is for all banks, big banks, little banks. With the problems they now have, imposing this duty on them seems to me very odd.

I also want to say that I was astounded by the gentleman's prediction that millions of young Americans will become gambling addicts if they can gamble. I have heard hyperbole in my years here. The notion that millions of young Americans will become addicts is based on absolutely no factual evidence whatsoever. There are addicts to gambling, there are addicts to video games, there are addicts to cigarettes, and there are addicts to a lot of things that shouldn't be there.

And the gentleman said, well, it is in the bedroom the liquor has to be delivered. But pornography doesn't have to be delivered. Pornography can be accessed directly on the Web. There are things you can access directly on the Web that we don't think young people should see.

And I have to be clear and say I don't think this is simply about protecting young people. That may be the main motivation from the gentleman from Alabama. We have a lot of people in this country who think gambling is wrong and want to prevent adults from doing it, and that is not something to which we should be giving approval.

And we come back to this general view. Yes, there was a football player who became addicted, a woman's son became addicted, there are addictions of various sorts. The notion that you end the legal ability of adults to spend their own money on an activity that harms no one at all because some minority of people will abuse it is a recipe for the destruction of individual freedom, and that is what we are talking about. And it is especially done in a way that imposes great regulatory burdens. Of all the regulatory burdens we have talked about imposing on the financial industry, this one appears to be the greatest.

So I simply want to reiterate we are talking here about personal freedom. And, again, the principle we are adopting—and, by the way, it is also the principle of Internet freedom. This would then mean it was easier to do things offline than online.

You also have the argument, by the way, the poker players. I think to suggest that the millions of Americans who play poker and play poker on the Internet, that they are addicts or about to be addicts or people who are fostering addiction is both inaccurate and terribly unfair. So I hope we will go forward with this legislation.

And now let me call on the gentlewoman from West Virginia, who wanted to introduce one of the witnesses.

Mrs. CAPITO. Thank you, Mr. Chairman. I would like to introduce one of the witnesses, Sam Vallandingham, to the committee this morning. He is currently the vice president and chief information officer of First State Bank in Barboursville, West Virginia, and he is testifying today on behalf of the Independent Community Bankers of America. Sam and his family, their bank, has had a presence in West Virginia for over 100 years, and I have had the fortunate opportunity to work with Sam over my 9 years in Congress. He is a tireless advocate for community banking in West Virginia and in his local community of Barboursville, and he is a great West Virginian.

Welcome, Sam.

STATEMENT OF SAMUEL A. VALLANDINGHAM, CHIEF INFORMATION OFFICER AND VICE PRESIDENT, THE FIRST STATE BANK, ON BEHALF OF THE INDEPENDENT COMMUNITY BANKERS OF AMERICA (ICBA)

Mr. VALLANDINGHAM. Thank you, Mrs. Capito.

Chairman Frank, Ranking Member Bachus, and members of the committee, my name is Sam Vallandingham. I am vice president and chief information officer of the 104-year-old First State Bank in Barboursville, West Virginia. I am also vice chairman of the payments and technology committee for the Independent Community Bankers of America. Barboursville is an historic town of 3,200 people in the far western part of the State near the Kentucky border. Our bank employs 58 people at 3 locations and holds close to $214 million in assets.

Banking has been in my family for four generations. My great-grandfather, a Kentucky tobacco farmer, sold his farm to raise capital to start First State Bank. It was said my grandfather came to West Virginia in a horse and buggy, and those two were eventually sold with the proceeds used to set up the bank. The original charter, dated September 1, 1905, and the certificate of authority still hang on the wall in the bank's main office.

I am pleased to represent community bankers and ICBA's 5,000 members at this important hearing on H.R. 2266, the Reasonable Prudence in Regulation Act, and H.R. 2267, the Internet Gambling Regulation, Consumer Protection, and Enforcement Act. ICBA commends Chairman Frank for introducing this legislation, which would provide greater certainty for all concerned.

Throughout these deliberations, ICBA has not taken a position on the appropriateness of prohibiting Internet gambling. We did, however, express our concerns over the burdens that the community banking industry and payment system would face if charged with identifying and blocking unlawful Internet gambling payment transactions. Payment systems were not designed for this function, and such requirements would undermine payment system efficiencies.

The added burden of monitoring all payment transactions for the taint of unlawful Internet gambling would drain finite resources currently engaged in complying with antiterrorism, anti-money laundering regulations, the plethora of new regulations emerging from the financial crisis, and the daily operation of community banks to meet the financial needs of their customers and commu-

nities. Therefore, we greatly appreciate your decision to include the ICBA-supported provisions granting Treasury and the Federal Reserve authority to exempt certain transactions when transaction tracking and blocking is not reasonably practical.

But the law still requires banks to avoid doing business with unlawful Internet gambling companies. Unfortunately, the law fails to define unlawful Internet gambling, which is vitally necessary if banks are to comply with the law. As a result, the burden of identifying which entities are engaged in unlawful Internet gambling rests solely on financial institutions. Community banks are required to determine whether current or prospective customers are in violation of diverse Federal, State, and Indian tribal gaming laws.

Obviously this is not workable. Therefore, ICBA strongly endorses H.R. 2267, the Internet Gambling Regulation, Consumer Protection, and Enforcement Act, which establishes a Federal regulatory and enforcement framework for licensing Internet gambling operators. The certainty provided by this approach is key to our support. ICBA strongly urges the committee and Congress to expeditiously pass H.R. 2267.

Mr. Chairman, ICBA greatly appreciates your efforts to enact this legislation. While you and your colleagues must decide on the Nation's policy for Internet gambling, we hope you can all agree that the Nation's community banks, as well as other participants in the payment systems, should not be put in the impossible position of making legal judgments about which individual businesses are or are not engaged in unlawful Internet gambling. That would create an unnecessary burden and require nongovernmental entities to make decisions that should be made by law enforcement agencies and the court system.

Thank you for my time.

[The prepared statement of Mr. Vallandingham can be found on page 156 of the appendix.]

The CHAIRMAN. Before going to the next witness, I would like to apologize to the ranking member. Apparently on Tuesday afternoon, at 3:40, we did get an e-mail. I was busy with the markup on the Financial Services, but that is no excuse for my not having paid attention to this, so I apologize. We did get an e-mail. It was late Tuesday afternoon, but it was a request that Treasury, the Fed, and the Department of Justice should testify today. Obviously, it would have been better if it had come out earlier, in the sense that you don't usually give people 1 day's notice to testify. But I was wrong when I said I had not heard from the ranking member. Yes, his staff did send an e-mail on Tuesday afternoon at 3:40 asking for those witnesses, so I apologize for my comments.

Mr. BACHUS. Mr. Chairman?

The CHAIRMAN. Yes.

Mr. BACHUS. Let me say this. What that e-mail says is that we want to again reiterate that we hope for them to testify.

The CHAIRMAN. I understand that, but I had no previous iteration.

Mr. BACHUS. Right. And I will say this. I think what maybe we can both agree on is that the Treasury and the Fed at some later

date will come and testify. I think that would be a solution we could both agree with.

The CHAIRMAN. I agree, because they have postponed this for 6 months, and we will be having a legislative hearing later on as well on—we are having one now, but we will. I got the reiteration, I didn't get the iteration, but I will accept it.

Mr. BACHUS. Thank you. As long as in the next few months, the Treasury and the Fed do come up.

The CHAIRMAN. Let me just say, from my standpoint, the Federal Reserve gave one of the best cases against this whole operation I have ever heard, so I certainly have no hesitancy in having the Federal Reserve repeat that performance.

Mr. BACHUS. Right.

The CHAIRMAN. Or reiterate it to you.

Mr. BACHUS. Thank you. I appreciate it.

The CHAIRMAN. All right. We will now go back into the regular order. Next, we will hear from the Honorable Robert Martin, who is tribal chairman of the Morongo Band of Mission Indians.

STATEMENT OF THE HONORABLE ROBERT MARTIN, TRIBAL CHAIRMAN, MORONGO BAND OF MISSION INDIANS

Mr. MARTIN. Mr. Chairman and members of the committee, thank you for providing us with this opportunity to comment on H.R. 2266 and H.R. 2267. I ask that my written testimony be made a part of the record.

The CHAIRMAN. Without objection. And we have other statements that have been submitted both through the Majority and the Minority, and they will all be made part of the record, so please go ahead.

Mr. MARTIN. My name is Robert Martin, and I am the tribal chairman of the Morongo Band of Mission Indians in Riverside County, California. I am speaking today on behalf of the members of my tribe, my tribal government, and the thousands of people we employ. Morongo is a federally recognized Indian tribe comprised of about 1,000 members, half of whom live on our 37,000-acre reservation located at the foot of the San Gorgonio Mountains between Los Angeles and Palm Springs.

H.R. 2266 proposes a safe harbor for those currently engaged in illegal online gaming from the regulations mandated by the Unlawful Internet Gambling Enforcement Act for 1 year or until H.R. 2267 can be enacted. H.R. 2267 would authorize and create a licensing regime for the use of the Internet for various forms of online gambling and provides for the regulation of those games.

We are here today to ask why Congress would want to protect foreign illegal operators to the detriment of existing American jobs. In summary, we stand in opposition to these bills because the legislation will do nothing but legalize offshore gaming at the expense of American jobs.

The Indian Gaming Regulatory Act of 1988 was enacted to assist tribes in the development of reservation jobs. Under the 1988 law, tribes were restricted to offer gaming only from Indian lands, and enactment of the legislation being considered today will place us at a competitive disadvantage relative to all other nongaming interests and current law. The Unlawful Internet Gaming Enforcement

Act provides a constructive pathway for those who wish to offer Internet gaming on a State-by-State basis, and that law should be given time to become effective in its own right.

Mr. Chairman, I am also troubled by the fact that the Treasury Department has now granted a 6-month reprieve from the implementation of the 2006 Unlawful Internet Gaming Enforcement Act. In a memorandum signed by President Obama on November 5, 2009, the President declared his commitment to fulfilling the consultation requirement of Executive Order 13175, a directive originally issued by President Clinton on November 6, 2000. Executive Order 13175 calls for regular meaningful consultation in collaboration with tribal officials in the development of Federal policy. Tribes were not consulted on this extension of our interest in the law and were not considered. Jobs are being lost, and capital is fleeing our shores every day that the 2000 Act fails to be enforced.

Tribes generated $25.9 billion in gross gaming revenues. Tribes also produced another $3.2 billion in gross revenues from related resorts, hotels, restaurants, and other lodging or restaurant venues. Tribal gaming has created more than 600,000 jobs nationwide. Tribal gaming has delivered $8 billion in Federal taxes and saved the government millions more in unemployment and welfare payments.

We have invested in our operations because we have been encouraged by the U.S. Government to do so. By following the law, we are now facing unfair competition as a result of the threats of these bills. Please allow the current regulatory scheme to work and protect that which we have so carefully built.

Thank you for your consideration of our concerns.

[The prepared statement of Mr. Martin can be found on page 49 of the appendix.]

The CHAIRMAN. Next, is Ms. Parry Aftab, who is executive director of WiredSafety.

STATEMENT OF PARRY AFTAB, EXECUTIVE DIRECTOR, WIREDSAFETY

Ms. AFTAB. Thank you, Chairman Frank, Ranking Member Bachus, and members of the House Committee on Financial Services for giving me the opportunity to testify here today.

It is interesting as I have heard both opening statements, we agree at WiredSafety that children need to be protected. All of us are unpaid volunteers in a grassroots organization that is the world's largest and oldest Internet safety organization. I have about 16,000 volunteers in 76 countries around the world. We care desperately about the issues here. We act as an Internet safety organization and a help group dealing with all digital risks, all demographics and all digital technologies. We were appointed as one of the 29 members of the Internet Safety Technical Task Force that was run by the Berkman Center at Harvard, and appointed to issue a report to 49 of the 50 States attorneys general, and I was recently appointed as one of the 24 members of the NTIA working group on online safety that was commissioned to render a report to Congress in June of this coming year on child safety issues. We advise local and Federal and State and international governmental agencies and nonprofits.

Personally, I am an Internet privacy and security lawyer, but I haven't practiced law in a long time since creating the charity and donating my time to running it. In 1997, almost 13 years ago, I wrote the very first book on Internet safety for parents called, "The Parents Guide to the Internet." My mother made me do it. It contained a chapter that dealt with online gambling. It was called, "Are We Raising Riverboat Gamblers?"

Three-and-a-half years after the launch of the Web, we recognized that online gambling was a problem, something parents didn't understand and weren't sure how to deal with. In 1999, I wrote, "The Parents Guide to Protecting Your Children in Cyberspace" for McGraw-Hill that also contained a chapter, and it was replicated around the world as the book was rewritten and published in various jurisdictions.

Most people are aware of the moral arguments against gambling. A lot of people are aware of the regulatory and legal issues. Few of them understand that this really is a consumer protection problem. That is why I am at this table today. I have been following online gaming issues for a very long time. They affect not only children and parents, but there are people who are problem gamblers of all ages. We also have senior citizens who get online and may be scammed by rogue sites which take their money and make them promises and never pay on those bets. And I get e-mails; I get about 1,000 e-mails a day from people who come to us for help, and many of those are relating to online gambling.

Now, it is particularly interesting, and I call it ironic, that I am sitting here today saying that the only way to protect consumers from online gambling risks is by legalizing it. And I never thought I would ever say such a thing. But if we don't legalize it, we can't regulate it. And what I am finding now is that we are acting a bit like the "hear no evil, see no evil," and we have taken an approach that the only way to address online gambling, illegal online gambling, is by regulating the money systems, the financial systems. And I think that is an important piece of an entire puzzle, but the other pieces aren't there yet.

I think we need to both approach this from a holistic approach. We need to educate parents. We need to provide security software tools and parental control tools that are out there. Other countries are doing that. We need to make sure that if online gambling sites are regulated and licensed, we know who they are, we know who is behind them. We can look to a lot of the brick-and-mortar regulatory schemes for making sure that we are dealing with trustworthy people, and their books are open so we know what money they are taking in and what money they are paying out to make sure that their processes are in place.

We can make sure that we teach the people who are gambling on these sites who are adults that use the latest technology to keep out everyone but adults. That means there may be some adults who aren't going to pass those screening tests, but it is a multilayer approach. And this technology has changed dramatically since the Children OnLine Protection Act case was first determined almost 3 years ago.

There are lots of different systems that you can put in place which, when combined, will keep most of the kids out. Are they

going to be able to keep a kid out if their father has opened up their online gambling account and forgot to close it off? Probably not, unless we put a system in place that closes that after the end of 15 minutes. Nothing is perfect, but whatever we do is better than what we have now.

We need to make sure that these sites are also using the latest methods to keep out malware and spyware, and that they are protecting our data and the personal information that is being given to them.

I do not advocate gambling anywhere; I advocate the protection of consumers and families and children. Representative Bachus and I are in full alignment, and I have many volunteers in his jurisdiction. We spend a great deal of time protecting children. As a citizen and a taxpayer, I would like us to have tax, but that is not why I am here. I think that we can put something together if we take the great minds in this room and outside and come together with something that will be a holistic approach and will look to the rest.

I thought these things would work. I have been working in this area for a long time trying to come up with practical approaches, but rather than putting my opinion out there, we commissioned a study. It was indeed paid for by gaming interests, but very carefully done so that no one controlled the results. I didn't, and neither did they. And we turned to one of the most respected law enforcement officials and academics at the JFK Center at Harvard and asked him to look at existing regulatory schemes and look at all of the 10 risks that we identified and see if there is something outside of what I thought would work to put this together. You will be hearing from Mr. Sparrow shortly, and he can address those.

But I think, if working together, we can address these issues, all of our common concerns. We can make a difference. And perhaps the law that exists right now is an important part of that. I can't opine as to that. I can only tell you we need to do something, because whatever we have right now isn't enough.

[The prepared statement of Ms. Aftab can be found on page 35 of the appendix.]

Mrs. MALONEY. [presiding] Thank you very much for your testimony today.

Next, Professor Malcolm Sparrow.

STATEMENT OF MALCOLM K. SPARROW, PROFESSOR, JOHN F. KENNEDY SCHOOL OF GOVERNMENT, HARVARD UNIVERSITY

Mr. SPARROW. Thank you, Chairman Frank, Ranking Member Bachus, and distinguished members of the House Committee on Financial Services. My name is Malcolm Sparrow. I teach regulatory and enforcement policy and operational risk control mostly to government regulators at Harvard's John F. Kennedy School of Government. My background is in regulatory policy and practice rather than in any extensive prior knowledge of the gaming industry or gambling behavior per se.

Parry Aftab has described the genesis of the report, and I think it is available to committee members, released yesterday. I think I should spend just a few minutes saying what the report does and what it does not attempt to do.

Our analysis did not directly address whether online gambling should be legalized. In focusing on managing risks associated with gambling, we did not weigh moral arguments or religious objections, nor did we examine broadly libertarian arguments in favor of allowing adults to engage in pastimes that they may enjoy. Instead we concentrated more narrowly on the obligations of government to protect citizens in general and vulnerable groups of citizens in particular from any unnecessary exposure to harm. We sought to: first, identify the specific risks that are associated with or perceived to be associated with Internet gambling; second, determine what kinds of regulatory strategies would best control or manage those risks; and third, determine what we could say in advance about how effective such strategies might be.

If you have a copy of my written testimony, the list of 10 appears on page 3. I won't run through it now. It also appears in table 1 at the back of the testimony, where it makes some comparison between current protections and potential protections under a legalized and regulated regime.

As Mr. Bachus commented, $6 billion is currently spent by U.S. residents gambling abroad at the moment. The status quo produces a situation where many U.S. residents use online gambling services despite existing statutory restrictions. The share of the U.S. global market is estimated to be between one-third and one-quarter of the global trade.

The net effect of the attempts to prohibit online gambling has instead pushed gambling offshore. Sites are readily available to U.S. residents through the essentially borderless medium of the Internet. Some of the foreign sites are well-regulated, such as those based in the United Kingdom, Alderney and Gibraltar. And others are less well-regulated or completely unregulated, such as those in Antigua, Grenada or the Kahnawake Mohawk territory, Canada.

As a result of the global gaming industry's adaptations to existing U.S. strategy, the United States finds itself in this position: The United States incurs all of the social costs related to U.S. residents gambling online. The United States exercises no jurisdictional control over the gaming sites that serve U.S. residents. The United States is unable to offer its own residents who choose to gamble on overseas sites any consumer protections or to implement any other harm-reducing strategies. And the United States is not able to qualify industry participants or even to exclude organized criminal groups from competing for the business of U.S.-based customers.

The net conclusion of this report is that legalization with regulation would provide U.S. authorities the power to grant or deny licenses and to impose significant sanctions on non-compliant licensees. Such licenses would be extremely valuable to site operators. Compliance with any regulatory requirements and strict licensing conditions that Congress chooses to impose in return for the privilege of a license would therefore become a core business imperative for the gaming industry. I have examined the proposed legislation and believe it provides an adequate framework within which necessary safeguards could be designed and implemented.

If the United States decides to legalize and regulate online gambling sites, we would expect that most U.S. resident gamblers

would be diverted eventually from overseas sites towards reputable and trusted domestic operators. In the long run, reputable gambling operations under American control should come to dominate online gambling opportunities selected by U.S. residents. And if that happens, all categories of risk would be better controlled than they are at present, and I believe that U.S. consumers would be better protected.

I am happy to assist the committee in any way that I can. Thank you, Mr. Chairman, for the opportunity.

[The prepared statement of Mr. Sparrow can be found on page 53 of the appendix.]

The CHAIRMAN. Thank you.

Next is Keith Whyte, who is executive director of the National Council on Problem Gambling.

STATEMENT OF KEITH S. WHYTE, EXECUTIVE DIRECTOR, NATIONAL COUNCIL ON PROBLEM GAMBLING (NCPG)

Mr. WHYTE. Chairman Frank, Ranking Member Bachus, and members of the committee, thank you for the opportunity to testify on these bills.

The National Council on Problem Gambling is the national advocate for programs and services to assist problem gamblers and their families. As the advocate for problem gamblers, NCPG does not take a position for or against legalized gambling, but concentrates on the goal of helping those with gambling problems. We were founded in 1972 and have a 37-year history of independence and neutrality that makes the National Council on Problem Gambling the most objective and incredible voice on problem gambling issues. We are a 501(c)(3) not-for-profit corporation, and we do not accept any restrictions on our contributions.

The National Council on Problem Gambling neither supports nor opposes H.R. 2266 or H.R. 2267. My purpose here today is to provide a broader perspective on problem gambling to assist the committee in its consideration of these matters, as problem gambling frequently comes up in the discussions of both proponents and opponents of the legislation.

Problem gambling is an important public health disorder characterized by increasing preoccupation with and loss of control over gambling, restlessness or irritability when attempting to stop gambling, and/or continued gambling despite serious negative consequences. Approximately 2 million adults, which is 1 percent of the population, meet criteria for pathological gambling in a given year. An additional 4 to 6 million adults, another 2 to 3 percent, plus 500,000 youth between the ages of 12 to 17 show less severe but still serious symptoms of a gambling problem in a given year.

The estimated social cost to families and communities from gambling-related bankruptcy, divorce, crime, and job loss was almost $7 billion last year. Problem gamblers also have high rates of other health problems and disorders. But regardless of the legality of Internet gambling, millions of Americans today right now are experiencing gambling problems devastating themselves, their families, and their communities.

The only research information we have on Internet gambling shows that Internet gambling in the United States, Canada, and

the United Kingdom has the lowest participation rates of any form of gambling, whether legal or illegal.

Internet gamblers are also extremely likely to gamble in multiple traditional forms, if you will, to the extent that it appears that Internet gambling is an add-on for people already involved in gambling. Internet gamblers who spend significant amounts of time and money, while relatively rare, are, of course, more likely to meet problem gambling criteria.

While participation in Internet gambling by U.S. residents appeared to decline after the passage of the Unlawful Internet Gambling Enforcement Act, UIGEA, we did not see a decrease in indicators of gambling problems, such as helpline calls. If you will refer to my written testimony, we have a chart of the last 10 years of helpline calls to the national helpline number, which is the largest problem gambling helpline in the world. There are a number of possible explanations, of course, for the continued rise in these statistics, including the fact that our timeframe is too short to see what impact UIGEA may or may not have had on rates of problem gambling in the United States or rates of help-seeking for problem gambling in the United States.

It is likely that individuals with gambling problems will find the Internet attractive for pursuing their addiction. Risk factors for gambling problems on the Internet include high speed of play, perceived anonymity, social isolation, and, of course, the use of credit or noncash means to finance the gambling, as well as the 24-hour access. However, it is important to note many of these factors can also be found in more traditional forms of gambling. These factors are mutable and are not specific to any one form of gambling or one delivery system of gambling.

The graphical interactive structure of the Internet provides an opportunity to create informed consumers with access to a variety of information designed to encourage safe choices and to discourage unsafe behavior. The technology also exists to allow players and operators to set limits on time wagers, deposits, as well as to exclude themselves. These programs can be improved by utilizing the data collected by these Web sites to develop profiles of general online wager and behavior.

We urge the committee to add language to require operators as a condition of licensure to provide public access to de-identified data on player behavior for research purposes. It is important in that the gambling regulation is only a small part of a comprehensive solution for underage and problem gambling. A comprehensive solution would, of course, include funded programs for prevention, education, treatment, enforcement, and research to effectively address the mental health disorder problem gambling. It is regrettable that H.R. 2267 does not contain any funding for such programs.

We call the committee's attention to H.R. 2906, the Comprehensive Problem Gambling Act of 2009, which would amend the Public Health Service Act to authorize Federal health agencies to address problem gambling and would appropriate a total of $71 million over 5 years for competitive grants to States, tribes, universities, and nonprofit organizations for the prevention, treatment, and research of problem gambling. We appreciate that Chairman Frank and sev-

eral committee members are cosponsors of the bill, and urge all Members to support this groundbreaking legislation as—because, as Ranking Member Bachus said, problem gambling is a problem for us all.

There is not a single cent of Federal money that is dedicated to the prevention, education, treatment, enforcement or research of problem gambling. We believe the most ethical and effective response to problem gambling issues raised by gambling and by Internet gambling regardless of the legality is a comprehensive public health approach. Problem gambling, like other diseases of addiction, will likely never be eliminated, but we can and must make better efforts to minimize and mitigate the damage.

Chairman Frank and members of the committee, thank you for the opportunity to testify.

[The prepared statement of Mr. Whyte can be found on page 163 of the appendix.]

The CHAIRMAN. Thank you.

Next is Jim Dowling, who is representing the Dowling Advisory Group.

STATEMENT OF JAMES F. DOWLING, PRESIDENT AND MANAGING DIRECTOR, DOWLING ADVISORY GROUP

Mr. DOWLING. Good morning. I would like to thank Chairman Frank and Ranking Member Bachus for the opportunity to come testify here today. My name is Jim Dowling, and I have dedicated my entire adult professional life to fighting fraud and anti-money laundering and now terrorism financing.

As a special agent with the Criminal Investigation Division of the Internal Revenue Service, I conducted numerous complex fraud and money laundering investigations. As an undercover agent, I infiltrated criminal organizations that were laundering money in an attempt to take them down and dismantle them.

Later, as the anti-money laundering advisor to the White House Drug Policy Office, I provided anti-money laundering advice to ONDCP, Federal law enforcement agencies, Federal regulators, and the Intelligence Community. After retiring from government service, I now work with financial institutions and casinos to help them improve their anti-money laundering and anti-terrorism programs, along with those of casinos and financial institutions.

I come here today as neither a friend nor a foe of the current legislation pending before this committee. I am here to talk about some of the perils from both fraud and anti-money laundering and terrorism financing here.

Under the Unlawful Internet Gaming Enforcement Act, the burden placed upon financial institutions to identify and stop and block transactions relating to online gaming associations places them in a difficult position. It makes them become the law enforcement agency, and at times, the judge and jury as to what they are going to be doing there.

I understand the reluctance of the Department of Justice to provide them with such a list which would, in effect, be out-of-date as soon as that list is published. And that is one of the perils that we have regarding Internet gaming.

As you can see from my written comments on this matter, there are wildly exaggerated figures on one side and down to some more conservative figures as to how much is involved in Internet gaming. The reason that those figures vary so widely is because it is right now illegal and people are reluctant to tell you how much they are making. But nonetheless, it is safe to say that there are billions of dollars at stake here.

If you take a look at some of the advisories that have come out from the Financial Action Task Force, also known as FATF, it is recognized as the global leader and benchmark for all of the governments in the world to identify fraud, money laundering, and terrorism financing. FATF has issued three advisories relating to the perils and pitfalls of not only Internet gaming, but gaming in particular in the threats for money laundering and terrorism financing.

If you look at some of the specifics that they mention in that report, they identify some of the challenges that would be met by someone trying to regulate Internet gaming. And some of those challenges, I would have to say, are rather significant.

In addition to that, several years ago, the GAO presented a report to this very committee which talked about the challenges in trying to regulate an online gaming industry. Some of those challenges still exist today, but have only become exacerbated because of the advances in technology and the perils that would be caused because of that.

In addition to that, FinCEN has recently issued an advisory regarding land-based casinos and some of the challenges that are faced there and some of the money laundering threats that would come from there.

If you take a look at land-based casinos, whether they are tribal or other types of casinos, they have very good policies and procedures in place regarding customer identification programs which is required under 31 CFR Part 103.

If you take a look at some of those things that casinos do now, they have very sophisticated electronic systems that help them identify people who are actually conducting the gaming in their institution. That is supplemented by actual foot surveillance that is in casinos. And that is usually backed up by a strong compliance department which does transactional monitoring to determine what the particular gamblers are doing there.

Supplementing all of those systems is an independent State regulatory agency that each casino has, whether it is tribal or other, and those individuals are on the casino floor 24-hours-a-day, 7-days-a-week, 365-days-a-year to supplement what the casino's doing to prevent money laundering, terrorism financing, and fraud issues in their casinos. This is something that casinos on the Internet would not be allowed to do and could not possibly do.

If you take a look at the fact that a casino could not do proper customer identification and to make a valid determination as to who was actually doing the transaction, who is actually doing the gambling, it is impossible also for them to conduct an OFAC check, which as we know is something that we need to pay particular attention to here in the United States.

And then the other issue about this—

The CHAIRMAN. Mr. Dowling, you are over your time, so could you wrap it up, please?

Mr. DOWLING. —would be the regulator being able to regulate foreign companies. I would like to thank the committee for the opportunity to testify here today, thank you.

The CHAIRMAN. Thank you, we can explore those issues further in the questions.

[The prepared statement of Mr. Dowling can be found on page 44 of the appendix.]

The CHAIRMAN. Finally, Mr. Michael Brodsky.

STATEMENT OF MICHAEL BRODSKY, EXECUTIVE CHAIRMAN, YOUBET.COM

Mr. BRODSKY. Good morning, Mr. Chairman, Ranking Member Bachus, and members of the committee. My name is Michael Brodsky, and I am the executive chairman of Youbet.com. We are one the largest legal online wagering companies in the United States. Our company operates under the Internet Horse Racing Act of 1978, and we only accept wagers on parimutuel horse races. I should also note that 2 weeks ago, Youbet and Churchill Downs, owner of the Kentucky Derby, announced that Churchill would acquire Youbet, but that deal has not yet closed. I am appearing here today solely on been behalf of Youbet.com.

In my testimony today, I will address the scope and scale of current illegal Internet gambling, discuss why I believe legalization is the only plausible solution to this problem, and how technology that exists today can be utilized to successfully regulate online gambling. But first, Mr. Chairman, I want to thank you for your strong support of a rational approach to legalize Internet gambling and for holding this hearing today.

I have long admired your stance on this issue, Mr. Chairman, because you have accurately described it as a question of personal freedom and of common sense. You need only look at lottery sales, bingo halls, charitable gaming festivals, and parimutuel and casino gambling facilities throughout the country to see that legal forms of "brick and mortar" wagering are established, accepted, and regulated in our country. Why should most forms of online wagering be illegal?

Illegal Internet gambling in the United States is happening now and it is growing. It is a big business involving billions of dollars a year, and with the exception of parimutuel horse racing, U.S. Internet gambling is all underground, it is untaxed, and it is unregulated. These billions upon billions of dollars are leaving our country, totally untaxed with U.S. regulatory authorities having no control or knowledge of where their money is going.

Today's illegal online gambling is a "wild west" affair. No meaningful curbs on underage gambling, no recourse for misdirected funds, no attempts to aid problem gamblers and no tax revenues for the United States. As with prohibition, illegal online gambling is thriving as an underground economy. The vast majority of the people who gamble online are law abiding citizens who want to wager on a system that has integrity and security. The only way to put any controls on Internet gambling is to legalize it and regulate it.

At Youbet, we are first and foremost technology people. We understand how to run an E-commerce business, what works and what doesn't. And let's be clear about this, in this Internet age, trying to maintain a U.S. ban on Internet gambling is a losing proposition. It is virtually impossible to slow it down, much less stop it. Other members of our Youbet senior team and I have been executives at leading edge technology companies such as Orbitz, Ticketmaster, CareerBuilder and Network Solutions. And we understand how technology can be used to safeguard consumers.

I understand the concerns about underage gambling. As a parent, I want to see online gambling legalized. Why? Because I want it managed. As a society, we can make Internet gambling operators subject to U.S. supervision, holding operators accountable. The fact is that enacting H.R. 2667 is the most effective way to achieve the stated goals of the some of the bill's harshest critics.

Today's out of control Internet gambling situation was made possible by the revolution of technology and it will take technology to fix it. Today at Youbet, we use technology that would ensure effective regulation of Internet gambling. The already-existing, totally legal, online parimutuel horse racing wagering industry is a U.S.-based model of how to provide a responsible, online wagering experience for adults, one that is clean, regulated, and scrupulous about both collecting and paying taxes. Youbet.com is a public Sarbanes-Oxley-compliant company that uses the latest technology and vigorously maintains its own Youbet responsible wagering program that we have developed over the past 13 years.

It is designed to prevent underage gambling and to combat problem wagering. This technology enables us to conform to all Federal laws and the laws of those States in which we operate, including meeting all tax withholding and reporting requirements.

Regarding money laundering, the proposed legislation has strict requirements in order to gain and keep a license. All companies will need to have a robust system in place to combat this money laundering. Existing technology would allow operators to track and monitor for it and licensees would work closely with Federal authorities to combat it. Operators have a tremendous incentive to fight vigorously against money laundering, because consumers will strongly prefer to do business only with companies they trust, ones with safe and secure systems. As an operator, we would run a great risk of destroying our own business if there is the slightest perception that our systems lack this integrity. I would also add that in today's offshore unregulated world, there is little incentive on the part of current illegal operators to detect and deal with money laundering.

The CHAIRMAN. Your time is running out.

Mr. BRODSKY. Mr. Chairman, Congress today faces a stark either/or public policy choice. We can either legalize and regulate online gambling or allow it to continue to flourish in an offshore black market that allows easy access. Thank you for the opportunity to testify today, and I look forward to answering any questions.

[The prepared statement of Mr. Brodsky can be found on page 39 of the appendix.]

The CHAIRMAN. I will begin the questioning.

Mr. Martin, I understand your concern about discrimination and let me say that my intention would be, if we do this, to remove any restrictions so that if there is an opportunity there, you could be fully involved. Now I understand that might involve the Indian Gaming Act, which we don't have jurisdiction over, but it would be my intention to work to do that. As I understand it, and as I read what the tribe is trying to do, you are not opposed to Internet gambling, you are opposed to a situation in which you are at a competitive disadvantage to others; is that correct?

Mr. MARTIN. Yes, that is correct.

The CHAIRMAN. I appreciate that, because the criticisms that have been made of Internet gambling, obviously you don't agree with them, in fact, the tribe would like to do Internet gambling and I think that is right. So I will just tell you that there is certainly nothing conscious in our legislation to discriminate against you. I gather it is the effect of existing legislation that might do that, and I would work very hard to try and deal with that.

And I know there are people who deal with the matters of the tribes—Congressman Kildee, who is a great friend, and others who would be sympathetic. So I would undertake to work them to say that whatever was allowed was allowed for you as well as for anybody else. No objection.

Mr. MARTIN. But that does affect the job issues.

The CHAIRMAN. If you are able to participate, you want to be able to do it and have nobody else do it, is that the issue?

Mr. MARTIN. Well, no. Our concern is jobs being shipped overseas or off the shores.

The CHAIRMAN. So you have no objection to Internet gambling, in fact, you would like to be involved in Internet gambling, the tribe would, correct? I gather the tribe has been working to try to get Internet gambling made legal.

Mr. MARTIN. Yes, that is correct in certain forms, yes.

The CHAIRMAN. So the question is the anti-competitive effect. And there was always this issue of whether we can do something in a way that—the jobs impact, I agree, is a separate question, but I did want to make clear there was no objection to Internet gambling.

Let me just go down to the question of other legislation. Mr. Whyte, there is nothing in this bill that provides funding because we don't have the jurisdiction to provide funding. I am a cosponsor of the bill that you mentioned that Mr. Moran of Virginia supports and we would be supportive of doing that. Let me ask you, one of the problems that people in the banking industry have told us is Mr. Brodsky talked about horse racing, and there appears to be a difference of opinion as to the extent to which betting on horses would be or wouldn't be covered. Does anyone here have any opinion on what the state of the law is and whether that needs to be clarified?

Let me ask Mr. Vallandingham: Are the banks that you are representing here today clear on what would or would not be prohibited if the law is allowed to take effect?

Mr. VALLANDINGHAM. In all honestly, in response, Chairman Frank, right now we would have the responsibility of determining what is legal and what is illegal. If you—

The CHAIRMAN. What about horse racing and betting on horses, is that in your—in the view of the people advising you, is that legal or illegal? I gather you can get different opinions depending on which Federal agency—

Mr. VALLANDINGHAM. We do. In the 2006 testimony that I participated in, DOJ said it was illegal. I have no reason to believe that it is not legal. But with the license—

The CHAIRMAN. The Department of Justice said it was illegal?

Mr. VALLANDINGHAM. At the time, yes.

The CHAIRMAN. Nothing has been done to change that since then.

Mr. VALLANDINGHAM. Correct. With the licensing scenario where the Treasury would be responsible for deeming who is licensed and who isn't licensed, that takes the onus off the financial institution, because we could simply say, you either have a license and we will open an account for you or we won't.

The CHAIRMAN. Let me ask Mr. Brodsky, we were told Treasury said one thing, and Justice said another about the law. To tell private citizens they have to carry out the law when the Federal agencies can't tell them what it says seems to be a problem. How does that affect your operation?

Mr. BRODSKY. Well, certainly the confusion associated with whether or not what we are engaged in is legal adds to the complication of our conducting our business. I will tell you that 88 percent of all the wagers placed on parimutuel handling in the United States are transmitted across State lines electronically.

The CHAIRMAN. And that is illegal according to the Department of Justice?

Mr. BRODSKY. Assuming that interpretation is correct.

The CHAIRMAN. Well, that is what the Department of Justice says.

Mr. BRODSKY. Eighty-eight percent of the entire parimutuel industry is conducted electronically across State lines.

The CHAIRMAN. Well, let me say, that is another reason why I don't like the whole wall, but for domain and regulations to impose regulations for financial institutions, when that fundamental uncertainty hangs over them, in and of itself, that is the reason for the delay. The gentleman from Alabama.

Mr. BACHUS. Ms. Aftab, you commissioned the study, your organization, and then Professor Sparrow, you conducted the research?

Mr. SPARROW. Yes, I was part of a team pulled together by the Brattle Group who took the job from WiredSafety.

Mr. BACHUS. Who paid for the study? Did your organization pay for it, Ms. Aftab?

Ms. AFTAB. WiredSafety paid for it and that was funded by the Poker Players Association of America and Harris, it was a pass-through direct cost.

Mr. BACHUS. So the gambling industry paid for the study?

Ms. AFTAB. They made a donation to WiredSafety and we paid for the study, but yes. Also the retain agreement with Brattle Group was very clear that there was no influence that was to be made by the people funding it.

Mr. BACHUS. No, no, no, I am just saying that it was paid for by the gambling industry.

Ms. AFTAB. It absolutely was. But our position on this—oh, I am sorry.

Mr. BACHUS. Some of what you concluded, I am looking at a study conducted and I am going to introduce it for the record, this is a letter I received December 2, 2009, from a coalition of researchers at the University of Illinois, the University of South Carolina, Notre Dame, Iowa State, the University of Nevada, Emory University, Baylor, and the University of Pennsylvania, and others and they make these conclusions, Professor Sparrow, and I just want to know if you would agree with them. This was part of the United States international gambling report.

Are you familiar with that study? Some of their conclusions I am going to go with their subtitle conclusions, number 1, new addicted pathological gamblers and problem gamblers caused by decriminalizing Internet gambling. The percentages for teens and young adults has increased by 200 percent. Do you agree with that? Or do you think they were wrong in their conclusion?

Mr. SPARROW. I don't have any data either to support or refute specific figures of that kind. The experts on gambling addiction that we interviewed have reported that addictive gambling rates have been holding roughly steady at 1 percent not only in the United States, but abroad for quite a long time.

Mr. BACHUS. I think that Annenberg also said that since of passage of our 2006 Act, that is when they leveled out, right?

Mr. SPARROW. Well, I believe, I don't have the reports with me, but if I recall, there was a dip shortly after the passage of that.

Mr. BACHUS. So what we passed did cause a dip?

Mr. SPARROW. It was in the public mind for a while, and then I believe it came back up again.

Mr. BACHUS. It did, in fact, come back up when the Treasury is not enforcing it. Let me say this, number 2, the second conclusion, gambling addiction is the fastest growing addiction among young people. Do you, Ms. Aftab or Mr. Sparrow or Mr. Whyte, do you think this was a correct assumption by that universities?

Ms. AFTAB. I think Mr. Whyte is probably the best one to address that. I am not an expert in other types of addiction.

Mr. WHYTE. Thank you, we do believe that gambling addiction is growing among young people and adults, although the rate still seems to be at roughly 5 percent of kids between 12 and 17 would meet criteria for at least one gambling problem in a given year. Again, the research we have to date seems to show that rate, while it does seem to be trending upwards, is still within the same 5 percent rate. It is a serious concern.

Mr. BACHUS. Right. Now I notice you are the National Council for Problem Gambling.

Mr. WHYTE. Yes, sir.

Mr. BACHUS. And I think that Harrah's provided you with your initial funding for your online council counseling services; is that right?

Mr. WHYTE. I am not entirely sure. Harrah's is one of our corporate members, yes.

Mr. BACHUS. And on their Web site, they talk about how they are one of your chief benefactors.

Mr. WHYTE. They give us $5,000 a year, but yes, you are correct, they are certainly a long-term corporate member.

Mr. BACHUS. Let me ask you this, Internet gambling activities exemplify the most dangerous aspects of gambling. Would you agree with that?

Mr. WHYTE. Yes, we think that some of the features of Internet gambling, as I mentioned in my testimony, such as a high rate of play, use of credit or non-cash, 24-hour access, perceived anonymity, and social isolation are risk factors that are known in the gambling literature in general to be associated with problem gambling.

Mr. BACHUS. If I could say one final thing. One of their other five conclusions was increased legalized gambling increases suicide by creating new gambling addicts among adults, young adults and teenagers. Is that consistent with what you found?

Mr. WHYTE. Respectfully, there are many drivers of the suicide rates. We have never found a correlation on a national level. On an individual level, pathological gamblers are much more likely than others to consider and commit suicidal behavior. However, they are a small percentage of the population. It is hard to see their impact on national suicide rates, which vary greatly by many factors. So problem gamblers certainly have major suicidal concerns.

Mr. BACHUS. Thank you.

The CHAIRMAN. The gentleman from Kansas.

Mr. BACHUS. Mr. Chairman, I ask unanimous consent to submit items for the record.

The CHAIRMAN. Without objection, it is so ordered.

Mr. MOORE OF KANSAS. Ms. Aftab, I note that what you said on page 2 of your written testimony, "After more than a decade analyzing the risks posed by unregulated Internet gambling it may be ironic, but I have reached a conclusion that the best way to protect the families and consumers in connection with cyber gambling is by legalizing it not outlawing it entirely."

As a former district attorney for 12 years, I know that protecting consumers, especially our children, is a top priority for most law enforcement officers and I think for people in our country generally. I appreciate your candor.

Again, I agree with your conclusions, and I think our society is very interested in protecting consumers, especially our children, however best that can be achieved. It would seem to me that this kind of online gambling, given the use of technology and the Internet today will happen, whether we like it or not. Maybe not in this country, but in other places around the world. I am not a gambler and I really could not care less about gambling; it is not of any interest of to me. But I recognize there are people in this country and around the world who do. And if we are able to drive this activity into sunlight through a license regime, as the bill drafted by the chairman would do, I would think from a law enforcement perspective, we would be better able to keep track of scams and fraudulent activities; would you agree or disagree with that?

Ms. AFTAB. Sir, I am a big fan of the work that you have done in law enforcement over the years, and I absolutely agree with you.

Mr. MOORE OF KANSAS. Thank you. Mr. Vallandingham, thank you for your testimony as well.

Mr. VALLANDINGHAM. Thank you.

Mr. MOORE OF KANSAS. Thank you, Mr. Chairman. I yield back.

The CHAIRMAN. The gentleman from New York.

Mr. MAFFEI. Thank you, Mr. Chairman. I wanted to just state, I have been a cosponsor of this legislation, and I, too, have never had any interest particularly in gambling, but it does seem to me that some of the difficulties where the gentleman from Alabama's arguments are, not that gambling doesn't have a lot of destructive effects, but what is the solution to that? How do you avoid those to the extent possible while still retaining freedom in our society? Indeed, we have had experience in our past with banning liquor.

Certainly, alcohol creates far more destructive effects and yet that didn't work. It wasn't enforceable and it didn't work. So now we have a system of both selling liquor, it is highly regulated with wholesalers, etc., that I also support and think has worked well. This is the best analogy I can find to doing the same thing with online gambling, bringing it out in the open.

I did want to ask Mr. Whyte in particular, but anybody who has an opinion I would take it. Mr. Whyte, in particular, what are the strategies that you would advocate if this were to become law and we are able to have these Web sites identify problem gamblers sooner? First, how would we identify some of the problem gamblers by having this regulation in place? And second, what could we do for them?

Mr. WHYTE. Thank you, Congressman Maffei. I think on your first question, how would the regulation be done, it is a little beyond the scope of our experience now, but we would look to the United Kingdom, which has had a regulatory system in place for a number of years. The rates of problem gambling do not appear to have dramatically increased during that time, although there is a concern about heavy usage among young males. We would look to the United Kingdom's experience and try to improve upon that, but I think the real heart of this and the point of your second question is that there is no public health safety net for problem gamblers right now in the United States.

There is an immense amount that we need to do right now to prevent problem gambling, to educate people who do choose to gamble that gambling is an addictive activity, and to treat those for whom prevention education does not work. Enforcement is, of course, an important part and clearly laws like H.R. 2267 would be part of the enforcement efforts. We also need research to close the loop and tell us what is working and what is not in the other four categories.

Again, these are principles that are encompassed in H.R. 2906, but we would just note that the safety net right now for problem gamblers is weak or nonexistent in many States, including New York. And whether or not this bill passes, that is where we have to start as a public health approach, we have to look at this like we look at substance abuse.

Enforcement plays a role, but prevention, public health, education, and treatment, those are the best ways, especially to prevent youth from developing problems in the first place.

Ms. AFTAB. And we looked at this in the study, and if Mr. Sparrow would comment a bit, the technology could do a great deal to help problem gamblers.

Mr. SPARROW. If it is useful to you, you will find a section of the report, pages 69 through 71, that actually lists a whole different set of technologies and approaches that other jurisdictions have used and refers to a series of reports that the European Union has laid out a set of up to 50 different systems or technologies that can be implemented on Web sites to help control it, but the most common ones are links to problem gambling, helplines, and Web sites mandated when you enter a site, self-exclusion programs, self-imposed time and money limits and mechanisms to set your own betting limits, rate of loss, etc., etc.

One of the criticisms of such technologies is that you might have to first of all admit that you are a problem gambler before you called on any of these for help. But actually many of them can be framed without requiring such an admission so that when you first register with a site and without any kind of diagnostic or admission required up-front, you can, at that point, set any limits that you would choose to apply to all of your sessions.

Mr. WHYTE. One final note on the identification of problem gamblers, if I may. Internet gambling sites compile a massive amount of information. Every interaction is tracked, and these databases which are in the billion of transactions now can provide some enormous predictive power for researchers. This is why, following the model from the Swiss government, we call on the committee to consider adding a provision that as a condition of licensure, operators would make de-identified data publicly available to researchers, because when you comb through billions and billions of records, you will find predictive patterns, so you are not relying on the individual, but you are looking at things like time on sites, variation in bets, speed between bets. There is almost an unlimited set of parameters that you can apply to over billions of transactions to help us develop predictive profiles just as we do with the credit card industry.

Mr. MAFFEI. Thank you very much.

Mr. BRODSKY. If I could just add something?

Mr. MAFFEI. I am out of time, it is up to the chairman.

The CHAIRMAN. Quickly.

Mr. BRODSKY. The only comment I would make is we have our own real life experience with problem gambling at Youbet. In the event, under any circumstance, we are aware that anyone has a problem, a gambling problem, we lock them out of our system. They are uniquely identified by a Social Security number.

The CHAIRMAN. We appreciate that, and you can elaborate on that in writing. The gentleman from New York, Mr. King.

Mr. KING. Thank you very much, Mr. Chairman. Let me thank you at the outset for your cooperation on this issue and let me also express my regret that I was not here for the beginning of the hearing, and I have to leave very quickly. I am the ranking member on the Homeland Security Committee, which is right now holding the hearing on the White House crashers.

Mr. Chairman, it is a hearing in which your talents would be ideally suited. It goes from reality TV to the most important con-

stitutional issues, and a debate of separation of powers is going on right now. So we need someone who has a flair for expressing a point and also is well-versed in the Constitution. And so I have to go back, I am not as well-versed in the Constitution and not as nuanced as you, but I am giving it my best over there.

Thank you for scheduling this hearing. And I also want to thank Ranking Member Bachus for his forbearance in putting up with me over the last several years on this issue. We don't entirely see eye-to-eye, but he has been a true gentleman in every sense of the word. And I will just make a brief statement, it would be inappropriate to come in and ask questions after so much has already gone on.

But Mr. Chairman, we all know that when the Internet gambling prohibition was enacted in 2006, many voting for it meant well and thought it was the right thing to do, but it certainly has unintended consequences. And that means the purpose of today's hearings and why I so strongly support H.R. 2266 and H.R. 2267, which I believe are essential to correct the situation that has developed.

By licensing and regulating Internet gambling, it allows Americans to bet online by creating exemptions for operators to license and regulators, the Treasury Department would establish these regulations and license these Internet operators subject to various conditions, including criminal and financial background checks and the legislation also would not preempt State or tribal laws prohibiting Internet or sports gaming. All prohibitions are well-intended, sometimes they work, sometimes don't, usually they don't.

In this case I don't believe it is, we are losing revenue and we are not achieving the social purpose that was intended. And we can go from pragmatic aspect of it of getting revenues that we should be having in our government today of actually regulating an industry where many people are involved offshore or the libertarian aspect of my good friend, Mr. Paul, who feels we should not be interfering in people's personal lives.

So with that, Mr. Chairman, I certainly strongly support the legislation. When a markup comes, I will certainly support it and vote for it. I thank all the witness for being here and I really do regret not being able to stay. Again, there is a very intense hearing going on, on the other side.

The CHAIRMAN. Does the gentleman yield?

Mr. KING. Yes.

The CHAIRMAN. I appreciate his kind words and I noted in his absence as the former Chair and current ranking member on the Homeland Security Committee to the extent that there is a concern about money laundering, we will be drawing on his expertise, so I think many of us are reassured by his being here to participate when we put the right safeguards in.

Mr. KING. Thank you, Mr. Chairman. I appreciate that, and again, I agree with you, I see no Homeland Security or terrorist threat, however. If anything, regulation makes it less likely that there will be any significant threat. With that, I ask to submit my entire statement into the record. I yield back the balance of my time.

The CHAIRMAN. Without objection. The gentleman from California, Mr. Sherman. And then I think if we all move quickly, we get to Mr. Lee, and then we can go to the vote.

Mr. SHERMAN. I am a bit more skeptical than others of Internet gambling, traditionally we allowed the sovereign to decide what gambling goes on within its territory. Like alcohol, we have wet counties and dry counties, we have had wet States and dry States. If I was a member of a State legislature, I might well be for gambling and alcohol everywhere. As a Federal legislator, I have tended to grow up in a system in which that is decided at a State level. And when you are on cyber and tribal lands, at the tribal level.

We now have a combination of technology, perhaps facilitated by Federal law, that will shift that and allow anyone anywhere to gamble legally whether the sovereign of that particular locality wants them to or not.

As a matter of practicality, what we have done for most people in this country is we have made gambling something you have to take a road trip to do. You have to leave your house to lose your house. That has been a policy, I guess, and a lot of States have found that to be a good one. Now, you will be able to gamble in your own home. On the other hand, I am not sure that we can stop this anyway.

With that, I would like to question Chairman Martin. I understand that you are opposing the legislation and Internet gambling here at the Federal level, but you are asking the California legislature to legalize online poker and perhaps you want to clarify that for us?

Mr. MARTIN. Well, thank you. Yes, we are, that is correct. We are doing that along with several licensed card groups and additionally some other tribes are considering coming on board with us in a consortium of tribes and it is going to be—since we don't have—that is outside of our compact and that is—so that will be how is that actually going to work? That is outside of the Gaming Regulatory Act, that is what I was trying to say. And tribes don't currently have an exclusive right to online poker in California. So that will be looked at outside and the State will just look at it as another vendor, as just another business.

Mr. SHERMAN. I will ask you a question where I kind of actually know the answer. Can you describe what kinds of fixed costs you have in operating your operation? I have been there, I have seen it and perhaps speak to what the other tribes have in the way of fixed costs that the online gambling industry does not have.

While you are looking at your notes, I will point out that as far as I know, no one from Nevada is represented here, but Las Vegas is the epicenter of the foreclosure problem. I hope we don't do anything in the next couple of years that adversely affects what is the most struggling part of the country. Chairman Martin?

Mr. MARTIN. Yes, I have the answer for you here. Congress must understand that while, in theory, the Indian Gaming Regulatory Act prohibits States from taxing tribes, in practice, States impose a tax on tribes under the terms of our tribal State compacts. The Morongo case, the tax imposed on us by the State for the privilege of securing our compacts is based on a rate of $3 million per month

irrespective of the volume of business we do. That means every day we have to pay the State $100,000.

Should Congress authorize full-scale Internet gambling to enter the marketplace that will bring competitive pressure that was not factored into our business decision and will make it very hard for us to meet the obligations we have and the business decisions we will make—excuse me, I missed that. For us to meet the obligation we have to the State. Not to mention our ability to provide for our tribal members and services, our outstanding debt obligation.

Mr. SHERMAN. Mr. Brodsky, you are here from—

The CHAIRMAN. Your time has expired.

Mr. SHERMAN. My time has expired.

The CHAIRMAN. Mr. Lee will ask the last question.

Mr. LEE. I will be very brief. I apologize that I missed part of the hearing. I don't know if anyone out of the group can give me an idea on the online gambling, what percentage is done via credit card? Does anybody know what that number is, do you have an idea?

Philosophically, my only point on this issue, because I am not here to weigh in on the rights or virtues of whether or not you should gamble online, I have my own personal views on that. One thing I don't believe that we should be allowing in Internet gambling is to allow someone to gamble with an unsecured loan, that being a credit card. If people choose to gamble their own money, that is one issue, philosophically. But when people are allowed to use an unsecured loan and ultimately other taxpayers are on the hook when they don't pay, then that is when people get themselves into trouble.

I think if this market was limited strictly to, be it a debit card, but when you are allowing credit cards to go, and money you don't have to gamble, that, in my mind, is reckless. And that is the only comment I wanted to make sure got put in the record.

I think that would be an interesting number to know, what percentage of the gambling is done by credit cards. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you. Let me ask if any of the members of the panel could find—would have information like that, they could send it to us. And with that, the hearing is adjourned. We will be returning to this subject next year.

[Whereupon, at 11:37 a.m., the hearing was adjourned.]

A P P E N D I X

December 3, 2009

Rep. Peter King
12/3/09
Statement on FSC Hearing Regarding Internet Gambling

Chairman Frank—Thank you for agreeing to hold today's hearing on the Reasonable Prudence in Regulation Act (**H.R. 2266**) and the Internet Gambling Regulation, Consumer Protection, and Enforcement Act (**H.R. 2267**). I appreciate your leadership on this issue of Internet Gambling and am proud to support both of these bills.

This is the third hearing this committee has held on the topic of Internet Gambling during the last two Congresses as this issue continues to remain unresolved. As we all know, the Unlawful Internet Gambling Enforcement Act (UIGEA), enacted in 2006, restricted the use of payment systems for Americans who sought to gamble online. While this legislation may have had good moral intentions, it was a mistake and a rush to judgment. Individuals should have the freedom to spend their own money as they see fit and government should not get in the way of that. If people want to gamble online or in a casino, then that is their prerogative and they should be allowed to do that within a regulated structure.

There were also a number of unintended consequences after UIGEA became law that offer additional reasons for it to be replaced. First, the definition of unlawful internet gambling was not made explicit and therefore put a tremendous burden on banks and credit unions to determine what was lawful and what was not. In fact, at a previous hearing this committee held, witnesses from the Treasury and Federal Reserve had a tough time coming up with a clear definition. This has caused some banks to "overblock" transactions and punish legal gaming operations such as horse racing, dog racing, and state lotteries because of their fear of not complying with the law. At the same time, some illegal internet gambling operators had their transactions "underblocked" by taking steps to conceal their operations from these various payment systems.

Finally, we all know how prohibition has previously worked in this country. When you ban something, whether it be liquor or gaming, people will still find a

way around the law. However, you run the risk of inviting criminal elements to regulate their use. I would make the argument that we are actually a safer country with a government legalized and regulated Internet Gambling than without.

Now, some of the arguments that were raised by supporters of UIGEA I believe are valid and ought to be addressed by any legislation this committee acts on. That is why various safeguards and protections were included in **H.R. 2267**. These provisions will help protect consumers, reduce fraud, money laundering, compulsive gambling, underage gambling, as well as any criminal infiltration. But we can certainly do this while also creating a safe environment for individuals to exercise their free will to place a bet online.

That is why I am an original cosponsor with my good friend, Chairman Frank, of the Internet Gambling Regulation, Consumer Protection, and Enforcement Act (**H.R. 2267**), legislation that would license and regulate internet gambling. This bill would allow Americans to bet online by creating an exemption to UIGEA for operators that are licensed and regulated. The Treasury Department would establish these regulations and license these internet gaming operators subject to various conditions including criminal and financial background checks. This legislation also makes clear that it would not preempt state or tribal laws prohibiting internet or sports gaming.

On October 1st, I joined Chairman Frank in sending a letter to Treasury Secretary Geithner and Federal Reserve Chairman Bernanke requesting a delay in the implementation of the UIGEA regulations. So, I was pleased to hear that on November 27th, the Treasury and Federal Reserve agreed to our request and extended the compliance date for six months. It is my hope that this delay will give this committee and the Congress time to pass **H.R. 2267** to license and regulate Internet Gambling.

Rep. Jim McDermott

Internet Gambling Testimony

December 3, 2009

Mr. Chairman I want to thank you and the Committee for inviting me to testify today and to offer my views on internet gambling, consumer safety and tax policy. You have gathered an excellent group of witnesses that will illuminate the challenges we face here and I look forward to continuing to work with you and helping with this effort.

Internet gambling is a problem today because it is a black box. As we all know, U.S. law currently aims to prohibit Americans from gambling over the internet. Of course, people of all ages do it and the companies that serve them operate offshore. Because internet gambling is illegal, it is also unregulated, and the laws designed to prohibit it have had the unintended consequence of driving this growing activity underground. This has created enormous problems andwe need a new, safer, more sensible approach to regulate internet gambling to protect consumers.

As you know, I chair the Subcommittee on Income Security where we deal with many family and children's issuesThe problem of child gambling has grown from a rare problem years ago to a near-epidemic today. Far too many children are getting addicted to gambling. Some use their parents' credit cards to feed their addiction, butothers finance their gambling by getting into crime. Many adults face the same problems.

While gambling is a popular form of entertainment and recreation, online gambling is unregulated and, for that reason, we can't adequately address the problems it creates. This needs to stop.

As you know I also have responsibility for tax issues as a member of the Ways and Means full committee. Online gambling is also a tax and international problem. Right now our laws deal with internet gambling in the same way prohibition in the 1920s was supposed to deal with alcohol—and we know what a spectacular failure that policy was. We must be more realistie in our approach.

The prohibition on internet gambling has encouraged gamblers to move their money offshore and use foreign-devised schemes that enable online wagering. The entities facilitating these transactions are free from U.S. regulation and taxation.

Because online gambling is illegal, U.S. taxpayers do not report their winnings to the IRS, costing the U.S. Treasury billions of dollars in uncollected revenue. We need a more sensible approach to protect consumers and ensure there is visibility into this issue. Mr. Chairmen, your bill and mine, H.R. 2267 and H.R. 2268 would work together to regulate internet gambling to make it safe for American consumers, and ensure that tax revenue that is currently forgone is collected.

This is a unique opportunity to help people and solve some social problems. It will also do a small part towards helping us balance the books of the country. Now is the time to act on these bills and I am hopeful we can make progress quickly and pass these bills together in this Congress.

Thank you for time and your efforts.

Testimony of:

Parry Aftab,
Executive Director of WiredSafety

House Committee on Financial Services
2129 Rayburn House Office Building
Washington, D.C. 20515

Thursday December 3rd, 2009

Hearing on "H.R. 2266, Reasonable Prudence in Regulation Act, and H.R. 2267, the Internet Gambling Regulation, Consumer Protection, and Enforcement Act"

Thank you Chairman Frank, Ranking Member Bachus and the members of the House Committee on Financial Services for giving me the opportunity to testify today on this important topic.

My name is Parry Aftab and I am the Executive Director of WiredSafety, the largest internet safety and help group in the world. WiredSafety operates entirely through its thousands of unpaid volunteers, worldwide. I founded and run the charity as an unpaid volunteer as well. WiredSafety covers all cyber-risks for digital technology users of all ages. While best known for our work in child protection and digital literacy, we protect senior citizens from scams and fraud, and adults from cyber stalking and harassment equally as often.

WiredSafety served as one of the 29 members of the Harvard Berkman Center's Internet Safety Technical Task Force (the "ISTTF") which was commissioned to render a report to the 49 of the state attorneys general on children online. I was recently appointed to serve on the 24 member working group established by an act of Congress run by the NTIA to render a report for Congress in June of 2010 on cyber safety issues impacting children. The UN and UNESCO, as well as the FTC and FCC have turned to us for advice and help.

Internet gambling is not a new issue for us. In addition to volunteering my time as Executive Director to the charity, I am also an Internet privacy and security lawyer and the author of The Parents Guide to the Internet first published in 1997. It was the first book written for parents on cyber safety and the Internet. It was designed to help parents understand the scope of the benefits and risks of Internet use by their children. The book addressed pornography, sexual predators, privacy, security and all aspects of safety, including online gambling risks. An entire chapter was devoted to online gambling and its risks to children. It was entitled "Are We Raising Riverboat Gamblers?"

The style of the book and its successor, The Parents' Guide to Protecting Your Children in Cyberspace (McGraw-Hill 2000), was lighter reading for the digitally-challenged parents, but the issues raised were serious. Perhaps I am best known for seeking practical and workable solutions to risks. I see cyber-risks requiring a multi-stakeholder approach, empowering parents and young people, providing law enforcement with the technology, skills and laws to enable them to keep our citizenship safe online, helping regulatory agencies and policymakers find the gaps that need to be addressed and ways to address them, enforcing best practices and risk-management from the industry, and helping our educators educate.

Minors and online gambling has been a problem since we first began our work in 1995. Even then, kids were gambling online - illegally, but gambling nonetheless. Teens would use babysitting, paper-delivery and birthday money to place bets online. Teens themselves would contact us when the websites failed to pay out, or they suspected fraud. Parents and grandparents would contact us when they discovered their teens gambling online, or wanted help keeping them away from online gambling sites. We helped them when we could; reviewing filtering and blocking technologies, reaching out to the credit card companies and phone companies used as payment intermediaries, and would sometimes even contact the sites themselves.

But minors' gambling remains a problem, as does illegal and fraudulent practices by many unregulated gambling websites. These issues range from scams and fraud perpetrated by the gamblers and those perpetrated by the website operators. Rigged games and collusion using old-fashioned and digital methods are common place among unregulated websites. There may be no safeguards against criminals from using these sites to launder money or illegally transfer funds. Problem gamblers can face enhanced problems when the websites are not using best practices to address these special issues. Online gambling abuse has become a main stream consumer issue. It is WiredSafety's role to address problems affecting our consumer constituency online. Gambling is one of those problems we must address.

After more than a decade analyzing the risks posed by unregulated internet gambling, it may be ironic but I have reached the conclusion that the best way to protect families and consumers in connection with cyber gambling is by legalizing it, not outlawing it entirely. Current laws prohibit the use of any financial institution for placing illegal online bets. But this approach won't work in isolation and can't work in a digital environment. The Internet was designed to route around obstructions. If a region were destroyed by nuclear disaster, the Internet will just reroute the communications and connections. It was, perhaps, its most important early feature. Laws are often seen as just another obstruction. They must be part of a holistic scheme that includes all stakeholders. The current approach has been to "see no evil...hear no evil." But while we pretend that online gambling is outlawed and therefore unavailable to US residents, the statistics reflect otherwise:

- It is estimated that Americans spend approximately $6 billion per year on Internet gambling and that figure is expected to increase even under the current legal framework.
- Surveys indicate that more than 300,000 young people between 14 to 22 gamble at least once a week on the Internet, and over 700,000 do so at least once a month.
- 3.3% of male youth or more than 1 million individuals play cards online for money at least once a month.

In my chapter I addressed some of the problems of online gambling, especially for minors. Because of the nature of online financial transactions, the many unregulated industry members and often unsophisticated online gamblers, WiredSafety has over the years identified the broad range of risks related to online gambling. While all gambling is, by its nature, risky, unregulated gambling is the most risky. Frankly, we need governmental help. We will have to legislate best practices, identify the good actors and the bad, and find ways to fund awareness programs and technology. Without regulations to handle underage gambling, addictive gambling, fraud, collusion, malware and malicious code, privacy and data protection, criminal involvement, disputes and online security threats, consumers and families are on their own. That is unacceptable.

One parental control technology provider has identified thousands of online gambling websites. A simple Google search of "gambling sites" reveals 9 million hits, many of which are online gambling sites advertising a wide range of gambling opportunities.

WiredSafety has always taken the position that education is preferred to regulation. And we have learned that existing laws can often fit new technology legal needs. But in this case it appeared that help was needed from Congress. We believed that the issues warranted further study and deliberation. Earlier this year, we commissioned a comprehensive study of the risks we had identified, existing and viable regulatory schemes and the ability of technology tools to address our top concerns. Would regulation of cyber-gambling work? Is there a way to address the most crucial cyber-risks under existing laws or using alternative methods? Is it practical? Will it improve the existing situation? What can be learned from other jurisdictions? How can we improve on existing approaches? Can risks be realistically mitigated? And if so, how much?

My colleague Professor Malcolm Sparrow will discuss this study in greater detail but I want to touch on a couple of its fundamental conclusions because they speak to the protection of consumers and children which is of prime importance to WiredSafety and to me personally.

The unintended but inevitable result of the current U.S. legal approach to internet gambling is to force millions of American consumers to offshore sites out of the reach of U.S. courts and regulators and exposing U.S. citizens to significant risks without legal recourse. Prohibition isn't working here any better than it did during the days of Al Capone. People will find ways to place a bet online or try their hand at games of chance.

As a result, the United States finds itself in the unfortunate position of incurring all the social costs of online gambling while having abdicated control over the gaming sites accessed by its consumers. With unregulated internet gambling there is no one to turn to for help when the player suspects fraud, or winnings are not paid. Where can they go if their personal information is shared with others? Who will make sure these sites are following established rules or using state-of-the-art security practices and technologies? How do we keep them from attempting to lure teens to set up accounts? Or what do we tell a senior citizen whose wife has been defrauded into gambling away all their retirement savings?

The status quo offers no meaningful assurances that consumers will be protected. The most important conclusion reached by the study is that legalization and regulation of online gambling would offer significant improvements to all the risks identified. Professor Sparrow concludes that the best way to address the risks of problem and underage gambling, as well as criminal activity and fraud, is through strict and smart regulation coupled with technology.

This is particularly true when it comes to dealing with preventing minors from accessing online casinos. A common concern about legalizing online gambling is that underage access to online casinos could increase because it may be difficult to utilize age verification controls utilized by brick and mortar casinos to exclude minors. This twists the question. We are not identifying minors through age verification. We are identifying adults. And if the multi-step verification system cannot prove that the applicant is an adult, that applicant will be denied an account.

However, what we found in our research was that there are a number of technologies routinely used in other industries that were easily adaptable to online gambling sites. They are real, proven and in use today. They are also improving by the minute.

And even if the risks are not fully eradicated, they will be seriously mitigated. While nothing is foolproof, we will be better off than we are today. In contrast to unregulated sites that offer no protections against underage gambling, well regulated overseas gambling jurisdictions require online operators to verify the identity, location, and age of their customers and use existing technologies to confirm an individual's information. In addition, these technologies when coupled with a strong regulatory environment, like those that exist in places like the United Kingdom, provide reasonable success in excluding minors from gambling sites.

In conclusion, if we are going to protect consumers, we need to recognize that online gambling is a reality and growing daily. We owe it to Americans to address it intelligently. Our study and our experience supports the conclusion that the best way to address the risks associated with online gambling is developing a strong regulatory regime that protects consumers and empowers parents to protect their children from risky gambling web sites. And only Congress can do that.

Thank you again for the opportunity to testify and I look forward to your questions and any help I can provide.

STATEMENT OF
MICHAEL BRODSKY
EXECUTIVE CHAIRMAN,
YOUBET.COM

BEFORE THE

FINANCIAL SERVICES COMMITTEE
UNITED STATES HOUSE OF REPRESENTATIVES

December 3, 2009

Good morning Mr. Chairman, and Members of the Committee. My name is Michael Brodsky, and I am the Executive Chairman of Youbet.com, one of the largest legal online wagering companies in the United States.

Our company operates under the Interstate Horseracing Act of 1978, and only accepts wagers on pari-mutuel horse racing. I should also note that two weeks ago Youbet and Churchill Downs, owner of the Kentucky Derby, announced that Churchill will acquire Youbet. Please note that this announced transaction is pending and the closing is subject to achieving certain consents and approvals. There is no announced closing date at this time. Youbet will operate as a separate company until the transaction closes. I am appearing here today solely on behalf of Youbet.com.

To better describe Youbet.com, it is a diversified provider of technology and information services for the pari-mutuel horse racing industry. Our company provides customers with "racing content" in the form of video and live odds, wagering and analytic tools and a stable, secure and trusted wagering platform. Customers are offered the ability to access the platform through both the Internet and the telephone. Youbet's subsidiary United Tote Company is a leading supplier of totalizator systems (equipment and technology that processes wagers and payouts), terminals and other pari-mutuel wagering services and systems to the pari-mutuel industry. Youbet.com has been publicly traded on the NASDAQ (ticker symbol UBET) since June of 1999.

The company currently has over 300 employees and is headquartered in Burbank, California. Youbet International began building Youbet.com in 1995 and started accepting wagers in 1998 with only two tracks. To date the company has processed over $3.0 billion in online wagers and offers our customers the ability to wager on 180+ tracks worldwide. Youbet.com's Web site offers members the ability to watch and, in most states, wager on the widest variety of horse racing content available worldwide. Based on information compiled by the Jockey Club, over 88 percent of pari-mutuel wagers on thoroughbred racing in the United States were placed at locations away from the host track. The shift toward off-track wagering through "advance deposit wagering companies" (ADWs) has been driven by the betting public's desire for convenience and access to a broader range of horse racing content.

The Youbet.com wagering platform offers members commingled track pools, live audio/video, up-to-the-minute track information, real-time wagering information, phone wagering, race replays, simultaneous multi-race viewing and value-added handicapping products. The company's Players Trust™ revolutionized advanced deposit wagering by placing player deposits in the custody of a major U.S. financial institution. In addition, Youbet.com is the exclusive provider of horse racing content for CBS Sports.com and ESPN.com, two of the top ten sports Web sites

The combination of the Youbet.com and Churchill Downs businesses will enable further product improvements that could expand the appeal of horse racing – helping to bolster the racing industry as a whole. We believe that there is substantial growth opportunity yet to be realized in the online wagering market. Slightly less than 14 percent of all wagering on U.S. thoroughbred racing will be placed online in 2009 – growing from just over 9 percent in 2007. The online penetration for pari-mutuel horse wagering pales in comparison to other equally mature consumer segments such as music, tickets or books which reach penetration rates in excess of 65 percent.

In my testimony today, I will address the scope and scale of current illegal Internet gambling, discuss why I believe legalization is the only plausible solution to this problem, and how technology that exists today can be utilized to successfully regulate online gambling.

But first, Mr. Chairman, I want to thank you for your strong support of a rational approach to legalized Internet gambling and for holding this hearing today. I have long admired your stance on this issue, Mr. Chairman, because you have accurately described it as a question of personal freedom and common sense.

You need only look at lottery sales, bingo halls, charitable gaming festivals and pari-mutuel and casino gambling facilities throughout the country to see that legal forms of bricks-and-mortar wagering are established, accepted and regulated in our country. Why should most forms of online wagering be illegal?

Illegal Internet gambling in the U.S. is happening now, and growing. It's a big business involving billions of dollars a year. With the exception of pari-mutuel horseracing, U.S. Internet gambling is all underground – untaxed and unregulated. These billions upon billions of dollars are leaving our country, totally untaxed, with U.S. regulatory authorities having no control or knowledge of where that money is going.

Today's illegal online gambling is a "Wild West" affair: no meaningful curbs on underage gambling, no recourse for misdirected funds, no attempts to aid problem gamblers and no tax revenues for the U.S. For good reason, some have compared the passage of UIGEA to our nation's attempt early in the 20th century to ban alcohol via Prohibition, which by all accounts was a major failure. As with Prohibition, illegal online gambling is thriving as an underground economy. The vast majority of people who gamble on-line are law-abiding citizens who want to wager on a system that has integrity

and security. The only way to put any controls on Internet gambling is to legalize it and regulate it.

At Youbet we are first and foremost technology people. We understand how to run an e-commerce business – what works and what does not. Let's be clear about this: In this Internet age, trying to maintain a U.S. ban on Internet gambling is a losing proposition. It's virtually impossible to even slow it down, much less stop it.

The Youbet.com leadership is comprised of highly experienced online business, media and technology experts with a history for delivering success to their respective companies. In addition to me, our senior team is made up of President and Chief Executive David Goldberg, Chief Financial Officer Susan Bracey, Chief Marketing Officer Jeffrey Grosman, General Counsel and Secretary Dan Perini and United Tote President Dawn Haden. Members of our Youbet senior team and I have been executives at leading edge technology companies such as Orbitz, Ticketmaster, Careerbuilder.com and Network Solutions – and we understand how technology can be used to safeguard consumers.

I understand the concerns about underage gambling. As a parent, I want to see online gambling legalized. Why? Because I want it managed. As a society we can make Internet gambling operators subject to U.S. supervision, holding operators accountable. The fact is that enacting HR 2267 is the most effective way to achieve the stated goals of some of the bill's harshest critics.

Today's out-of-control Internet gambling situation was made possible by the revolution in technology, and it will take technology to fix it. Today at Youbet we use technology that would ensure effective regulation of Internet gambling. The already-existing, totally legal, online pari-mutuel horserace wagering industry is a U.S.-based model of how to provide a responsible online wagering experience for adults – one that is clean, regulated and scrupulous about both collecting and paying taxes.

Additionally, without getting into specifics, there are a number of patented technical innovations that we, and others, are working with to further ensure that customers are not only of age but also comply with the provisions of the legislation when they engage wagering services.

Youbet.com is a public, Sarbanes Oxley-compliant, company that uses the latest technology and vigorously maintains its own Youbet Responsible Wagering Program, developed over 13 years. It is designed to prevent underage gambling and combat problem wagering. The technology enables us to conform to all federal laws and the laws of those states in which we operate, including meeting all tax withholding and reporting requirements.

Mr. Chairman, Congress today faces a stark "either/or" public policy choice: as a country, we can either legalize, regulate and tax online gambling – or, allow it to continue to flourish in an offshore "black market" that allows easy access for anyone with a

computer and Internet connection. Based on our experience at Youbet, we believe that the best solution is for the federal government to legalize and regulate online gambling, working with already-existing technology that combats underage and problem gambling, and properly accounts for much-needed federal and state revenues. Congress needs to enact HR 2267.

In my testimony today, I have referred to the Youbet Responsible Wagering Program, and for the record I am placing below a substantial portion of the program text as it is displayed on the Youbet.com Web site. Thank you for the opportunity to testify today, and I look forward to answering any questions you may have. The program description follows:

Youbet.com Responsible Gaming

Online horse race wagering is one of the most exciting, exhilarating ways to participate in this thrilling sport. At Youbet.com, we take our commitment to providing you with the best experience possible very seriously. That includes ensuring all members enjoy a safe, secure and healthy relationship with horse racing and wagering. That's important for you, for us and for the entire online wagering community.

How we help protect our members
As the largest legal online wagering website in the U.S., Youbet.com goes further in providing all the safeguards necessary for members to have a robust, positive experience. Our Responsible Wagering Program was established to address a range of important criteria, and through cutting-edge technology we have the means to meet a variety of objectives:

- Prevent underage wagering
- Help fight problem wagering
- Comprehensive transparency to ensure compliance with all state and federal laws
- Compliance with all tax withholding and reporting requirements for our members

Preventing wagering by juveniles is an important commitment at Youbet.com.
Our technology enables us to institute a comprehensive set of procedures and precautions that limit horse race wagering to only qualified adult members. Youbet.com takes a very strict stance toward wagering by anyone under the age of 21, even in states where the legal age is 18. Our strict account number and password verification process ensures only adults over the age of 21 can make wagers, while third-party identity and age authentication services verify all information before any wagering account subscription applications are accepted or activated. It is not only our corporate policy, we've made it an integral part of our site functionality through built-in safeguards that restrict access to anyone but the registered adult member. For example, even before an account can be established, our third-party identity and age authentication services carefully screen potential members. All information is verified before any wagering account subscription are accepted or activated

As another service to our members, we have limits on the aggregate dollar amount of credit card deposits during set time periods. Along with those limits, members may request the closing of their wagering account and that they be placed on our "self-exclusion" list.

Providing Support

As a member-based organization, we're here for you. Part of our commitment is that we encourage and help members to stay within reasonable wagering guidelines and avoid illegal and unregulated wagering websites. Youbet.com is U.S. based and U.S. licensed, and works hard to make online horse race wagering pleasurable, and all the protective measures we've adopted help make that a reality.

Recognizing the problem is the first step to solving it.

Good horseplayers know their limits, and that includes when to seek help. To learn more, player can read the Myths & Facts, take the self evaluation with 20 Questions from Gambler's Anonymous.

Problem wagering is a progressive behavior disorder that can lead to an uncontrollable preoccupation and urge to gamble. It is a diagnosable and treatable condition, so if you or someone you know might have a wagering problem, there are many resources available to help. This is especially true if you are dealing with teens or other underage people.

http://www.youbet.com/wagerresponsibly/evaluation.asp

# # #

Statement of James F. Dowling, President and Managing Director
Dowling Advisory Group

HR 2266 Reasonable Prudence in Regulation Act
HR 2267 Internet Gambling Regulation, Consumer Protection, and Enforcement Act

U.S. House of Representatives
Committee on Financial Services

Thursday December 3, 2009

The Honorable Barney Frank
Chairman
Committee on Financial Services

The Honorable Spencer Bachus
Ranking Minority Member
Committee on Financial Services

I would like to thank Chairman Frank and Ranking Member Bachus and the Financial Services Committee for the opportunity to testify about this very important legislation. For over 30 years, I have dedicated my professional life to fighting fraud and money laundering. First as a Special Agent with the IRS Criminal Investigation Division where I conducted investigations, acted as an undercover agent in long term investigations and later as the Anti-Money Laundering Advisor with the White House Drug Policy Office where I provided anti-money laundering advice relating to domestic and international money laundering issues. I also had the opportunity to prepare numerous classified and unclassified money laundering threat assessments. Since retiring from government service, I worked in one of the "big four" accounting firms providing anti-money laundering and fraud consulting services to some of the largest financial institutions in the country. I have now started my own firm where I help bank and "non-bank financial institutions" including casinos with anti-money laundering advice. My testimony today is neither as an advocate nor a foe of Internet gaming. Rather, it is to provide this committee with critical information regarding the potential threats from money laundering and terrorism financing relating to Internet gaming. I feel that the current legislation prohibiting Internet gambling-related payments is lacking in regulatory support, and to be successful, the government -- probably the Justice Department— needs to provide banks an OFAC-like list of illegal sites that then could be blocked relatively easily. However, legalizing Internet gambling poses significant money laundering and terrorism threats.

The amount of money involved in Internet gambling is difficult to determine accurately. In a GAO report prepared in December of 2002, they estimated that global gaming revenues would be approximately $5 billion in 2003. Today, some Internet gaming companies state that approximately $1 billion in revenues are generated from US based Internet gaming alone. Other accounting/consulting firms have estimated the US based

gaming to be over $57 billion per year with projections that by the year 2011, US gaming revenues will exceed $79 billion per year. Globally, accounting firms are also estimating annual growth rates of between 1.9% in Europe, the Middle East and Africa to a high of over 15% per year in Asia.

Because this is such a "high stakes" issue, published reports reflect that The Poker Players Alliance has spent over $400,000 on lobbying efforts in a three month period alone to push for the legalization of online poker. Internet gambling is a high dollar volume business in a borderless multinational structure which creates a good environment for significant money laundering and terrorism financing. The controversy surrounding Internet gaming is not a new one. The Financial Action Task Force (FATF) has issued three different advisories regarding money laundering from both Internet and land-based casinos. FATF is an independent inter-governmental body that develops and promotes policies to protect the global financial system against money laundering and terrorist financing. Recommendations issued by the FATF define criminal justice and regulatory measures that should be implemented to counter this problem. These recommendations also include international cooperation and preventive measures to be taken by financial institutions and others such as casinos, real estate dealers, lawyers and accountants. The FATF recommendations are recognized as the global anti-money laundering and counter-terrorist financing standard.

In FATF's 2009 report on Money Laundering issues in casinos, they made key findings and observations about threats from a global perspective regarding Internet gambling. Some of those findings are:

- "A number of jurisdictions clearly lack awareness of money laundering and terrorist financing risks in the casino and gaming sectors.
- A significant number of jurisdictions have limited regulatory controls, including "fit and proper" tests for casino owners, managers and staff, internal controls, etc. A greater number of casino sectors are not yet subject to any AML/CFT controls, in particular in developing countries. Very few jurisdictions regulate junket operators.
- Vetting, licensing and training relevant employees – jurisdictions raised the need to ensure that staff with a potential to impact on the integrity of the casino operation should be vetted and appropriately trained in AML/CFT. There are significant gaps in coverage of staff in some gaming jurisdictions.
- Internal controls – Most jurisdictions require casinos to have a documented set of internal controls over almost all aspects of casino operations. Some require the regulator to approve these whilst others require the documented controls to meet a set of specified standards
- Law enforcement agencies and regulators report the need for and implementation of suitable tools that carry effective, proportionate and dissuasive sanctions to use in the regulation of casinos, which are willfully negligent in AML. Results of Mutual Evaluations indicate a lack of effective regulatory tools for casinos across members of the FAT."

US regulatory agencies face significant challenges in regulating land-based casinos and enforcing these laws and regulations. The additional challenges of attempting to regulate "virtual" casinos or gaming companies would put additional burdens on already over taxed resources as identified in the FATF report.

In addition to the FATF advisories, the Government Accounting Office (GAO) prepared a report for Congress and specifically for this very committee entitled "Internet Gambling, An Overview of the Issues, December 2002" which discussed the potential perils of Internet gaming relating to money laundering and terrorism financing. In that report, the GAO states: "...global revenues from Internet gaming in 2003 are projected to be $5.0 billion dollars. In 1996, Congress created the National Gambling Impact Study Commission to examine the social and economic impacts of gambling, including Internet gambling, by conducting a comprehensive legal and factual study. In its 1999 report, the commission recommended (1) that the federal government prohibit any Internet gambling not already authorized and encourage foreign governments not to harbor Internet gambling organizations, and (2) that Congress pass legislation prohibiting the collection of credit card debt for Internet gambling.2 The social and economic concerns about Internet gambling raised in the report included underage gambling, pathological gambling, lack of consumer protections, and criminal abuse. In response to these concerns, numerous bills were introduced in Congress to prohibit Internet gambling."

Because Internet gambling is essentially borderless activity, from a money laundering and terrorism financing perspective, it creates a regulatory and enforcement quagmire. To understand these difficulties we must look at the money laundering methodology. Money laundering occurs at three different stages---placement, layering, and integration. In the placement stage, funds from illicit activity are converted to monetary instruments or deposited into bank and "non-bank financial institutions". In the layering stage, the funds are moved to other institutions and accounts through various activities to obscure their origins. Finally, in the integration stage, the funds are used to acquire legitimate assets or fund further activities. Money-laundering through online gaming normally takes place at the layering stage of the money laundering model whereas in land-based casinos the money laundering normally takes place at the placement stage. Law enforcement and regulators have the most success identifying and stopping money laundering at the early stages of the process which is the placement stage. The chances of law enforcement or regulators identifying money launderers at the layering stages are greatly diminished and near impossible at the integration stage. Now because of advances in technology in the financial systems, things such as "e-currency", "e-wallets" stored value cards, prepaid cards and "mobile technology transfers", the layering stage of money laundering is faster and more anonymous. With the globalization of our financial systems, the transfer of funds across national and international boundaries is not only easy; it has become a common day occurrence.

In the United States under Title 31, casinos are considered "financial institutions" and as such are subject to anti-money laundering requirements. The work I have done in casinos has given me the opportunity to observe the systems and processes that they

go through in order to properly identify the customers coming into the casino. The casinos have extremely sophisticated electronic surveillance systems that allow them to observe and identify customers that come into the casino and preserve videotape of their activity should that activity be deemed suspicious. Integrated with the electronic surveillance systems that casinos operate, they also employ physical surveillance of the casino floor to observe patrons and to identify fraud and money laundering incidents. In addition to the physical electronic surveillance, the compliance department for land-based casinos integrates the technology to help them in identifying suspicious activity relating to money-laundering and terrorism financing along with fraud. In addition to the aforementioned measures, land based casinos (including Indian Casinos) have state or tribal regulators on site 24/7 walking the floors of casinos to ensure compliance with gaming laws and regulations and assisting in identifying fraud and money laundering. Internet gaming companies would not have that capability.

Land-based casinos also have the ability to physically verify the identity of the person conducting the gaming and then physically verify their identification to ensure it matches that person. In all land-based casinos, if a person fails to provide the casino with reliable identification upon reaching certain gaming limits, then the casino will bar them from any further gaming activity and place them on a blocked customer list. Until the customer provides proper identification to the casino, they will not be allowed to gamble at that casino. Internet gaming on the other hand has no way to effectively and accurately verify the person who is actually gambling. Without these key ingredients, it is impossible to create a Customer Identification Program (CIP) for an online gaming company which is required under 31 CRF 103.64.

If an online gaming company cannot accurately identify the person who is actually conducting the gaming (financial transaction) then it is impossible for these companies to comply with provisions of the Office of Foreign Asset Control (OFAC) and other sanctions programs. The obvious gaps here would easily allow for not only money laundering but also terrorism financing to take place without detection. We have seen the results when financial institutions fail to comply or willfully circumvent provisions of the OFAC provisions in such institutions as Lloyds Bank and other international institutions. The failure to comply or intentionally circumvent our sanction regulations could have devastating results.

In addition to the FATF and GAO reports, the current National Money Laundering Threat Assessment and FinCEN have identified money laundering issues in casinos. In a FinCEN Advisory issued on July 1, 2009, FinCEN stated "The Financial Crimes Enforcement Network ("FinCEN") recently received information from law enforcement and regulatory authorities that certain casino personnel may have complied with requests from patrons to evade, or provided instructions to patrons on how to evade, reporting and recordkeeping requirements under the Bank Secrecy Act."

Until the true identity of the person actually conducting the Internet gambling can be determined, then the potential risks for money laundering and terrorism financing would negate any business opportunity.

Thank you for the opportunity to provide these comments and I would be happy to answer any questions or provide any additional testimony or information on money laundering and terrorism financing with respect to land-based or Internet casinos.

Testimony of the Honorable Robert Martin
Chairman, Morongo Band of Mission Indians
H.R. 2266, Reasonable Prudence in Regulation Act, and H.R. 2267, the Internet Gambling Regulation, Consumer Protection, and Enforcement Act

December 3, 2009

Mr. Chairman and members of the Committee, thank you for providing us with this opportunity to comment on HR 2266 and HR 2267.

My name is Robert Martin and I am the tribal chairman of the Morongo Band of Mission Indians in Riverside County, California. I am speaking today on behalf of the members of my tribe, my tribal government and the thousands of people we employ. Morongo is a federally recognized Indian tribe comprised of about 1,000 members, half of whom live on our 37,000-acre reservation located at the foot of the San Gorgonio Mountains between Los Angeles and Palm Springs.

HR 2266 proposes to provide safe harbor to those currently engaged in illegal online gaming from the regulations mandated by the Unlawful Internet Gambling Enforcement Act (UIGEA), for one year, or until HR 2267 can be enacted. HR 2267 would authorize and create a licensing regime for the use of the Internet for various forms of online gambling and provides for the regulation of those games.

We are here today to ask why Congress would want to protect foreign illegal operators to the detriment of existing American jobs? In summary, we stand in opposition to these bills because:

1. The legislation will do nothing but legalize off-shore gaming, at the expense of American Jobs;
2. As tribes are restricted to offer gaming only from Indian lands, we will be at a competitive disadvantage relative to all other non-tribal gaming interests; and
3. Current law, the Unlawful Internet Gaming Enforcement Act (UIGEA), provides a constructive pathway for those who wish to offer in Internet gaming on a state by state basis, and that law should be given time to become effective in its own right.

Mr. Chairman, I am also troubled by that Treasury Department has now granted a six-month reprieve from the implementation of the 2006 Unlawful Internet Gaming Enforcement Act. In a memorandum signed by President Obama on November 5, 2009, the President declared his commitment to fulfilling the consultation requirements of Executive Order 13175, a directive originally issued by President Clinton on November 6, 2000. Executive Order 13175 calls for regular, meaningful consultation and collaboration with Tribal officials in the development of Federal policy. Tribes were not consulted on this extension and our interests in the law were not considered. Jobs are being lost and capital is fleeing our shores every day the 2006 Act fails to be enforced.

Keep American Jobs and Capital in America

Let me be clear at the outset, gaming is the primary economic driver for our government. The Indian Gaming Regulatory Act of 1988 was enacted to assist tribes in the development of reservation based jobs. The revenues from gaming have enabled us to create jobs, provide education and social services; diversify our economic base; and generate substantial economic activity throughout the region. In addition, those same revenues have enabled us to return millions of dollars to local and regional governments in addition to the millions we pay to the state. Our gaming has allowed us to provide millions more in support to non-gaming tribes. However, every day this illegal gaming is continued to exist, more pressure is placed on our ability to serve our community and meet the needs of our neighbors.

Current illegal online wagering is estimated to total $347 billion a year globally. This vast, illegal activity is dominated by offshore entrepreneurs and they intend to use these bills to continue to control the market.

These bills will do nothing but promote the status quo of illegal online gaming. They will protect offshore online gambling interests at the expense of tens of thousands of jobs here in the United States. And they will cost billions of dollars from the investments that tribal governments and non-tribal commercial interests have made in our communities

HR 2267 threatens existing U.S. gaming facilities that employ hundreds of thousands of Americans.

Here is a look at Indian gaming in 2008 by the numbers.

- Tribes generated $25.9 billion in gross gaming revenues.
- Tribes produced another $3.2 billion in gross revenues from related resorts, hotels, restaurants and other lodging or entertainment venues.
- Tribal gaming has created more than 600,000 jobs nationwide
- Tribal gaming has delivered $8.0 billion in federal taxes and saved the government millions more in unemployment and welfare payments.

HR 2266 and HR 2267 pose a direct threat to bricks and mortar gaming facilities and the hundreds of thousands of Americans who work there. Passage of these bills will create few new U.S. jobs because current illegal online gaming is primarily run by offshore entrepreneurs.

The Morongo Band of Mission Indians has employed as many as 2,500 people at one time with an annual payroll of more than $73 million. Collectively, it is estimated that California tribal gaming has generated more than 200,000 direct and indirect jobs for the state. In fact, California's Employment Development Department has reported that the

only industry sector to have experienced any form of job growth in California from 2002-2007 was Indian gaming. With the exception of tribal governments, virtually every other sector of the economy has posted losses, including retailing, transportation, manufacturing and business services.

Today, we are facing the same economic stresses as everyone else. Morongo has seen a decrease in our revenues by nearly 50 percent since the recession began and we have been forced to lay off employees. Similar hardship has befallen most tribes across the country.

This means tribal gaming, like most enterprises, must be pro-active in protecting its emerging markets – and online gaming is a central part of tribal gaming's future.

This Congress and our current Administration have worked to promote programs to save and create new jobs. However, the passage of this legislation would only imperil existing jobs.

HR 2267 Promotes Anti-Competitive Policies

HR 2267 discriminates against tribes and establishes an unfair competitive advantage to foreign offshore gaming operators. If these bills became law, tribes would only be allowed to offer Internet-based gaming to people physically located on the Indian lands of that specific tribe. That is an enormous restriction on our ability to compete with non-tribal entities.

To be fair, HR 2267 will allow tribes to prohibit a licensee from accepting wagers initiated and received within its territory. That is a significant step in the right direction with respect to the treatment of our tribal sovereignty. But the bill fails to provide a tribal licensee with the ability to initiate or receive bets or wagers from outside its territory. Instead, HR 2267 simply continues the same Indian Lands restriction provided under the Indian Gaming Regulatory Act of 1988, a law that was written before the commercialization of the Internet. The framers of IGRA sought to create a major economic development engine for Indian Country. They would never have intended to have those economic opportunities undermined by foreign-owned entities. But that's what HR 2267 would do.

Current Law Can Work

Third, we believe the current law, the Unlawful Internet Gaming Enforcement Act, provides a constructive pathway for those who wish to offer Internet gaming on a state-by-state basis. We urge Congress to give that law enough time to become effective in its own right.

The Unlawful Internet Gaming Enforcement Act has solid safeguards for the use of credit cards and wire transfers associated with Internet gaming transactions. It provides the terms, conditions and restrictions for wagers initiated by an intrastate or intertribal

source. States and tribes providing such licensing and regulatory structures have this option available to them.

Those seeking passage of HR 2267 should be asked to demonstrate the shortcomings of this existing law before Congress decides to toss it out for a replacement that is defective on its face.

Final Observations

The one-size-fits-all financing scheme in HR 2267 would disrupt the existing flow of public revenues to many states and municipalities. HR 2267 would undermine the significant tax base generated by gaming properties for state and local governments across the country. Local governments receive more than $100 million from gaming tribes. States receive $2.5 billion in taxes, regulatory payments and revenue sharing, resulting from state tribal gaming compacts. But HR 2267 will rob income to these operations, in turn diminishing tax revenue for local communities.

Proponents of this legislation on behalf of the illegal offshore operators argue that giving them free access to the American market will eventually increase the gaming industry's bottom line. Even if this were true, there will be a few winners, and many losers. The winners are likely to be large Nevada gaming corporations and overseas Internet gaming site operators. The many losers will include almost all tribal and commercial casinos outside of Nevada, and the people who work in them.

Only the largest casino operators will be able to market successfully and have the 'critical mass' necessary to operate a viable Internet gaming site. Other competitors will not be able to achieve this critical mass, and thus can realize no benefit from HR 2267's wide-open federal Internet gaming concept.

I would be pleased to answer any questions you might have regarding my testimony.

Can Internet Gambling Be Effectively Regulated? Managing the Risks

Authored by

Malcolm K. Sparrow
John F. Kennedy School of Government
Harvard University

With Contributions by

Coleman Bazelon, PhD

Charles Jackson, PhD

December 2, 2009

TABLE OF CONTENTS

I. OVERVIEW OF APPROACH AND SUMMARY OF RESULTS 1

A. Our Approach 2

1. Gambling by Minors 3
2. Criminal and Fraudulent Behavior 3
3. Network Access, Data Privacy and Security Issues 3
4. Problem Gambling 4

B. The Status Quo Offers No Effective Protection 4

C. Legalization and Regulation Would Afford Significantly Better Protection than the Status Quo 6

D. Regulatory Methods and Technologies for Controlling Each Type of Risk Already Exist 7

1. Gambling by Minors 9
2. Criminal and Fraudulent Behavior 9
3. Network Access, Data Privacy and Security Issues 11
4. Problem Gambling 12

E. Conclusions 15

II. REGULATORY METHODS AND TECHNOLOGIES AVAILABLE FOR CONTROLLING EACH RISK 16

A. Gambling by Minors 16

1. The Issue of Gambling by Minors 16
2. Existing Controls in Other Jurisdictions 17
3. Relevant Technologies for Risk Mitigation 20
4. Conclusion 23

B. Defrauding of Consumers by Site Operators 24

1. The Issue of Fraud by Site Operators 24
2. Existing Controls in Other Jurisdictions 26
3. Relevant Technologies for Risk Mitigation 28
4. Conclusion 29

C. Cheating or Defrauding of Players by Other Players 29

1. The Issue of Players Being Defrauded by Other Players 29
2. Existing Controls in Other Jurisdictions 31
3. Relevant Technologies for Risk Mitigation 32
4. Conclusion 33

D. Involvement of Organized Crime in Gambling Operations 33

1. The Issue of Involvement of Organized Crime in Online Gambling 33

2. Existing Controls in Other Jurisdictions 34
3. Relevant Technologies for Risk Mitigation 36
4. Conclusion 36

E. Money Laundering by Players 37

1. The Issue of Money Laundering by Players 37
2. Existing Controls in Other Jurisdictions 39
3. Relevant Technologies for Risk Mitigation 40
4. Conclusion 42

F. Money Laundering by Site Operators 43

1. The Issue of Money Laundering by Site Operators 43
2. Existing Controls in Other Jurisdictions 44
3. Relevant Technologies for Risk Mitigation 44
4. Conclusion 45

G. Violation of Jurisdictional Restrictions or Prohibitions 45

1. The Issue of Violation of Jurisdictional Restrictions 45
2. Regulatory Strategy 46
3. Relevant Technologies for Risk Mitigation 47
4. Conclusion 49

H. Breaches of Data Confidentiality 50

1. The Issue of Data Confidentiality 50
2. Existing Controls in Other Jurisdictions 51
3. Relevant Technologies for Risk Mitigation 52
4. Conclusion 53

I. Communications and Computer Security Failures 53

1. The Issue of Communications and Computer Security Failures 53
2. Existing Controls in Other Jurisdictions 55
3. Relevant Technologies for Risk Mitigation 56
4. Conclusion 58

J. Problem Gambling 59

1. Problem Gambling 59

III. SPECIAL ATTENTION TO PROBLEM GAMBLING 60

A. Introduction 60

B. What is Problem Gambling? 60

1. Terminology 60
2. Prevalence Rates and Trends 61

C. Potential Effects of Legalization of Online Gambling on Problem Gambling 62

1. Potential Adverse Effects of Legalization 63

2. Potential Benefits of Legalization 69
D. Concluding Remarks 72

Acknowledgements

The authors would like to thank Dorothy Robyn, PhD, who contributed to this project while at The Brattle Group. The authors would also like to thank Pallavi Seth, PhD, and Michael Sutcliffe of The Brattle Group for their assistance.

EXECUTIVE SUMMARY

This study was commissioned by Wired Safety, an Internet Safety and Educational charity. It examines a range of harms potentially associated with online gambling, and alternative methods for mitigating or minimizing them. Recognizing that the current U.S. prohibitionist regime with respect to online gambling is largely ineffective in achieving its aims, and provides no platform or opportunity for the implementation of most of the relevant harm-reduction strategies, we find that an alternative regime of legalization and regulation of online gambling would likely improve consumer welfare and protections. The body of this report evaluates a range of strategies, both regulatory and technological, that could be used to mitigate potential harms associated with online gambling more effectively.

Notwithstanding the current prohibitionist legal and regulatory approach, millions of U.S. residents gamble online through offshore gambling sites. As a result, the United States finds itself in the unfortunate position of incurring all the social costs of online gambling while having no control over the gaming sites that serve U.S. residents. The United States cannot disqualify industry participants from competing effectively for U.S.-based customers or offer its residents any consumer protections. Nearly all states permit some form of commercial gambling, and the industry is large and well-established. Clearly, policymakers have extensive precedent from which to draw strategies to mitigate the potential social harms of gambling.

Although some controls used in bricks-and-mortar casinos may not translate well to online gambling, several of the risks we examined become *more* amenable to control online. New technologies can be effective, even for those risks that are more difficult to address online. For example, geolocation and age verification technologies can help turn potentially significant risks into manageable ones.

In this study, we analyze 10 specific risks that others have suggested are potentially associated with online gambling: gambling by minors, fraud by operators, fraud by players, organized crime, money laundering by players, money laundering by operators, violation of jurisdictional prohibitions, breaches of data confidentiality, lack of site security, and problem gambling. It is important that regulators treat each of these potential risks differently. For some risks (such as players cheating other players), the public interest and the interests of the gaming industry align, making a cooperative regulatory relationship natural. For others (such as those involving potentially criminal conduct by operators), a strict enforcement regime would be more appropriate. Still other potential risks (such as underage and problem gambling) call for a more nuanced regulatory approach involving a mixture of strict enforcement, effective nonprofit support, community education, and cooperation, in keeping with the more complex motivations and incentives facing site operators.

For each of the 10 risks, we examined a set of regulatory methods and technologies that would provide a reasonable degree of risk management in a regulated environment. Most of these methods have already been implemented in some form in other jurisdictions. The United Kingdom, Alderney, Gibraltar, and others have successfully implemented

regulation, and nearly all of the well-regulated jurisdictions we studied address the 10 risks to some degree.

The establishment of a well-regulated industry under U.S. jurisdiction would offer far better protection against online gambling's potential social harms than outright prohibition. Combining a thoughtful regulatory scheme with education, technology tools, and support appears to be the most effective means of handling the realities and risks of online gambling in the United States. Therefore, we recommend that plans for regulating online gambling include the design and use of different risk-management strategies tailored to the different classes of risk that are associated with Internet gambling. In the end, consumers in the United States would be better protected than they are now.

I. OVERVIEW OF APPROACH AND SUMMARY OF RESULTS

Congress is debating legislation that would remove the existing prohibition on the use of the Internet for most types of gambling.[1] The proposed legalization of online gambling would be conditioned on the imposition of regulation designed to limit or prevent potential harms such as underage gambling, money laundering, and problem gambling.

A key issue in the debate over legalization of online gambling is whether regulation and technology could effectively control such potential harms. Some of the opposition to legalization reflects a perception that online gambling—in contrast to gambling in bricks-and-mortar casinos—would be difficult, if not impossible, to regulate effectively.

This study reviews the research literature and international approaches to online gambling. WiredSafety (the Internet safety and educational charity) has commissioned this study to help inform the legalization debate and to help educate the public on the risks associated with online gambling and the best ways to address those risks.[2]

We note that our expertise is in regulatory policy and its relationship to risk analysis, rather than in any extensive prior knowledge of the gaming industry and gambling behavior per se. We have critically reviewed the existing literature, evaluated relevant technologies, and interviewed a range of scholars and practitioner experts, both here and abroad. We have not, however, conducted any new epidemiological studies or field research. Our distinctive contribution is the frame for risk management and regulatory analysis, rather than any new scientific inquiry.

Our analysis does not directly address whether online gambling should be legalized. In focusing on managing risks, we did not weigh moral or religious objections to gambling, nor did we examine broadly libertarian arguments in favor of allowing adults to engage in pastimes they may enjoy. We did not conduct any analysis to quantify the benefits of potential tax revenues attributable to regulated online gambling. Further, we have not focused on any issues of federalism or on exactly where regulations and laws should fit into the U.S. multijurisdictional

---

[1] Internet Gambling Regulation, Consumer Protection, and Enforcement Act, H.R. 2267, 111th Cong. (2009), http://www.house.gov/apps/list/press/financialsvcs_dem/21frank_008_xml.pdf (last accessed on July 23, 2009), and Internet Gambling Regulation and Tax Enforcement Act of 2009, H.R. 2268, 111th Cong. (2009), http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=111_cong_bills&docid=f:h2268ih.txt.pdf (last accessed on August 28, 2009).

[2] This study was commissioned by WiredSafety.org, a 501(c) (3) charity and the largest and oldest online safety, education, and help group in the world. Originating in 1995 as a group of volunteers rating websites, it now provides one-to-one help, extensive information, and education to cyberspace users of all ages on a myriad of Internet and interactive technology safety issues. WiredSafety works in four major areas: help for online victims of cybercrime and harassment; assisting law enforcement worldwide on preventing and investigating cybercrimes; education; and providing information on all aspects of online safety, privacy and security. WiredSafety also has a longstanding interest in gambling policy and the prevention of underage gambling. The study was sponsored by Harrah's Operating Company, Inc and the Poker Player Alliance, who share many of WiredSafety's concerns. While the sponsors have provided valuable input into the framing of the research, the final decisions regarding the research approach and the final written product was solely made by the authors of the study, following consultation with WiredSafety, ensuring that the study was independent.

governance structure. Instead, we concentrated more narrowly on the obligations of government to protect citizens in general, and vulnerable groups of citizens in particular, from unnecessary exposure to harm.

We sought (1) to identify the specific risks that are associated with, or perceived to be associated with, Internet gambling; (2) to determine suitable regulatory strategies for controlling or managing those risks; and (3) to assess how effective those strategies are likely to be. We identified 10 distinct risks that fall into four broad categories. Those categories are as follows:

- Gambling by minors
- Criminal and fraudulent behavior
- Network access, data privacy and security
- Problem gambling

On the basis of our review of the existing literature and interviews with academics, regulators, industry participants, and public interest advocates, we came to the following conclusions:

- Online gambling could be regulated effectively if it were legalized.
- A well-structured regulatory regime should provide much better social and consumer protections than the status quo for the risks we identified.
- At a minimum, even an imperfect legalization and regulatory regime for online gambling would give Americans much more protection than they have now. The current prohibitionist policy is extremely weak: large numbers of U.S. residents already gamble online, but they do so using offshore sites, many of which are poorly regulated or unregulated.

For each of the 10 risks we examined, a set of regulatory methods and technologies exist that would provide a reasonable degree of control, and most of them have been implemented effectively in other jurisdictions or in other online settings.

Although some controls used in the bricks-and-mortar environment may not translate to online gambling environments, several of the risks we examined become *more* amenable to control online. Comprehensive electronic records and the ability to track financial transactions and betting patterns provide more opportunities for analysis and audit, and hence improve the chances of discovering fraud or criminal activity. They also allow gambling websites to provide tools to mitigate problem gambling in a timely manner.

A. Our Approach

Our approach has been to identify the specific risks that are perceived to be associated with Internet gambling and then to determine how best to control or manage them. Those risks are described below.

1. Gambling by Minors

a. *Gambling by minors*: There is concern that minors might find it easier to access and use online gambling services in a legalized environment.

2. Criminal and Fraudulent Behavior

a. *Defrauding of consumers by site operators*: There is the possibility that online site operators may be more likely than their bricks-and-mortar counterparts to rig games, refuse to pay out winnings, or simply vanish, taking with them players' account balances.

b. *Cheating or defrauding of players by other players*: There is a concern that players could collude to defraud others, particularly in online poker. Online gambling may offer opportunities for collusion that are not available in a physical environment with visual surveillance.

c. *Involvement of organized crime in gambling operations*: Organized crime has a history of involvement with the bricks-and-mortar casinos and is now involved in some online commerce. There is some concern that involvement in the online gambling industry may be a natural next step.

d. *Money laundering by players*: There is concern that players or groups of players acting in concert could use legitimate gambling operations for money laundering.

e. *Money laundering by site operators*: The possibility has been raised that site operators could use online gambling operations, with its significant financial flows, as a cover for money laundering on a large scale.

3. Network Access, Data Privacy and Security Issues

a. *Violation of jurisdictional restrictions or prohibitions*: Government at the state, local, and tribal levels has traditionally exercised control over gambling within a given jurisdiction. The advent of the Internet has opened the question as to whether controls mandated by any proposed laws can be enforced within particular jurisdictions.

b. *Breaches of data confidentiality*: To register for play, players surrender personal or financial data to site operators. Consumers might be harmed by deliberate or accidental breaches of the confidentiality of those data.

c. *Communications and computer security failures*: Some are concerned that site operators might not use appropriate security practices, procedures, and technologies to ensure the integrity of their sites, the gaming on those sites, and player interactions. Absent proper security measures, malicious code could be transmitted to players, game operations could be infiltrated, and intrusions into the systems could compromise the game play and security of users.

4. Problem Gambling

a. *Problem gambling behaviors*: Some argue that increased opportunity to gamble at any time, from anywhere, and at a faster pace might exacerbate pathological, addictive, or problem gambling behaviors.

With respect to each of these four categories of risks, we sought to answer three broad questions:

(1) In the existing prohibitionist legal and regulatory regime, what level of protection are U.S. consumers afforded?

(2) With legalization, could these risks be addressed more effectively than they are now, and assuming legalization, what regulatory strategy is best suited for addressing these risks?

(3) What are the potentially relevant technologies and methods available for effective risk mitigation, and how might other parties contribute toward effective control?

Our answer to the threshold question of whether online gambling can be effectively regulated came out of our analysis of these more specific questions.

B. The Status Quo Offers No Effective Protection

Many U.S. residents already use online gambling services despite statutory restrictions. Recent estimates indicate that U.S. gamblers constitute roughly one-fourth to one-third of the global market for online gambling services.[3] The size of the U.S. share of that global market was estimated to be $5.9 billion in 2008.[4]

---

[3] G. Srinivasan, "EU Slams US on Its Remote Gambling, Betting Laws," *Business Line*, June 14, 2009, http://www.thehindubusinessline.com/2009/06/14/stories/2009061450870400.htm (last accessed on September 10, 2009). Also noted in an August 4, 2009 interview with Simon Holliday, Director of H2 Gambling Capital (U.K.). Also see Simon Holliday *et al., Internet Gambling Market Overview: AGA Internet Gaming Task Force*, H2 Gambling Capital, December 2, 2008, p. 8.

[4] From H2 Gambling Capital, cited in American Gaming Association, *Internet Gambling*, AGA Fact Sheet,

(continued...)

The mainstay of the current prohibitionist regulatory structure is the Unlawful Internet Gambling Enforcement Act (UIGEA). Instead of criminalizing gambling itself, the UIGEA was intended to prevent U.S. residents from gambling by placing restrictions on the role of financial institutions in transmitting payments to and from gaming operators. However, because workarounds such as e-wallets (essentially a payment processor situated between banks and gambling sites), phone-based deposits, and prepaid credit cards have proliferated, very few U.S.-based gamblers are presently much inconvenienced.[5] Most gamblers are either unaware of or confused by the patchwork of federal and state restrictions, and many are readily guided by unregulated online gambling sites toward financial mechanisms that they can use to make deposits and withdrawals.[6]

The net effect is that the U.S. attempt to prohibit online gambling has instead pushed it offshore. Sites are readily available to U.S. residents through the essentially borderless medium of the Internet. Some sites are well-regulated, such as those based in the United Kingdom, Alderney, and Gibraltar, and others are less-well-regulated or unregulated, such as those in Antigua, Grenada, or the Kahnawake Mohawk territory. (Of course, it is the less-well-regulated international sites that provide easier access to U.S. consumers.) As a result of the global gaming industry's adaptations to the U.S. strategy, the United States finds itself in the unfortunate position of

- incurring all the social costs related to U.S. residents' online gambling;
- exercising no jurisdiction or control over the gaming sites that serve U.S. residents;
- being unable to offer U.S. residents who choose to gamble on overseas sites any consumer protections or to implement any other harm-reducing strategies; and
- being unable to qualify industry participants or even exclude criminal groups from competing for U.S.-based customers.

In an effort to address this reality and enforce current restrictions more aggressively, federal officials recently instructed four banks to freeze accounts belonging to online payment processors. The frozen accounts apparently contained funds owed to some 27,000 people who used offshore poker websites.[7] Such financially based efforts seem to have had only a temporary

---

http://www.americangaming.org/Industry/factsheets/issues_detail.cfv?id=17 (last accessed on August 27, 2009).

[5] USAplayers.com, *USA Poker Deposit Methods,* http://www.usaplayers.com/poker/deposit-methods/index.html (last accessed on August 8, 2009), and USAplayers.com, *Online Poker Deposits and the UIGEA,* http://www.usaplayers.com/deposit-methods/articles/poker/online-poker-deposits-and-the-uigea.html (last accessed on August 8, 2009).

[6] Bo Bernhard *et al., Internet Gambling in Nevada,* University of Nevada, Las Vegas, April 2007, at p. 26. Also see, Gilbert M. Gaul, "Players Gamble on Honesty, Security of Internet Betting," *The Washington Post,* November 30, 2008, p. A12.

[7] Tamara Audi, "U.S. Deals Blow to Online-Poker Players," *The Wall Street Journal,* June 10, 2009, http://online.wsj.com/article/SB124459561862800591.html (last accessed on August 3, 2009).

chilling effect.[8] Over the long run, it is probably not feasible for the federal government to prevent U.S. residents from accessing foreign sites via the Internet. Unlike China or Iran, for example, the United States has displayed no appetite for centralized control of the Internet to block citizens' access to undesirable sites.

Nor would criminalization of the gambling itself be an effective strategy.[9] First, it would likely generate a massive pool of lawbreakers, almost none of whom would make attractive targets for criminal prosecution—because it would likely be a waste of law enforcement resources to pursue individual online gamblers. Second, it would exacerbate the dangers of consumer fraud at online gambling sites by making aggrieved consumers more reluctant to report their experiences.

C. Legalization and Regulation Would Afford Significantly Better Protection than the Status Quo

At a minimum, legalization and regulation of online gambling would give Americans much more protection than does the current prohibitionist regulatory framework. Although the kind of regulation that would accompany legalization would not be failsafe, it would be a significant improvement over the current regulatory and enforcement structure. We believe that safeguards could be implemented that would, on balance, substantially improve protections against the identified risks. These safeguards would also provide protection equal to or greater than that provided within the U.S.-based bricks-and-mortar gambling industry. We recognize that no set of technical or regulatory controls could ever eliminate these risks entirely. But even if the new fence had a few holes, it would be an improvement over having no fence at all.

The view that online gambling, in contrast to its bricks-and-mortar casino counterpart, is impossible to regulate reflects an old-fashioned perception of cyber jurisdictional authority. Many offshore commercial entities that operate online are subject to U.S. legal jurisdiction under existing long-arm statutes and authority. When coupled with governmental licensing authority, the ability to police online activities is even more powerful. Legalization with regulation would provide U.S. authorities with the power to grant or deny licenses and to impose significant sanctions on noncompliant licensees. Those licenses would be highly valuable to site operators. Compliance with any regulatory requirements and strict licensing conditions that Congress chooses to impose in return for the privilege of the license would therefore become a cost of doing business.

---

[8] Noted in an August 4, 2009 interview with Simon Holliday, Director of H2 Gambling Capital (U.K.).

[9] Ryan S. Landes, "Layovers and Cargo Ships: The Prohibition of Internet Gambling and a Proposed System of Regulation," *New York University Law Review,* 82 (May 2007): 913–943, at p. 927–936. Also see Gerd Alexander, "The U.S. on Tilt: Why the Unlawful Internet Gambling Enforcement Act Is a Bad Bet," *Duke Law & Technology Review,* No. 5 (2008), at ¶44. Also see Roger Clarke and Gillian Dempsey, "The Feasibility of Regulating Gambling on the Internet," *Managerial and Decision Economics,* 22 (2001): 125–132, at p. 130. Also see Testimony of John Lyons, in U.S. House of Representatives, Committee on the Judiciary, *Establishing Consistent Enforcement Policies in the Context of Online Wagers,* 110th Cong., 1st Session, November 14, 2007, p. 107.

Just as with bricks-and-mortar casinos, the requirement for site operators to maintain a license gives the government the ability to exclude bad actors as well as impose a broad array of conditions for, and oversight of, licensees. In contrast, the current prohibitionist policy is extremely ineffective: large numbers of U.S. residents already gamble online, but they do so using offshore sites, many of which are poorly regulated.[10] With legalization, we would expect that most online gamblers would prefer licensed U.S.-based sites because of their integrity and security, rather than accept the risks posed by unregulated or poorly regulated sites. A well-structured regulatory regime would provide better protections against all of the risks we identified.

This conclusion is supported by the experience of other jurisdictions in regulating online gambling. Some of these, such as the United Kingdom and Alderney, have adopted regulatory regimes that appear to provide protection against the identified risks. That may be the most compelling evidence that online gambling can be effectively regulated.

D. Regulatory Methods and Technologies for Controlling Each Type of Risk Already Exist

For each of the 10 risks we examined, a set of regulatory methods and technologies already exists that would provide a reasonable degree of risk management. Moreover, most of them have been implemented in other countries. One general insight from regulatory policy, and a review of other country's experiences, is that no one size fits all: regulators should treat different risks differently. The incentives and motivations of different parties vary across risk categories, as does the locus for detection and control interventions. Understanding the natural incentives of the gaming industry with respect to each class of risk reveals whether a cooperative regulatory strategy would likely be more effective than a traditional enforcement-centric one.

For example, for at least one of the risks we identified (protecting the integrity of poker games by preventing players from colluding or conspiring to cheat other players), the interests of the public and of the gaming industry align reasonably closely. Both groups are interested in ensuring the integrity of the games. That makes a more cooperative and less adversarial regulatory relationship quite natural.

For other risks (such as defrauding of consumers by site operators, involvement of organized crime, and money laundering by site operators), a strict enforcement regime focused on identification and rapid exclusion of bad actors is more obviously appropriate. Oversight in these areas would focus heavily on up-front qualification or "suitability" to exclude those with criminal histories or connections and persons otherwise lacking in "good character, honesty, and integrity" as is the case in the bricks-and-mortar space. Enforcement activity would focus on bad actors, with the goal of exclusion and sanction. The intense and strict monitoring regime for reputable sites would include provisions designed to prevent or reveal any infiltration over time

[10] G. Srinivasan, "EU Slams US on Its Remote Gambling, Betting Laws," *Business Line*, June 14, 2009, http://www.thehindubusinessline.com/2009/06/14/stories/2009061450870400.htm (last accessed on June 30, 2009). Also see *Supra* at footnote 7.

by undesirable groups or influences. Such regulations would mirror those now in place for bricks-and-mortar casinos.

Reputable sites, whose competitive advantage lies substantially with their reputation for integrity, would not be much troubled by the type of oversight designed to keep the "good character, honesty, and integrity" bar for admission high and the bad players out. In fact, they should appreciate such oversight as a positive contribution to the overall public perception of their industry, and the regulatory certainty provided by a licensing model would help with the industry's overall long-term planning.[11]

Some risks (gambling by minors, money laundering by players, problem gambling, breaches of data confidentiality, and lack of site and technology security) present more complex challenges in terms of regulatory design. If site operators were driven solely by their short-run economic incentives, they would more likely take bets from minors, problem gamblers, and money launderers (because the sites gain financially, at least in the short run, from all such bets), and they might limit their investments in data privacy and security. Site operators might also gain, in the short run, from abusing or selling personal and financial data provided to them by gamblers.

In the longer term, of course, site operators value their brand names and reputations matter, and these five risks all figure as *reputational risks* from the industry's perspective just as they do in the bricks-and-mortar gambling industry. By setting the admission bar for licensees suitably high, U.S. regulators would intend to admit only reputable operators, whose behaviors would be guided by the value they place on establishing and maintaining a trusted brand. This is the approach taken by regulators in other jurisdictions—license only reputable firms. Probity investigations are conducted into the companies and their associates before a license is issued.[12] Hence, for these five risks, close supervision would be required if an operator were regarded as a rational but short-sighted actor. At the same time, a more cooperative and symbiotic regulatory relationship ought to emerge when reputable operators take a longer-term, strategic view. To better align site operators' short- and long-term interests, regulation also would provide for sanctions, from monetary fines up to and including loss of license for those site operators that choose to disregard mandated operational and consumer protections.

One strategy to provide longer-term, reputation-based incentives for good behavior is to create costs to entry—through the regulatory process, licensing fees, or other means—that reduce

---

[11] Noted in an August 13, 2009 correspondence with Katharina Riedl of bwin (Austria).

[12] Noted in an interview with Phill Brear, Head of Gambling Regulation at the Gibraltar Regulatory Authority and an interview with Glenn Gibson, Manager of Technical and Systems Audit at the Tasmanian Gaming Commission, and Damien Jarvis, Assistant Director of the Liquor and Gaming Branch of the Tasmania Department of Treasury and Finance (Australia). Also, as noted in an August 31, 2009 correspondence with John Sealy, Manager of Information Systems and Technology Services at the Licensing, Regulation and Alcohol Strategy Division of the Northern Territory Department of Justice (Australia), licensees often wish to be seen as responsible and as good corporate citizens. Also see Testimony of André Wilsenach and Testimony of Mary Williams, in U.S. House of Representatives, Committee on Financial Services, *Can Internet Gambling Be Effectively Regulated to Protect Consumers and the Payments System?* 110th Cong., 1st Session, June 8, 2007, p. 122 and 140.

incentives to make a quick profit and leave the industry. For all risks created by operator shortsightedness, regulators need to establish and retain sufficient audit and monitoring systems so they can see when organizations that are otherwise reputable tilt too heavily toward short-term gain at the expense of public protection. Regulators should not accept the industry's protestations that they can be entirely trusted to take care of such risks without oversight simply because it is in their interest to do so. It is indeed in the industry's long-term interests to do so, but short-term considerations sometimes prevail, even in major corporations and multibillion dollar industries.

The following sections of this study describe a variety of control technologies and regulatory tactics relevant to each risk, and identify the most promising approaches in each case. Table 1, in Appendix A, lists the 10 risks and for each outlines

- the level of protection afforded under the current regime (column 2);
- the overall structure and style of regulatory oversight most natural for each risk (column 3), and
- some key points regarding relevant technologies and control strategies (column 4).

Below we summarize key points in relation to each risk.

1. Gambling by Minors

There is a general concern that underage gamblers may access or attempt to access online gambling sites.

- Gambling by minors: A number of technologies routinely used in other industries can be used to exclude minors from online gambling, including a variety of data-matching techniques, electronic or other submission of documentary evidence of age, and possibly application of biometric identification systems. The strongest form of control would require positive matching of a player at the time of registration against existing databases of known adults, thus excluding minors, as well as identity-verification prior to initiating any session of play. U.S.-licensed operators would be expected to use filters and procedures that are as discriminating as reasonably possible. With respect to U.S. residents, we would expect available data needed for age-verification to be of high quality and reliability. Site operators could also be required to provide child-protective software to parents to help prevent minors from accessing gambling sites. Alternatively, a separate governmental or nonprofit entity could provide such software.

2. Criminal and Fraudulent Behavior

Criminal activity can stem from site operators or the players themselves. The following risks are related to criminal activity by site operators:

- Defrauding of consumers by site operators,
- Involvement of organized crime in gambling operations, and
- Money laundering by site operators.

These risks would be effectively limited by a regulatory strategy designed to keep the bar for admission high and to keep criminals out. Such controls have worked well in bricks-and-mortar casinos and would operate similarly with U.S.-licensed online site operators. Relevant tactics include rigorous vetting procedures for new applicants and monitoring of licensed site operator behavior to prevent or detect regulatory noncompliance, criminal conduct, fraudulent and deceptive practices, and disregard for consumers' rights.

Regulatory strategy with respect to these risks would be enforcement-centric with a focus on excluding operators with criminal histories or connections. Reputable site operators with brands to protect could not afford to risk damage to their reputations, loss of their licenses, or regulatory sanctions. Thus, we would expect the industry at large to support the type of demanding admission standards, regulatory monitoring, and sanctions designed to keep bad actors out of the business. Players, best positioned to detect improper conduct or consumer fraud by site operators, would be enabled and encouraged to report site operators' improper conduct directly to regulators and others in law enforcement. Players would also have access to U.S. courts for dispute resolution.

Player criminal behavior falls into two major categories—cheating or defrauding of players by other players and money laundering by players.

- Cheating or defrauding of players by other players: Most of the cases of improper player collusion or cheating that have come to light have been detected by other players. With a regulator in place for U.S.-licensed sites, players would have stronger recourse against the sites, or against other players, by lodging complaints with the regulator or relevant law enforcement agencies. More important, licensed operators could be required to maintain comprehensive databases of all betting transactions and these databases could be examined and analyzed by regulators in the event of an inquiry or the triggering of red flags. Site operators, who themselves have a strong interest in maintaining the integrity of their games, could be expected or even required to implement pattern recognition software to scan routinely for anomalous betting patterns.

- Money laundering by players: Online gambling operators, like operators of bricks-and-mortar casinos, would be subject to current anti-money-laundering regulations. These regulations would require site operators to expend some level of effort in detecting money laundering. The online environment provides *better* opportunities for detecting money laundering by players or player groups than the bricks-and-mortar casino environment. Site operators could be required to retain comprehensive data on all deposits, withdrawals, and betting transactions and to make these data available to regulators for examination and analysis. Given complete data, most patterns related to money laundering (such as light betting or

matched bets placed by collaborators) would be easier to detect than they are in a physical environment (where complete transaction histories are available only in the form of video recordings). Software that detects anomalies and suspicious behaviors could be operated easily and routinely on digital databases by the site operators, by regulators, or by both. The site operators' obligations with respect to their own detection of money laundering would form a part of their ordinary compliance obligations under the licensing regime.

3. Network Access, Data Privacy and Security Issues

Any U.S. legalization and regulatory regime would likely address the risk of access to online gambling sites from jurisdictions that prohibit such activity.

- Violation of jurisdictional restrictions or prohibitions: State, local, and tribal governments may continue to prohibit or restrict (1) the operation of gambling sites from within their jurisdictions and (2) online gambling by individuals resident or physically present within their jurisdiction. Licensed U.S. sites could be required to take all reasonable steps not to permit registration or participation by individuals in such states. A range of geolocation technologies are now available, mostly tied to identification of the user location by reference to their IP addresses. Such technologies, while not entirely foolproof, have the capability of reducing risks as much as is required by regulators. IP geolocation, together with address verification at registration and other controls, can be expected to deter the bulk of casual attempts to gamble from within restricted states. Determined users, of course, already have access to foreign sites and would probably continue to use those rather than go to the trouble of devising sophisticated technological means for defeating U.S.-based geolocation controls. Regulatory oversight methods could include audits of U.S.-based operators' software controls and routine "mystery shopping" at U.S. sites conducted from locations within states that had chosen to exercise their rights to restrict online gambling.

Data privacy and security risks include: sites not using commercially appropriate security systems and practices; intentional or accidental breach of the gambling site's and user's data security; and the introduction of spyware, adware, or malicious code into gambling websites' software or transmission of such malware to users' computers.

- Breaches of data confidentiality: Under legalization and regulation, U.S.-licensed operators would be subject to all applicable federal and state requirements regarding data confidentiality and security. Site operators would be subject to regulatory and potentially criminal sanctions and civil liability for any breaches or abuses of personal or financial data. Their data-protection controls would be subject to regulatory audit. There is no reason to believe that licensed online gambling operators would be any less able or willing to fulfill these obligations than other online merchants with similar data custody obligations.

- Communications and computer security failures: Under the current regime, U.S. authorities have no oversight over security for online gambling sites. With

legalization and regulation U.S. licensed sites would be subject to existing data protection laws. Furthermore, U.S. regulators would have an opportunity to require state-of-the-art cybersecurity controls to protect against the introduction of malicious code or the unauthorized manipulation of games.

4. Problem Gambling

It is relatively easy to demonstrate for the other risk categories that a well-structured regulatory regime coupled with relevant technologies should provide better protection than the status quo. For problem gambling, however, the potential effect of legalization is less obvious a priori. Many might assume that pathological or addictive gambling behaviors would be exacerbated by the increased opportunity to gamble at any time and from anywhere online. But research on this topic does not support this conclusion. In particular, the link between the availability of online gambling and increases in the prevalence of problem gambling has not been established. Nevertheless, some online gamblers would be problem gamblers.

In a well-regulated online environment, gamblers could have opportunities and technologies made available to them to help curb addictive or problematic gambling behaviors. Such mechanisms would permit them to limit their gambling volume, deposit rates, loss rates, and the size of each wager. Users could also access online clinical and self-help resources from links provided at the gambling site.

The relationship between legalization and potential effects on problem gambling rates must certainly be examined carefully. Opponents of legalization fear an increase in problem gambling rates. However, gambling experts in the United States and the United Kingdom have reported that the prevalence rates for pathological gambling have remained static and low (roughly 0.7% of the adult population, in both countries) for many years. A large-scale study of gambling prevalence in the U.K. found the 0.7% rate remaining stable from 1999 through 2007 despite substantial increases in gambling opportunities during this period.[13]

Because this issue is likely to receive considerable attention as the United States considers legalization, we have attempted to analyze the various arguments given as to why the act of legalization might drive the level of problem gambling up or down. We have identified five popularly discussed mechanisms through which legalization could drive problem gambling *up*, and describe them here along with some observations that help mitigate the anticipated effects:

- Mechanism: Inhibitions to gamble that are based on would-be gamblers' knowledge of current legal restrictions would be removed.

[13] Noted in a June 10, 2009 interview with Howard Shaffer, Director of the Division on Addictions and Associate Professor of Psychology in the Department of Psychiatry at the Cambridge Health Alliance. Also see Jacob Sullum, "Some Bets Are Off: The Strangely Selective and Self-defeating Crackdown on Internet Gambling," *reasononline,* June 2008, http://www.reason.com/news/show/126022.html (last accessed on September 10, 2009). Also see Heather Wardle *et al.*, *British Gambling Prevalence Survey 2007*, National Centre for Social Research, Prepared for the Gambling Commission, September 2007, http://www.gamblingcommission.gov.uk/pdf/Britsh%20Gambling%20Prevalence%20Survey%2007%20-%20Sept%202007.pdf (last accessed on September 10, 2009), p. 10.

- ❖ *Observation*: Gamblers in the United States are generally ignorant of or completely confused about existing legal restrictions, and (until very recently) there has been no enforcement against the gamblers themselves.[14] Hence, the lifting of the prohibition itself is unlikely to have any significant impact on would-be gamblers' willingness to gamble online.

- Mechanism: Gamblers may be more comfortable gambling online because licensed operators are reputed to be trustworthy.

  - ❖ *Observation*: The gamblers most likely to be influenced by the availability of trusted brand-name sites are those who gamble already, perhaps in the casino environment, and hence know the brands. Knowledgeable gamblers may indeed shift their business, but this represents displacement, not overall growth. And the displacement would be from bricks-and-mortar to online gambling, which can offer many more options and protections for problem gamblers than can land-based casinos.

- Mechanism: Gambling opportunities would be ubiquitous and available 24/7.

  - ❖ *Observation*: U.S. residents already have online gambling options available to them all day, everyday, and from anywhere. So the addition of U.S.-licensed sites would not alter that particular reality.

- Mechanism: Lifting the UIGEA's restrictions on financial transactions might make it easier for consumers to place bets online.

  - ❖ *Observation*: Lifting the restrictions of the UIGEA would not make it significantly easier for U.S. residents to make deposits to online sites. Enough workarounds have been designed, and are energetically promoted to consumers by the offshore sites, to render the existing restrictions largely ineffective.[15]

- Mechanism: Advertising by licensed online gambling sites might lead to increased problem gambling.

  - ❖ *Observation*: Although advertising is one avenue for the expected increase in online gambling that would follow legalization, little evidence exists to show whether and to what extent advertising-induced growth in, or redistribution of, gambling volume might produce increases in problem

---

[14] The recent seizure of online poker players' funds was termed an "unprecedented action" by the Poker Players Alliance. See *Supra* at footnote 7.

[15] See *Supra* at footnote 5.

gambling rates.[16] Furthermore, this mechanism (allowing advertising for online gambling sites) is controllable to the extent deemed necessary or desirable, through regulatory restriction.

We also looked at two mechanisms through which legalization and regulation could drive problem gambling *down*:

- Mechanism: Tax and license-fee revenue distributions may provide an opportunity to extend and enhance counseling, treatment, and support programs for problem gamblers.
  - *Observation*: Significant tax revenues might be anticipated from U.S. operators, and revenue distributions from taxes and license fees could substantially boost publicly funded prevention, counseling, and treatment programs, as well as research on gambling addiction. Existing budgets for counseling and treatment services for problem gamblers have been limited, and most health insurance programs do not currently cover these services.[17]
- Mechanism: Regulators could require licensed domestic sites to lead the world in offering a full suite of advice and protections for problem gamblers to an even greater extent than is the case in bricks-and-mortar casinos.
  - *Observation*: U.S.-licensed sites could be required to display offers of help prominently on their websites, including (1) registration pages that offer self-diagnostic tests designed to help would-be gamblers understand their own attitudes and vulnerabilities; (2) web pages that display prominent links to support and counseling services; and (3) availability of speed-of-play, compulsory time-outs, or player-loss-rate caps. All players should be offered the opportunity up front and at subsequent intervals to voluntarily exclude themselves or to limit their own deposit rates, loss rates, betting rates, or periods of play.

---

[16] Noted in an August 4, 2009 interview with Simon Holliday, Director of H2 Gambling Capital (U.K.).

[17] Franklin (2001) discusses lack of federal funding for treatment or awareness of problem gambling, lack of insurance parity for problem gamblers, and limited or lack of funding from most states in the United States. Joanna Franklin, *Problem Gambling in the U.S: From the Beginning – Into 2001,* http://www.responsiblegambling.org/articles/Problem_and_Pathological_Gambling_A_view_from_the_States.pdf (last accessed on September 10, 2009). Also, Winslow (2008) discusses the lack of state funding for problem gambling services in Colorado and other states in the United States. Kyle Winslow, "A Problem for Gamblers," *The American Prospect,* March 10, 2008, http://www.prospect.org/cs/articles?article=a_problem_for_gamblers (last accessed on July 13, 2009). Also see the website of the Association of Problem Gambling Service Administrators (APGSA), http://www.apgsa.org/State/index.aspx (last accessed on September 10, 2009).

We believe that the opportunities to mitigate problem gambling provide significant benefits not available under the status quo. These benefits provide a significant counterweight to any potential increases in problem gambling that result from legalization. Furthermore, the potential benefits of mitigation would become available to most existing online problem gamblers.\

E. Conclusions

We have examined 10 distinct risks in four categories that may be associated with the growth and availability of online gambling. In each case, the current legislative framework is failing to provide any effective risk control or consumer protection. The establishment of a well-regulated industry under U.S. jurisdiction would offer the opportunity for much better protection. We recommend that plans for regulating online gambling include the design and use of different risk-control strategies for different risks that may be associated with Internet gambling, as well as education and consumer support.

If the United States decides to legalize and regulate online gambling sites, we would expect most U.S.-resident gamblers to be diverted from overseas sites toward reputable and trusted domestic operators. In the long run, reputable gambling operations under U.S. control should come to dominate online gambling opportunities chosen by U.S. consumers. All four categories of risk would be better controlled in such circumstances than they are at present. In the end, U.S. consumers would be better protected than they are now.

II. REGULATORY METHODS AND TECHNOLOGIES AVAILABLE FOR CONTROLLING EACH RISK

For each of the 10 risks outlined above, a set of regulatory methods and technologies already exists that would provide a reasonable degree of control. Moreover, most of them have been implemented successfully in other countries and other online settings. This section describes a variety of control technologies and regulatory tactics relevant to each risk, and identifies the most promising approaches in each case.

A. Gambling by Minors

A common concern about legalizing online gambling stems from the fact that many current online gambling sites do not have adequate regulations or safeguards against gambling by minors. The primary concern is that underage access to and use of online gambling services might increase because it may be difficult to verify age and replicate controls used by bricks-and-mortar casinos to exclude minors. However, effective measures to prevent online gambling by minors have been implemented in well-regulated Internet gambling environments in many European countries and in Australia. Moreover, a number of technologies routinely used in other industries can be applied to the online gambling environment. We discuss below the issue of online gambling by minors and strategies to prevent it.

1. The Issue of Gambling by Minors

Age restrictions apply to virtually all forms of legalized gambling, though the specific age restriction varies by jurisdiction. The typical rationale for age restrictions is that children and young persons are highly vulnerable and are more likely to become problem gamblers if they begin gambling at a young age. In the online environment, gambling by minors is a problem that stems from the inherent difficulty in separating underage users from adults on the Internet because of the absence of an official personally verifying a gambler's age.[18] Minors can gain access to online gambling websites either by providing false credentials during the registration process or by gaining access to their parents' or others' online gambling account.

Anecdotal evidence suggests and surveys have shown that underage gambling is widespread. Studies conducted between 1999 and 2004 covering Canada, the United States, the United Kingdom, and Australia indicated that 4–7% of adolescents exhibited serious patterns of pathological gambling and 10–15% were at risk of either developing or returning to a serious gambling problem.[19] More recent studies have revealed an increase in the involvement of

---

[18] Ryan S. Landes, "Layovers and Cargo Ships: The Prohibition of Internet Gambling and a Proposed System of Regulation," *New York University Law Review*, 82 (May 2007): 913–943 at p. 923.

[19] Sally Monaghan, *Internet and Wireless Gambling – A Current Profile*, Australasian Gaming Council, 2008. http://www.austgamingcouncil.org.au/images/pdf/Discussion_Papers/agc_dis_internet.pdf (last accessed on July 11, 2009). Also the extent to which rates of problem gambling among adolescents are elevated is controversial. For example, in exploring the properties of two screening instruments in identifying problem gambling among students aged 15 to 17 , Ladouceur *et al.* (2005) discuss the need to clarify the construct of pathological gambling among youth and note that neither the SOGS nor the DSM-IV subscale (MAGS) was perfect in identifying problem gambling. R Ladouceur *et al.*, "Concordance between the SOGS-RA and the

(continued...)

Canadian youth in online gambling. In 2006, 9% of Canadian high school students reported having gambled online for money, an increase from 3.6% in 2005.[20] According to the National Annenberg Survey of Youth, in the United States, card playing for money on the Internet by male youth aged 14 to 22 rose to 3.3% in 2008 from 2.4% in 2007.[21] In a 2008 study of general gambling attitudes among Canadian youth aged eight to 20, 76% of those surveyed admitted to having gambled at least once in their lives.[22] Among the group aged 18 to 20, 90% had gambled at least once and approximately 39% admitted to gambling once a week or more.[23]

2. Existing Controls in Other Jurisdictions

States with commercial casino gambling typically limit access to persons 21 or over, although most lotteries and some Native American casinos allow 18-year-olds to gamble. Most other countries have an age limit of 18, which applies to both online and casino gambling. There is no established minimum age for online gambling in the United States because it is done outside of U.S. legal and regulatory safeguards.

Well-regulated overseas gambling jurisdictions require online operators to verify the identity, location, and age of their customers and to use various mechanisms to curb underage gambling. Some evidence suggests that age restrictions for online gambling have not been uniformly required or rigorously implemented. In an exploratory study of 30 U.K.-based sites conducted before the United Kingdom's regulation of online gambling, researchers noted that 11 of those sites had no age verification check.[24, 25] Although 17 sites had age checks, they simply required a person registering to either check a box to confirm that they were 18 years of age or older or

---

DSM-IV Criteria for Pathological Gambling among Youth." *Psychology of Addictive Behaviors,* 19, No. 3 (2005): 271–276 at p. 274-275.

[20] J. McBride, "Internet Gambling among Youth: A Preliminary Examination," International Center for Youth Gambling Problems & High-Risk Behaviors Newsletter, 6, No. 1 (2006); cited in Sally Monaghan, Internet and Wireless Gambling – A Current Profile, Australasian Gaming Council, 2008. http://www.austgamingcouncil.org.au/images/pdf/Discussion_Papers/agc_dis_internet.pdf (last accessed July 11, 2009).

[21] The Annenberg Public Policy Center *Internet Gambling Stays Low Among Youth Ages 14 to 22 but Access to Gambling Sites Continues; Sports Gambling Makes Resurgence*, November 26, 2008, http://www.annenbergpublicpolicycenter.org/NewsDetails.aspx?myId=306 (last accessed July 25, 2009)

[22] Jeffrey L. Derevensky *et al.*, "Adolescent Attitudes toward Gambling," *Brazilian Journal of Cognitive Psychology,* 4, No. 1 (2008), http://pepsic.bvs-psi.org.br/scielo.php?script=sci_arttext&pid=S1808-56872008000100002&lng=en&nrm= (last accessed on September 1, 2009).

[23] See *Id.*

[24] U.K.-based online gambling operators first came under regulation with the introduction of the Gambling Act 2005 in September 2007. Before the Gambling Act, online gambling fell under no specific regulation.

[25] Michael Smeaton and Mark Griffiths, "Internet Gambling and Social Responsibility: An Exploratory Study," *CyberPsychology & Behavior,* 7, No. 1 (2004): 49–57.

enter their date of birth.[26] In addition to lax age checks, most websites required only a valid credit card to begin gambling. However, some minors in the United States as young as 13 have access to credit cards in their name, rendering this mechanism ineffective as an age check.[27] Moreover, minors may have access to their parents' credit card information. In a 2004 British study, a 16-year-old girl attempted to access 37 gambling websites using her debit card, lying about her age but being otherwise truthful. Only seven sites prevented her from registering.[28]

A more recent mystery shopping study performed between April 2008 and March 2009, after U.K.-based online gambling had come under regulation, revealed quite different results. The British Gambling Commission noted that more than 95% of gamblers were registered with websites that had sufficient age verification checks, and only 2.2% were registered with sites that had age verification weaknesses.[29]

Other jurisdictions have also had success in preventing underage gambling through effective use of restrictions and mechanisms. In his testimony to Congress, the CEO of the Alderney Gambling Commission noted that during the seven years of regulation of online gambling in Alderney, the Commission had not had any complaints about minors gaining access to an Alderney-regulated site. He further noted that the primary reason that Alderney's licensed sites are able to prevent minors from gaining access is the use of third-party verification software by most licensees.[30]

Similarly, Mary Williams of the Gambling Control Commission of the Isle of Man noted that license holders of online gambling websites use various methods of age verification, including large data services such as Experian, to ensure that customers are of legal age. Moreover,

---

[26] See *Id.*

[27] Commission on Child Online Protection, *Report to Congress*, October 20, 2000, http://www.copacommission.org/report/COPAreport.pdf (last accessed on August 11, 2009), p. 25. Also see European Commission, *Background Report on Cross Media Rating and Classification, and Age Verification Solutions*, Safer Internet Forum, September 2008, http://ec.europa.eu/information_society/activities/sip/docs/pub_consult_age_rating_sns/reportageverification.pdf (last accessed on August 24, 2009).

[28] Smeaton *et al.*, "Study into Underage Access to Online Gambling and Betting Sites," 2004; cited in Ryan S. Landes, "Layovers and Cargo Ships: The Prohibition of Internet Gambling and a Proposed System of Regulation," *New York University Law Review*, 82 (2007), at p. 924.

[29] British Gambling Commission, *Online Mystery Shopping Programme*, July 2009, http://www.gamblingcommission.gov.uk/pdf/online%20mystery%20shopping%20programme%20july%202009.pdf (last accessed on August 2, 2009).

[30] Testimony of André Wilsenach, in U.S. House of Representatives, Committee on Financial Services, *Can Internet Gambling Be Effectively Regulated to Protect Consumers and the Payments System?* 110th Cong., 1st Session, June 8, 2007, at p. 145.

withdrawal of funds requires access to a PIN number, which the gambling site mails to the user's postal address, thereby limiting the possibility of unauthorized access to funds by minors.[31]

Gibraltar's regulatory regime requires licensees to take "all reasonable steps" to verify that customers are of legal age, although operators are allowed to consider the use of a credit card as a verification of age.[32]

The United Kingdom requires that licensed gambling sites have policies and procedures to prevent underage gambling, including a warning that underage gambling is illegal, requiring an affirmation from the customer that he or she is of legal age, ensuring that staff are trained in age verification (particularly in the use of secondary forms of identification verified by staff members when initial automated procedures fail), and enabling filtering software to block the website.[33] Beyond this, secondary verification may be required, such as searching credit databases for age information, prohibiting unverified users from withdrawing winnings, and freezing the account of anyone not verified within 72 hours of applying to the site. However, these checks are not required if the user deposits funds using a credit card.[34]

The regulator in Australia's Northern Territory requires that players' ages be confirmed within 90 days of opening an online gambling account and before withdrawing any funds. Copies of identification must be e-mailed, faxed, or mailed directly to the site operator. If the individual is not confirmed within the 90-day period, he or she must seek permission from the regulator's Director of Licensing to re-open the account.[35]

In the United States, the UIGEA exempts certain forms of gambling, such as horse racing and state lotteries, from its criminal provisions if the applicable state law has a provision for age verification that is "reasonably designed to block access to minors."[36]

---

[31] Testimony of Mary Williams, in U.S. House of Representatives, Committee on Financial Services, *Can Internet Gambling Be Effectively Regulated to Protect Consumers and the Payments System?* 110th Cong., 1st Session, June 8, 2007, at p. 130.

[32] Gibraltar Regulatory Authority, *Code of Practice for the Gambling Industry,* Issued by the Gambling Commissioner, December 13, 2008, http://www.gra.gi/sites/gambling/downloads/215/generic_code_v1.0.2009.pdf (last accessed on August 6, 2009), p. 14.

[33] British Gambling Commission, Conditions and Codes of Practice applicable to: Remote Casino Licenses, Remote Casino Ancillary Licenses, December 2008, at p. 7–8.

[34] See *Id.*

[35] Noted in an August 31, 2009 correspondence with John Sealy, Manager of Information Systems and Technology Services at the Licensing, Regulation and Alcohol Strategy division of the Northern Territory Department of Justice (Australia).

[36] Anthony Cabot and John Aristotle Phillips, "Age Verification: UIGEA Compliance and Regulation," *World Online Gambling Law Report*, October 2006, http://integrity.aristotle.com/documents/AgeVerificationLawPublication.pdf (last accessed on August 10, 2009).

3. Relevant Technologies for Risk Mitigation

Although the anonymous nature of online platforms might increase the risk of underage gambling, available technologies can address such risks.

Researchers have outlined several categories of technologies for verifying the age of adults, including comparison of the registrant's credentials against public databases such as credit reports and criminal histories, or even biometrics.[37] In designing such controls, care would be needed to balance the (intended) exclusion of minors against the (unintended) denial of admission to qualified adults. The use of a credit card can often be an indicator of age, although, as noted in Section 2, some children have access to credit cards, and credit card companies do not allow cards to be used for age verification.[38] It is thus likely that any age verification technology would use government-issued identification as its basis, potentially combined with other strategies to increase its effectiveness.[39]

Exclusion of minors from online gambling can also be aided through technologies routinely used to verify age in other applications today.[40] Currently, online liquor stores employ various mechanisms, including a variety of data-matching techniques, to prevent minors from purchasing alcohol online.[41] The simplest solution requires a social security number and other forms of identification such as a driver's license, combined with a credit card registered to that individual.[42] An age-verification service is used to check the information provided against a database containing credit data, driver's license data, and registered voter information.[43]

---

[37] Internet Safety Technical Task Force, *Enhancing Child Safety and Online Technologies,* Final Report to the Multi-State Working Group on Social Networking of State Attorneys, Berkman Center for Internet & Society, Harvard University, December 31, 2008, http://cyber.law.harvard.edu/sites/cyber.law.harvard.edu/files/ISTTF_Final_Report.pdf (last accessed on September 11, 2009) at p. 8.

[38] See *Supra* at footnote 36.

[39] See *Id.*

[40] Such as online liquor stores, online sellers of tobacco, and the websites of Hollywood movie studios. See Testimony of Michael Colopy, in U.S. House of Representatives, Committee on the Judiciary, *Establishing Consistent Enforcement Policies in the Context of Online Wagers,* 110th Cong., 1st Session, November 14, 2007, at p. 53.

[41] Boris Reznikov, "Can I See Some ID? Age Verification Requirements for the Online Liquor Store," *Shidler Journal for Law, Commerce & Technology* 4, No. 5 (2007), http://www.lctjournal.washington.edu/Vol4/a05Reznikov.html (last accessed on July 25, 2009). Also see Integrity, *Case Study: Age Verification for Online Alcohol Sales,* Aristotle Inc., http://integrity.aristotle.com/documents/Online_Wine_Sales-WhitePaper2006.pdf (last accessed on September 10, 2009).

[42] See *Id.*

[43] Noted in an August 5, 2009 interview with Phill Brear, Head of Gambling Regulation at the Gibraltar Regulatory Authority.

Aristotle, Inc., a technology consulting firm, produces an identity- and age-verification service called Integrity:Direct, which uses a database of government-issued identification to verify age; the vendor claims the check takes less than 5 seconds, covers 3.4 billion people, complies with U.S. privacy laws, and is not subject to the Fair Credit Reporting Act because it does not use any credit data.[44]

LexisNexis and its advanced linking technology combines real time access to billions of public records compiled from thousands of public and proprietary sources that can be used to verify age and identity of individuals.[45] For a minor to defeat this method of authentication, he or she would have to access an adult's government-issued ID card, credit card, and other information. Because this is a foreseeable scenario, this age verification technique must be combined with others.

Michigan's Liquor Control Commission has approved a "knowledge based authentication" tool for age verification. This online tool develops questions that only the specific individual would know answers to and checks the answers against public records.[46] This system, while robust, imposes potentially significant transaction costs of between 25 cents and one dollar per check, making it a costly solution if used every time a user logs on to a gambling site.[47] The LexisNexis service can deliver an interactive, knowledge-based query process to instantly "multifactor" authenticate individuals at the point of customer contact.[48]

Other technologies may prove useful to augment traditional verification, such as the use of a PIN number mailed to the address of record of the user, as in the Isle of Man, or requiring the user to enter personal information via his or her home phone. This strategy prevents a minor from simply using his or her parents' credit and ID cards and immediately creating an account.

If legalization is implemented and matching techniques are used, the U.S.-licensed site operators would be expected to develop and use filters that are discriminating. Regulators could choose where to set the balance between Type I errors (where underage gamblers are not detected) and Type II errors (where gamblers of legal age are excluded). Moreover, with respect to U.S.

---

[44] Integrity, *Integrity:Direct,* Aristotle Inc., http://integrity.aristotle.com/index2.php?option=com_content&do_pdf=1&id=47 (last accessed on August 11, 2009).

[45] Noted in an August 10, 2009 interview with Chris Pinion, National Account Manager at LexisNexis Risk and Information Analytics.

[46] See *Supra* at footnote 41. Also see Tricia Pearson, *'Can I See Some ID?' Why Age Verification Is a Hot Topic for Online Retailers,* Shoosmiths, June 24, 2009, http://www.shoosmiths.co.uk/news/2372.asp (last accessed on August 11, 2009).

[47] See *Supra* at footnote 41 Boris Reznikov.

[48] Noted in an August 10, 2009 interview with Chris Pinion, National Account Manager at LexisNexis Risk and Information Analytics.

residents, we would expect available data to be of high quality and reliability, making age verification through matching techniques effective.[49]

Site operators could also be required to provide child-protective software to parents to keep minors from accessing their parents' accounts or any online gambling sites. The Nova Scotia Gaming Corporation (NSGC) commissioned and distributed BetStopper, which is a software program designed to help parents prevent children from visiting online gambling websites. Results from the pilot survey were extremely positive and indicated that 92% of parents found BetStopper to be a valuable prevention tool.[50] The BetStopper software was provided to families for free by the NSGC. Other widely available Web filtering software, such as Net Nanny, can also be used to block access to gambling sites by children. Net Nanny analyzes keywords and objects on every website visited and assigns "points" in different content categories, one of which is gambling.[51] If a site scores too high in an objectionable category, the software blocks it.[52] An administrator, usually a parent, can decide which categories to block and also whether a particular score leads simply to a warning message or to a complete block.[53] The software has generally received high reviews, and its filtering technology is resistant to circumvention.[54] Other parental control tools are contained within operating systems such as Windows Vista and Mac OS X, some are provided for free by network service providers, and many online safety organizations provide directories to help parents find appropriate protective software.[55] A regulator may require that approved filtering software be offered to anyone requesting it.

Minors may also have a weak financial motive to gamble online. If a minor usurps an adult's payment and identification information, for example, all of the minor's winnings would be paid

---

[49] Noted in an August 5, 2009 interview with Phill Brear, Head of Gambling Regulation at the Gibraltar Regulatory Authority. Also noted in an August 21, 2009 interview with Andrew Fritchie, General Counsel of PartyGaming PLC.

[50] Nova Scotia Gaming Corporation, World-Leading Software Launched to Protect Nova Scotia Youth, May 29, 2009, http://www.nsgc.ca/pdf/press/Microsoft%20Word%20%20BetStopper%20Media%20Release%20FINALMay%2028%20w%20photo.pdf (last accessed on September 10, 2009).

[51] Net Nanny, Protecting Your Family on the Internet, white paper, http://www.netnanny.com/products/netnanny/protecting_your_family (last accessed on September 10, 2009).

[52] See *Id.*

[53] See *Id.*

[54] For a review of the Net Nanny software, see http://internet-filter-review.toptenreviews.com/netnanny-review-pg2.html (last accessed on September 10, 2009).

[55] Federal Communications Commission, Report in the Matter of Implementation of the Child Safe Viewing Act; Examination of Parental Control Technologies for Video or Audio Programming, MB Docket No. 09-26, released August 31, 2009, at ¶142, http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-09-69A1.pdf (last accessed on September 1, 2009).

directly to the adult's account.[56] For a minor to benefit financially from gambling, he or she would have to have access to his or her own payment mechanism, such as a credit card or bank account, but the demographic information associated with the account would more easily allow the website to verify the user's age. Similarly, the regulator could require forfeiture to the government of winnings to gamblers who are discovered to be underage, further lowering the financial incentive for minors to gamble online.[57]

Regulators could impose harsh penalties on site operators with lax mechanisms to prevent underage gambling. Frequent and widespread mystery shopping, as done in the United Kingdom, can reveal operators with inadequate safeguards in place to curb underage gambling. The regulator can impose penalties on such operators, including monetary fines, the revocation of the gambling license, and even criminal liability.

Moreover, to help combat underage gambling, a portion of online gambling tax revenues could be earmarked for educational programs for parents and minors. Given sufficient funds, a regulator may require that youth gambling prevention lessons be incorporated into school curricula. In South Australia, the "Don't Bet On It!" program was introduced as a way to educate children about the dangers of youth gambling. A 2002 report claimed a "small but statistically significant change in student attitudes towards gambling" as a result of the curriculum, which includes five lessons, a mock gambling game, and pre- and postactivity surveys.[58] The report also describes other educational programs from entities in Australia and in North America, such as the Minnesota Institute of Public Health and Saskatchewan Health in Canada.[59]

4. Conclusion

The current state of affairs, with U.S. residents accessing online gambling sites with widely varying degrees of regulation, does not provide comprehensive protections to ensure that gamblers are of legal age. Regulatory mechanisms and technological solutions, many of which are currently used in other jurisdictions and industries, can equip online gambling operators with capabilities to selectively exclude minors from engaging in online gambling. Age verification policies would be less effective in the absence of support from minors' parents and guardians; therefore, a successful regulatory strategy would provide tools with which parents can limit

---

[56] Jonathan Gottfried, "The Federal Framework for Internet Gambling," *Richmond Journal of Law & Technology*, X, No. 3, at p. 10, http://law.richmond.edu/jolt/v10i3/article26.pdf (last accessed on August 6, 2009).

[57] Noted in an August 5, 2009 interview with Glenn Gibson, Manager of Technical and Systems Audit at the Tasmanian Gaming Commission, and Damien Jarvis, Assistant Director of the Liquor and Gaming Branch of the Tasmania Department of Treasury and Finance (Australia).

[58] Loris Glass, *Gambling Education: Some Strategies for South Australian Schools*, funded by the Gamblers Rehabilitation Fund, South Australia, November 2002, at p. 19–20, https://www.library.health.sa.gov.au/Portals/0/gambling-education-some-strategies-for-south-australian-schools.pdf (last accessed on September 10, 2009).

[59] See *Id.* at p. 20–22.

access to gambling websites by their children. We believe that online gambling can effectively exclude minors when it combines cutting-edge technology with a strong regulatory regime.

B. Defrauding of Consumers by Site Operators

Gambling websites, which deal with large amounts of money in a virtual setting, have the potential for fraudulent activity and unfair dealings.[60] As discussed below, unregulated gambling sites have been known to defraud customers and steal significant sums of money.[61] However, a system of effective regulation could manage the risks of fraud and ensure fair and legal dealings.

1. The Issue of Fraud by Site Operators

Fraud by site operators can be classified into three broad categories:

- Individuals can set up unlicensed gambling websites that either refuse to return customers' deposits or operate unfair games.
- Operators can model a fraudulent website after a licensed site and siphon players from the more reputable operator.
- Insiders within reputable websites can exploit inside information to cheat players without the knowledge of the larger organization.

It is reasonably easy for an individual to set up a fraudulent site, attract as many depositors as possible, and then either shut down the site and take the deposits or continue to run the site with odds or fees swung decidedly in the operator's favor. As a site's reputation became tarnished, it would quickly lose its base of players, but it could then simply shut down and open a new site, perpetrating the same fraud over and over again.[62] The identity of site owners is often unclear, and the ease of transferring between sites makes this method of fraud highly profitable.[63]

Reputation is clearly a major attribute of gambling websites. Websites can piggyback on, or usurp, the reputation of a reputable operator or jurisdiction to instill confidence in consumers. For instance, "Casino Australia (http://www.casinoaustralia.com/) is an attractive site emblazoned with images of Sydney, koalas, and the national flag but has no other connection with Australia. The online casino is physically located in the Netherlands Antilles and marketed

---

[60] Gerd Alexander, "The U.S. on Tilt: Why the Unlawful Internet Gambling Enforcement Act is a Bad Bet," *Duke Law & Technology Review,* 5 (2008), at ¶9.

[61] See, for example, Financial Crimes Enforcement Network, *A Survey of Electronic Cash, Electronic Banking, and Internet Gaming,* U.S. Department of the Treasury, 2000, at p. 41; and see *Supra* at footnote 18 at p. 925.

[62] See *Supra* at footnote 18, at page 925.

[63] See *Id.*

by a Native American gambling corporation."[64] Because gambling websites are often based in countries far from their target customers, they can often avoid legal accountability, and because website creation is relatively simple, a customer can be easily confused about the licenses and controls held by a particular site.[65]

In addition to fraud by gambling sites themselves, employees or executives of sites may initiate fraud at the individual level without the knowledge of the organization as a whole. In September 2007, players at the poker website Absolute Poker initiated their own investigation into apparent cheating by a player in a tournament. The investigation revealed that a co-owner of the company and a former director of operations had acted in concert to cheat players of amounts between $500,000 and $1 million.[66] Another poker website, UltimateBet, was rocked by a cheating scandal in early 2008 triggered by concerns about one online player who could apparently see other players' hole cards during play. Investigation revealed that from January 2005 to December 2007, former employees of the company, operating from outside, had exploited security vulnerabilities in the site's software of which only they were aware.[67]

Since the enactment of the UIGEA, U.S. residents no longer have access to large gambling sites operated by publicly-traded companies; instead, U.S. gamblers look to less transparent offshore site operators that may be more likely to engage in fraud or other deceitful practices.[68] Also, given the current absence of regulatory oversight in the United States, U.S. gamblers have little or no recourse to authorities when site operators defraud them.[69]

The extent of fraud by site operators is not well documented, but cases have been recorded. A 2000 report by the Financial Crimes Enforcement Network of the U.S. Department of the Treasury claims that "[t]here is, in fact, a substantial record of shadow websites collecting...deposits for a period of time and then disappearing, in the process destroying

---

[64] Roger Clarke and Gillian Dempsey, "The Feasibility of Regulating Gambling on the Internet," *Managerial and Decision Economics,* 22 (2001): 125–132, at p. 128.

[65] See *Id*

[66] Russell Goldman, "Online Poker Players Expose Alleged Fraud," *ABC News,* October 19, 2007. http://abcnews.go.com/print?id=3752500 (last accessed on July 24, 2009)

[67] UltimateBet.com, *UltimateBet Issues Statement Regarding Unfair Play,* May 29, 2008. http://www.ultimatebet.com/poker-news/2008/may/NioNio-Findings (last accessed on July 24, 2009). Also see UltimateBet.com, *Status Update on NioNio Investigation,* July 8, 2008, http://www.ultimatebet.com/poker-news/2008/july/Investigation-Status-Update (last accessed on July 24, 2009).

[68] As noted in an August 21, 2009 interview with Andrew Fritchie, General Counsel of PartyGaming PLC, U.S. customers are forced to use privately-held sites, which are generally perceived as less reputable.

[69] See *Supra* at footnote 18 at p. 926. Also see *Supra* at footnote 60 at ¶¶14–15. Also see Christopher Grohman, "Reconsidering Regulation: A Historical View of the Legality of Internet Poker and Discussion of the Internet Gambling Ban of 2006," *Journal of Legal Technology Risk Management,* 1, No. 1 (Fall 2006): 34–74, at p. 62–63.

consumer confidence."[70] In a 2006 survey, the American Gaming Association reported that 55% of respondents "agree[d] at least somewhat that online casinos find ways to cheat players."[71] The website *GamesandCasino.com* maintains and publishes a long "blacklist" of websites that cheat, defraud, or otherwise manipulate their users.[72] Finally, in a 2007 survey of Nevadans conducted by the International Gaming Institute at the University of Nevada, Las Vegas (UNLV), 66.9% of respondents (who were not necessarily gamblers) claimed to have "strong doubts about the integrity of online gambling as it pertain[s] to the ability to cheat the gambler."[73] The survey also includes various anecdotes from respondents about cheating by site operators.[74]

In addition to outright fraud by site operators, operators may become bankrupt or otherwise insolvent without engaging in questionable business practices. Without adequate financial protection, customers could lose their entire fund balance with the site.[75] As shown below, existing controls such as holding customers' funds in a trust account or establishing financial reserves can help mitigate against this business risk to customers.

2. Existing Controls in Other Jurisdictions

Most regulatory regimes address the issue of operator fraud. In the United States, a regulatory strategy could combine elements from other regimes and add unique safeguards. Below are descriptions of approaches taken to prevent operator fraud in other jurisdictions:

- The Gambling Control Commission of Alderney, a Channel Island, requires sites to have "provisions enabling the customer to address complaints and disputes to an independent body."[76]

- In the Isle of Man, site operators are required to maintain either financial reserves or a bond to ensure that players are paid their winnings.[77]

---

[70] Financial Crimes Enforcement Network, *A Survey of Electronic Cash, Electronic Banking, and Internet Gaming,* U.S. Department of the Treasury, 2000, at p. 41.

[71] American Gaming Association, *State of the States· The AGA Survey of Casino Entertainment,* 2006, at p. 21, http://www americangaming.org/assets/files/2006_Survey_for_Web.pdf (last accessed on July 23, 2009)

[72] GamesandCasino.com, *Blacklisted Casinos,* http://www.gamesandcasino.com/blacklist.htm (last aceessed on September 10, 2009).

[73] See *Supra* at footnote 6 Bo Bernhard at p. 37–38.

[74] See *Id* at p. 40–43.

[75] Noted in an August 27, 2009 interview with André Wilsenach, Chief Executive Officer of the Alderney Gambling Control Commission.

[76] See *Supra* at footnote 30 at p. 142–143.

[77] See *Supra* at footnote 31 at p. 124.

- Antigua's and Barbuda's regulations require a site operator to maintain "investments that have a market value...of not less than the aggregate amount of all its outstanding prizes and monies held on account for players."[78]

- The British Gambling Commission sets forth rules governing licensed gambling website operators, including one that requires that licensees (1) inform customers as to whether their funds are protected in the event of insolvency and (2) "be able to provide evidence to the [U.K. Gambling] Commission, if required, showing how they satisfied themselves that their terms are not unfair."[79] The U.K. Department of Culture, Media and Sport (the sponsor of the Gambling Commission) publishes the "White List," a list of nations hosting online gambling whose licensees are legally permitted to advertise in the U.K, although the list is currently in a state of suspension.[80]

- Tasmania's regulator sets technical standards and uses independent accredited testers to verify compliance before approving new software, and for some types of operations also requires that players funds be held in a trust for the protection of players.[81]

- Gibraltar's regulator requires licensees to have strong internal controls and also requires independent testing of gambling software to ensure integrity.[82]

Although the regulatory schemes described above include provisions to prevent fraud, effective regulation must include strong penalties for noncompliance and safeguards that protect customers in the event of fraud or wrongdoing. They also should mandate ordinary but rigorous due diligence by regulators and owners, including background checks on owners, operators, and

---

[78] Antigua and Barbuda – Directorate of Offshore Gaming, "Interactive Gaming and Interactive Wagering Regulations," at §184(a).
http://www.antiguagaming.gov.ag/files/Antigua_and_Barbuda_Gaming_Regulations-Final.pdf
(last accessed July 23, 2009)

[79] See *Supra* at footnote 33 at p. 14.

[80] Jamie Wiebe *et al., Problem Gambling Prevalence Research: A Critical Overview*, report to the Canadian Gaming Association, December 2007, at p. 17,
http://canadiangamingassociation.com/media_uploads/pdf/78 pdf
(last accessed on July 11, 2009). Also noted in interviews with Matthew Hill, Director of Strategy, Research and Analysis at the British Gambling Commission, Paul Morris, Policy Development Manager at the British Gambling Commission, and Peter Collins, Professor of Public Policy Studies and Director of the Center for the Study of Gambling at the University of Salford (U.K.).

[81] Noted in an August 5, 2009 interview with Glenn Gibson, Manager of Technical and Systems Audit at the Tasmanian Gaming Commission, and Damien Jarvis, Assistant Director of the Liquor and Gaming Branch of the Tasmania Department of Treasury and Finance (Australia).

[82] See *Supra* at footnote 32 at p. 13 and 21.

all staff in key positions. The regulatory regime could also give aggrieved consumers the ability to bring civil lawsuits and other rights of action against the site.

3. Relevant Technologies for Risk Mitigation

An effective regulatory regime must combine strong and competent oversight with an effective method for lodging complaints with the regulator or law enforcement agencies. In the examples of cheating mentioned above, it was only after private investigations by players that the sites themselves and the regulator responded.[83] The Kahnawake Gaming Commission, the regulator for both sites noted above, ordered Absolute Poker to institute compliance programs and subject itself to random audits; it also fined the site $500,000.[84] Similarly, the Commission ordered UltimateBet to refund any money owed to players who were victims of cheating, modified UltimateBet's control system, and fined the site $1.5 million.[85]

Another potential risk-mitigating factor within a regulatory regime is the use of *Mutual Recognition Agreements* (MRAs), which are arrangements between nations to recognize each other's regulatory standards and controls in a particular area of commerce.[86] Much as the United Kingdom's "White List" permits or denies advertising on the basis of the quality of a jurisdiction's regulatory structure, an MRA could be used as a filter for permitted advertising, for referrals between sites, and even as a way of selectively retaining prohibitions on foreign sites on the basis of quality and integrity rather than the simple fact that they are foreign.

Although both monetary sanctions and regulatory oversight are key to effective regulation, technology offers methods to prevent cheating over and above what is available to land- and river-based casinos. PartyGaming Plc is a publicly-traded Internet gambling company regulated in Gibraltar, and its PartyPoker affiliate holds about an 8% share of the world's market for online poker.[87] PartyGaming's games and its random number generator are tested by iTech Labs, an independent gaming device tester. It is also a member of the European Gaming & Betting Association and of eCOGRA, both of which publish standards for gaming operators.[88] 888.com,

---

[83] Gilbert M. Gaul, "Players Gamble on Honesty, Security of Internet Betting," *The Washington Post*, November 30, 2008, p. A12.

[84] Kahnawake Gaming Commission, *In the Matter of Absolute Poker – Investigation regarding Complaints of Cheating*, January 11, 2008. http://www.kahnawake.com/gamingcommission/KGC-AP-0111.pdf (last accessed on July 24, 2009), at p. 4.

[85] Kahnawake Gaming Commission, Kahnawake Gaming Commission Imposes Sanctions on Ultimate Bet with Regard to Cheating Incidents, September 29, 2008, http://www.kahnawake.com/gamingcommission/kgc092908.pdf (last accessed on July 24, 2009).

[86] See Public Citizen, Mutual Recognition Agreements (MRAs), http://www.citizen.org/trade/harmonization/MRA/ (last accessed on August 10, 2009).

[87] As noted in an August 21, 2009 interview with Andrew Fritchie, General Counsel of PartyGaming Plc. Also see http://www.partygaming.com/prty/en/ourgames/overview/poker (last accessed on September 10, 2009).

[88] See http://www.partypoker.com/about_us/ (last accessed on September 10, 2009).

another publicly traded gambling site based in Gibraltar, also uses iTech Labs for verification and is a member of eCOGRA and the Interactive Gaming Council, an online gambling trade group.[89] Betfair, an Internet betting exchange based in the United Kingdom, is a member of the Independent Betting Adjudication Service, a third-party adjudicator for gambling disputes.[90]

4. Conclusion

As demonstrated above, the most effective system of regulation to combat site operator fraud combines strict enforcement with cooperation by the site operators themselves. Reputable operators with brands to protect could not afford to risk damage to their reputations, loss of their licenses, or regulatory sanctions. However, this incentive is not perfect, and the regulator must be fully equipped to detect and punish site operator fraud. Regulations may be similar to those that apply in the bricks-and-mortar industry. We expect that the online gambling industry will support a supervisory approach that includes regulatory monitoring and sanctions to help promote and maintain an industry reputation for integrity.

C. Cheating or Defrauding of Players by Other Players

As discussed previously, both Absolute Poker and UltimateBet, two popular online poker websites, were rocked by accusations of cheating in 2007 and 2008.[91] The cheaters were players on the site who had acted in concert with employees of the gambling website. These and other high-profile examples demonstrate the potential for cheating online and the basis for fear among online gamblers of being defrauded by other players. However, a system of regulation promises to rein in such fraudulent activity.

1. The Issue of Players Being Defrauded by Other Players

U.S. gamblers currently lack any effective means to seek remedy from other players for fraud. Because players in the United States engage in online gambling outside of legal and regulatory safeguards, they are unlikely to complain to authorities about cheating experienced on a site: "Individual players are unlikely to volunteer information that would reveal that they have gambled online....Users who doubt the legality of their own actions are unlikely to snitch."[92]

Although the extent of player cheating and fraud is not well documented, it is a common concern for online players.[93] A 2008 study of Swedish online poker players revealed that one of their

---

[89] See http://www.888.com/ (last accessed on September 10, 2009).

[90] See http://content.betfair.com/aboutus/?product=exchange&brand=betfair&region=GBR&locale=en (last accessed on September 10, 2009).

[91] See *Supra* at footnote 6 Bo Bernhard.

[92] See *Supra* at footnote 18 at p. 926.

[93] John McMullan and Aunshul Rege, *Cheating and Cybercrimes @ Gambling Sites.com,* presentation to the Alberta Gambling Research Institute Annual Conference, March 2009, slide 2.

biggest concerns was being cheated by other players.[94] In a 2006 survey, the American Gaming Association reported that 46% of online gamblers believed that other players find ways to cheat.[95] Finally, the aforementioned 2007 UNLV survey revealed that 63% of respondents were "not at all confident" that other players could not cheat them.[96] The survey also includes anecdotal evidence from respondents about cheating by players, although evidence on the extent of cheating is generally mixed.[97]

Cheating by players can take various forms:

- *Poker bots* are automated programs that can reportedly play poker at the level of a professional tournament player, using a decision engine utilizing advanced neural network technology.[98] These bots, such as PokerSmoke, can memorize play styles, recognize betting patterns, and calculate odds, potentially giving those who use them a distinct edge over other players.[99]

- A simpler form of cheating involves *collusion* on online poker tables, in which two or more players work together to share information to gain an unfair advantage over unsuspecting players.[100]

- Another form is *multitabling*, in which a person uses multiple accounts to enter a tournament as two or more different players and garners information in a similar way to collusion; this particular type of cheating is clearly not possible in an offline environment.[101]

---

[94] Richard T. A. Wood and Mark D. Griffiths, "Why Swedish People Play Online Poker and Factors that Can Increase or Decrease Trust in Poker Web Sites: A Qualitative Investigation," *Journal of Gambling Issues,* 21 (July 2008): 80–97 at p. 90.

[95] See *Supra* at footnote 71.

[96] See *Supra* at footnote 6 Bo Bernhard at p. 38-39.

[97] See *Id.* at p. 40–43.

[98] Mike Brunker, "Poker 'Bots' Raking Online Pots?" MSNBC.com, September 21, 2004. http://www.msnbc.msn.com/id/6002298/print/1/displaymode/1098/ (last accessed on July 25, 2009). Also see *Supra* at footnote 93, slide 7.

[99] See *Id.*

[100] Bill Rini, The Definitive Guide to Online Poker Cheating, April 16, 2008. http://www.billrini com/2008/04/16/the-definitive-guide-to-online-poker-cheating/ (last accessed on July 25, 2009).

[101] See *Supra* at footnote 69 Christopher Grohman at p. 63.

- The Absolute Poker and UltimateBet cheating cases, mentioned previously, involved players using "superuser" accounts that allowed them to see other players' hole cards in online poker, making them essentially unbeatable.[102]

- Hackers can potentially alter sites to ensure winnings or swing odds in their favor, as in a case in 2001 in which hackers rigged games on two gambling sites and managed to win $1.9 million in just a few hours.[103]

2. Existing Controls in Other Jurisdictions

Although the UltimateBet and Absolute Poker cheating scandals involved participation from insiders at the affected poker sites, it is important to note that both episodes were revealed through the investigative work of other players on the sites.[104] Although players have an incentive to reveal fraud by other players, some level of regulatory oversight and potential law enforcement involvement is needed to ensure that the site operator takes complaints lodged against players seriously. The regulator could mediate disputes between the site operator and players, independently monitor sites for cheating, and work with site operators to help them prevent cheating. The following are examples of ways that other jurisdictions combat player fraud:

- The British Gambling Commission requires that licensees "put into effect a written procedure for handling customer complaints and disputes" and also have arrangements for disputes to be referred to an independent third party if they are not resolved to the customer's satisfaction.[105]

- Tasmania's Gaming Commission requires that customer complaints can be made to it and has the power to levy fines and revoke sites' licenses as well as settle customer disputes. It also has access to the systems of its licensees.[106]

- Gibraltar also requires that sites have a formal system to handle customer complaints.[107]

---

[102] See *Supra* at footnote 83.

[103] RSe Consulting, *A Literature Review and Survey of Statistical Sources on Remote Gambling*, October 2006, http://www.culture.gov.uk/images/publications/RemoteGambling_RSeReport.pdf (last accessed on July 25, 2009), at p. 20.

[104] See *Supra* at footnote 66.

[105] See *Supra* at footnote 33 at p. 15.

[106] Noted in an August 5, 2009 interview with Glenn Gibson, Manager of Technical and Systems Audit at the Tasmanian Gaming Commission, and Damien Jarvis, Assistant Director of the Liquor and Gaming Branch of the Tasmania Department of Treasury and Finance (Australia).

[107] See *Supra* at footnote 32 at p. 17–18.

- Sites' own terms of service often explicitly preclude certain potentially fraudulent behaviors.[108]

3. Relevant Technologies for Risk Mitigation

As with the issue of fraud by site operators, technology offers solutions to help combat fraud by players. The first line of defense is analysis by other players, who may be in a position to observe aberrant behavior, investigate it, and lodge a complaint with the site operator. However, players may have a hard time detecting cheating as it is occurring, because of the speed and style of online gambling. Site operators, on the other hand, can store large volumes of data on gambling transactions and present them in an easy-to-analyze format, unlike operators of land- and river-based casinos. Analysis of hand histories in poker, for example, may allow operators to identify collusion, the use of poker bots, and other unusual gameplay activities.

The regulator may require that the site operator provide these data at regular intervals for analysis in the event that an inquiry or red flag is triggered. It might also mandate implementation of pattern recognition software to scan routinely for anomalous betting patterns. Finally, the regulator could provide sites' data history to third-party verification companies that conduct their own analyses, including checks for randomness, collusion, and other suspicious patterns.

Clearly, players want to know that their online gambling experience is fair. According to the survey of Swedish poker players, "[t]he response of the operator to [issues of cheating] played a major role in whether or not they were trusted in the long term."[109] Gambling sites, especially reputable ones, have an incentive to control cheating to maintain their good reputation. However, although the revelation of cheating can itself be damaging to a site's reputation, the site can often continue to make money as usual even while players are being defrauded.[110]

A regulatory structure, therefore, must balance these contradictory incentives. It must combine strong internal controls by site operators with strict regulatory oversight, perhaps by requiring that mandatory hand history reports or other similar data be submitted to the regulator or through the use of regulator-verified poker bot detection software.[111] Also, the regulator could maintain a

---

[108] For example, multitabling and collusion are considered cheating according to poker room rules. See Christopher Grohman, "Reconsidering Regulation: A Historical View of the Legality of Internet Poker and Discussion of the Internet Gambling Ban of 2006," *Journal of Legal Technology Risk Management,* 1, No. 1 (Fall 2006): 34–74, at p. 63; and Bill Rini, *The Definitive Guide to Online Poker Cheating,* April 16, 2008, http://www.billrini.com/2008/04/16/the-definitive-guide-to-online-poker-cheating/ (last accessed on July 25, 2009).

[109] See *Supra* at footnote 94 at p. 90.

[110] As in the UltimateBet and Absolute Poker scandals. Also see *Supra* at footnote 98 Mike Brunker.

[111] For example, bwin has dedicated staff that deploy "[s]tate-of-the art systems [that] are used to analyze hands and to detect chip dumping, collusion or the use of poker bots." From an August 13, 2009 correspondence with Katharina Riedl of bwin (Austria).

database of known cheaters, and sites' own verification processes could help exclude such gamblers at the point of registration. This strategy also has the benefit of preventing cheaters from skipping easily from one website to another. Regulation could also grant players the right to bring a civil claim against a gambling site for not preventing cheating by its users, providing additional incentives for sites to implement effective controls.[112]

4. Conclusion

Site operators, players, and regulators share an interest in detecting and protecting against player fraud. This naturally leads to cooperative regulatory oversight. Such oversight would recognize the inherent opportunities in the online environment for comprehensive data storage, allowing a level of analysis to detect fraud that is unavailable in the bricks-and-mortar environment. Consequently, legal, regulated online gambling should provide greater protections against player fraud than does the current environment.

D. Involvement of Organized Crime in Gambling Operations

Casino gambling, in which nearly all transactions are in cash, is particularly susceptible to *skimming,* in which profits are removed by the owners or other insiders before being declared, as well as money laundering.[113] Moreover, its illegal status in many jurisdictions implies that those who offer gambling services in those jurisdictions are, by definition, law breakers. Online gambling, however, presents different challenges and opportunities than does its bricks-and-mortar counterpart. On the one hand, identities can be easier to conceal online, transactions can occur far from where regulators are located, and members of collaborating crime networks can be located in far-flung locations.[114] On the other hand, online transactions are easier to aggregate and analyze, providing richer opportunities to detect the operations of organized crime groups.[115] The lack of cash transactions makes auditing and the detection of skimming easier than in a bricks-and-mortar environment.

1. The Issue of Involvement of Organized Crime in Online Gambling

Organized crime has been largely eliminated from bricks-and-mortar casinos.[116] In Nevada, for example, the regulatory regime has largely eliminated criminals from the ownership of

---

[112] See *Supra* at footnote 69 at p. 67–68.

[113] Jay Albanese, "Casino Gambling and Organized Crime: More Than Reshuffling the Deck," in *Contemporary Issues in Organized Crime*, edited by Jay Albanese (Monsey, New York: Criminal Justice Press, 1995). Also see Kevin B. Kinnee, *Practical Gambling Investigation Techniques* (New York: Elsevier, 1992), at p. 3–5.

[114] See *Supra* at footnote 64 at p. 128.

[115] As noted in an August 5, 2009 interview with Phill Brear, Head of Gambling Regulation at the Gibraltar Regulatory Authority, online gambling allows a perfect audit trail to be kept.

[116] Jay Albanese, "Casino Gambling and Organized Crime: More Than Reshuffling the Deck," in *Contemporary Issues in Organized Crime*, edited by Jay Albanese (Monsey, New York: Criminal Justice Press, 1995), at p. 4–5.

casinos.[117] Another factor in the Nevada transformation has been the introduction of large, publicly held companies as casino owners, which cannot afford associations with organized crime.[118] The same effect may hold true for online gambling enterprises, some of which are already publicly traded.

In the past, when organized crime had been involved in bricks-and-mortar casinos, it traditionally controlled the gambling organization itself, usually behind the presence of a front man in cases of legal gambling establishments.[119] Similarly, gambling websites could be controlled by organized syndicates. Finally, as discussed more fully in Section F, criminals can use online gambling for the purpose of money laundering.

2. Existing Controls in Other Jurisdictions

In bricks-and-mortar casinos, background checks and verification for site operators and employees are standard procedures across all jurisdictions in the United States. In New Jersey, those who wish to operate a casino are required to obtain a casino license.[120] Applicants must prove their financial stability and integrity; the financial integrity of their investors or backers; their good character, honesty, and integrity; and their business ability and casino experience. They must also submit to a criminal background check.[121] Each casino employee must obtain a valid casino employee license, which involves providing his or her name, address, and fingerprints; and to consent to a criminal background check, which the New Jersey State Police performs at the applicant's expense.[122] The State Police are also obliged to notify the New Jersey Division of Gaming Enforcement if a license holder is arrested at any point after the initial background check.[123] To eliminate small gambling establishments, casinos in Atlantic City are required to have a minimum of 500 hotel rooms, and all games are tightly regulated and controlled. Also, those that provide a certain amount of ancillary services (such as cleaning, food, construction, and security) to casinos must be licensed and submit to background checks.[124]

Similarly, Nevada laws impose on operators of gambling establishments licensing requirements that require that the applicant (1) be a person of good character, honesty, and integrity; (2) be a person whose prior reputation and criminal record do not pose a threat to the public interest of

---

[117] See *Id.* at p. 4.

[118] See *Id.* at p. 7–8.

[119] See *Id.* at p. 3.

[120] New Jersey Permanent Statutes, Title 5, Amusements, Public Exhibitions and Meetings, 5:12-82: Casino license – applicant eligibility.

[121] *Id.* at 5:12-84: Casino license – applicant requirements.

[122] See *Id.*

[123] See *Id.*

[124] See *Supra* at footnote 116 at p. 10.

the state or of its gambling regulations; and (3) have sufficient financial resources and business acumen to operate the establishment.[125] Employees in general are required to register as gaming employees, to submit fingerprints, and to be subjected to an FBI background check. The Nevada Gaming Control Board is empowered to object to any applicant for "any cause deemed reasonable."[126]

Many jurisdictions across the world that license online gambling include provisions for checks on the site's operators. The following are examples of such provisions:

- In the Isle of Man, the Gambling Control Commission has the duty "[t]o investigate the character and financial status of persons behind online gambling operations."[127]

- The U.K. Gambling Act of 2005 allows the Gambling Commission, when issuing a license, to consider "the integrity of the applicant or of a person relevant to the application" and to refuse a license to a person convicted of a "relevant offence."[128]

- Alderney's Gambling Control Commission has the duty to "determine whether an applicant is 'fit and proper' to hold a license. Investigations can include interviews with key individuals, and the Commissioners may also require their own meeting with representatives of the applicant before deciding whether to grant a license."[129] The regulator also requires that business associates of site operators and software providers hold licenses.[130]

- Tasmania's Gaming Commission conducts thorough probity investigations on site operators, including credit checks and fingerprint background checks; the checks are also required for employees of the gambling website.[131]

---

[125] Nevada Revised Statutes, Chapter 463.170.

[126] *Id* at Chapter 463.335.

[127] See *Supra* at footnote 31 at p. 128.

[128] Gambling Act, 2005 Chapter 19 (Eng.), at §§70–71, http://www.opsi.gov.uk/acts/acts2005/pdf/ukpga_20050019_en.pdf (last accessed on September 11, 2009).

[129] See *Supra* at footnote 30 at p. 140–141.

[130] Noted in an August 27, 2009 interview with André Wilsenach, Chief Executive Officer of the Alderney Gambling Control Commission.

[131] As noted in an August 5, 2009 interview with Glenn Gibson, Manager of Technical and Systems Audit at the Tasmanian Gaming Commission, and Damien Jarvis, Assistant Director of the Liquor and Gaming Branch of the Tasmania Department of Treasury and Finance (Australia).

- The regulator in Australia's Northern Territory checks the reputation of operators and their associates and proposed managers, as well as operators' financial background, resources, and business ability.[132]

- Gibraltar's Gambling Act 2005 prevents the licensing authority from granting a license to a person who is not "fit and proper" or if granting the license would be against the public interest. The Gambling Act allows the regulator to take into account the licensee's character, honesty, and integrity, as well as his or her reputation, business plan, experience, and other factors.[133]

As can be seen, each jurisdiction considers the exclusion of criminals to be essential to maintaining an effective regulatory regime.

3. Relevant Technologies for Risk Mitigation

Any regulatory regime that wishes to exclude criminals must focus on erecting sufficiently high barriers to entry.[134] Simple techniques such as requiring background checks, interviews, and letters of reference can familiarize the regulator with its license applicants and allow it to make a more informed decision on whether to grant a license. This level of investigation of site operators could extend to owners, beneficiaries, business associates, managers, and security personnel.[135] Rigorous vetting of new applicants can combine with ongoing compliance checks to ensure that once a license is granted, it is not clandestinely transferred to criminal control.

4. Conclusion

Although criminal control of gambling websites is a possibility, strict regulation would exclude unwanted site operators. It is unlikely that criminals would subject themselves to strict regulatory checks and demanding admission standards. Instead, they may attempt to operate gambling sites without licenses. Regulators can work to educate consumers about the dangers associated with unlicensed websites, and steer them toward licensed, regulated sites which offer protection against criminal activity. At the risk of losing their licenses, legitimate operators would have a strong interest in avoiding ineligible associates as is the case with bricks-and-mortar casinos. We would expect legitimate, licensed sites to be receptive to a fair degree of scrutiny because such scrutiny would enhance the reputation of the industry.

---

[132] As noted in an August 31, 2009, correspondence with John Sealy, Manager of Information Systems and Technology Services at the Licensing, Regulation and Alcohol Strategy division of the Northern Territory Department of Justice (Australia).

[133] Gibraltar Gambling Act 2005, Schedule 1, at §3, http://www.gra.gi/sites/gambling/downloads/42/gambling%20ord%202005.pdf (last accessed on August 6, 2009).

[134] See *Supra* at footnote 30 at p. 140.

[135] See *Id.*

E. Money Laundering by Players

A major concern of law-enforcement authorities is money laundering facilitated by online gambling.[136] However, many financial analysts believe that the risks of money laundering in online gambling is low because electronic transactions are closely monitored and recorded.[137] A combination of anti-money-laundering regulations, currently in place for bricks-and-mortar casinos as well as other financial institutions, and the use of technology would provide the online gambling environment with better opportunities for detecting money laundering by players than those available in land- and river-based casinos.

1. The Issue of Money Laundering by Players

Money laundering is a process through which proceeds derived from illegal activity are legitimized.[138] Money laundering is typically accomplished in three stages: (1) the placement stage, (2) the layering stage, and (3) the integration stage.[139] The *placement* stage is defined as the first entry of illegal money into financial institutions or the retail economy. The *layering* stage consists of activities meant to hide the trail of money, generally involving the transfer of money among multiple entities. The final stage, the *integration* stage, is when the illegal funds are reintroduced into the economy to appear as though they were legitimate. It is difficult for law enforcement to detect this reintroduction of illicit funds into the economy without an audit trail established during the first two stages of the laundering process.[140]

The following (hypothetical) example demonstrates how online gambling websites can be used to launder money: A customer could establish an Internet gambling account under a false name and use illicit funds to conduct a minimal amount of betting. After a few losses, the customer could request repayment from the Internet gambling site and claim them as winnings, thereby creating a legitimate source for the remaining funds.[141]

The U.S. Department of Justice is concerned that online gambling offers criminals an easy vehicle for money laundering because of its anonymous nature, use of encryption, volume,

---

[136] Government Accountability Office, *Internet Gambling: An Overview of the Issues,* GAO-03-89, December 2002, at p. 34–37.

[137] See *Id,* at p. 37–38.

[138] Mark D. Schopper, "Internet Gambling, Electronic Cash & Money Laundering: The Unintended Consequences of a Monetary Control Scheme," *Chapman Law Review,* 5, No. 1 (2002): 303-330.

[139] Financial Crimes Enforcement Network, *The SAR Activity Review – Trends, Tips & Issues,* May 13, 2008, http://www.fincen.gov/news_room/rp/files/sar_tti_13.pdf (last accessed on August 5, 2009).

[140] See *Supra* at footnote 138.

[141] Testimony of John G. Malcolm Before the Committee on Banking, Housing, and Urban Affairs, March 18, 2003, http://www.usdoj.gov/criminal/cybercrime/malcolmTestimony318.htm (last accessed on September 11, 2009). Also see *Supra* at footnote 136.

speed, international reach, and offshore locations.[142] In his testimony before Congress in 2003, Deputy Assistant Attorney General John G. Malcolm noted that e-casinos are an excellent vehicle for money laundering because in addition to using the gambling services offered to hide or transfer money, online gambling websites offer a wide variety of financial services to their customers, including credit accounts, fund transmittal services, check cashing services, and currency exchange services.[143]

There is little documentation by which to gauge the extent of actual money laundering in online gambling. In 2002, the U.S. General Accounting Office (GAO) examined the vulnerability of online gambling to money laundering and concluded that the "views on the vulnerability of Internet gambling to money laundering are mixed."[144] Its report provides only hypothetical examples of how online gambling sites could be used to launder money and does not describe any actual cases. A 2005 report prepared for the Interactive Gaming Council in Canada calls evidence of the existence of money laundering in online gambling "scant" and claims that the Internet Crime Complaint Center had never logged a complaint of money laundering through gambling sites.[145] It goes on to claim that "Internet gaming does not, in and of itself, contribute to money laundering. Rather, it is the financial transactions that are used to move money on the Internet that may be susceptible to money laundering."[146]

One can understand money laundering patterns that might occur in online gambling by extrapolating from the patterns of money laundering seen in bricks-and-mortar casinos. Various betting patterns associated with money laundering in bricks-and-mortar casinos have been identified, including the use of hedged bets by colluding players, light betting or *minimal play* (i.e., using bets that are small relative to the size of deposits and withdrawals), splitting transactions up into units smaller than reporting thresholds, splitting transactions across reporting "days," and pressuring staff to not comply with their reporting obligations.[147]

A problem related to money laundering is that of terrorist financing, in which funds that are intended for terrorist groups are moved through the financial system in an apparently legitimate way. Effective anti-money-laundering provisions must specifically address the risks of terrorist financing, although many techniques to combat money laundering are also effective against

---

[142] See *Id.* John G. Malcolm.

[143] See *Id.*

[144] See *Id.*

[145] NFC Global, "Internet Gaming & Money Laundering: Measuring the Scope, Assessing the Risks," Prepared for the Interactive Gaming Council, Vancouver, British Columbia, Canada, August 2005, at p. 4.

[146] See *Id.*

[147] American Gaming Association, Suspicious Activity Reporting Policy, http://www.americangaming.org/assets/files/SARC_Policy_(6).pdf (last accessed on July 28, 2009).

terrorist financing.[148] The only known case of money laundering through gambling sites was related to terrorist financing: in 2007, a suspected terrorist named Al-Daour used stolen credit cards to deposit funds at 43 different gambling sites and then withdrew the winnings to various online bank accounts.[149]

2. Existing Controls in Other Jurisdictions

Congress has enacted legislation to detect money laundering. Under the Bank Secrecy Act (BSA) of 1970, all U.S. financial institutions, including banks, credit unions, securities firms, and casinos, are required to report large currency transactions and suspicious activities.[150] The Financial Crimes Enforcement Network (FinCEN) administers these regulations. The casino gambling industry has been covered by the BSA since 1985, and FinCEN has specific regulations that pertain to casino gaming. The BSA requires the reporting of any currency transactions exceeding $10,000 in a single gaming day on a Currency Transaction Report (CTR).[151] Because money launderers can structure transactions such that they never result in a CTR being filed, all land- and river-based casinos are also required to file Suspicious Activity Reports (SARs). Casinos have to file SARs if they know, suspect, or have reason to suspect that a transaction involving $5,000 or more meets certain criteria, including involvement of illicit funds, intention to avoid or prevent proper reporting, exhibiting of abnormal behavior, or use of the casino to facilitate criminal activity.[152]

The leading online gambling jurisdictions have created regulatory structures that resemble traditional regulation for land- and river-based casinos in the United States. These jurisdictions require some form of anti-money-laundering monitoring, ranging from restricting customers to a single account to identifying and reporting suspicious transactions or players' abnormal betting patterns.[153]

In addition to regulation that combats money laundering in its financial services sector, the Isle of Man has put in place the Anti-Money Laundering Code to prevent money laundering through gambling websites.[154] Operators are required to comply with strict anti-money-laundering

---

[148] MHA Consulting, *The Threat of Money Laundering and Terrorist Financing through the Online Gambling Industry,* report prepared for the Remote Gambling Association, June 2009, at p. 6–8.

[149] See *Id* at p. 31.

[150] American Gaming Association, *Money Laundering,* AGA Fact Sheet, http://www.americangaming.org/Industry/factsheets/issues_detail.cfv?id=3 (last accessed on September 11, 2009).

[151] See *Id.*

[152] See *Id.*

[153] David O. Stewart, *An Analysis of Internet Gambling and Its Policy Implications,* AGA 10th Anniversary White Paper Series on Internet Gambling, 2006.

[154] See *Supra* at footnote 31 at p. 126–127.

procedures, which include identification of prospective customers, evidence of identity, changes to patterns of transactions, record keeping, records of transactions, retention of records, reporting suspicious transactions, and training.[155] In addition, site operators are legally required to report any suspicious transactions to the Financial Crime Unit (FCU). Specialized software can flag these transactions.

Similarly, to combat money laundering, Alderney requires operators of online gambling websites to implement business risk assessments, customer due diligence procedures, monitoring of transactions and other activity, suspicious activity reporting procedures, employee screening and training procedures, and record-keeping procedures.[156]

3. Relevant Technologies for Risk Mitigation

An anti-money-laundering regulatory regime for online gambling may be modeled on the current regulatory structure for traditional bricks-and-mortar casinos. A regulatory framework for online gambling may leverage the technological environment for online gambling and require (1) preservation of an audit trail of transactions for analysis by federal authorities; (2) implementation of customer identification standards; (3) controls to prevent anonymous, structured transactions; (4) establishment of an anti-money-laundering compliance program; (5) training for all appropriate personnel; and (6) compliance with all relevant BSA requirements.[157]

The IGC notes that "online gambling, with a combination of regulatory oversight and use of technology—while facing the same threats as real-world gambling facilities—is in a better position to address these risks."[158] For example, all electronic fund transfers can be electronically recorded, thus providing a detailed and automatic transaction trail not currently available in land- and river-based casinos.[159]

The IGC further notes that a basic requirement to combat money laundering is to "know your customer." Stringent player registrations and ongoing verification processes combined with appropriate regulatory oversight and banking regulations help fulfill this requirement.[160] Italy's regulatory regime, for example, requires a potential customer to submit a signed contract along with a copy of his or her identification.[161] Tasmania requires strong identity verification

---

[155] See *Id.*

[156] See Alderney Gambling Control Commission, *The Alderney eGambling Regulations,* 2006., http://www.gamblingcontrol.org/userfiles/file/97.pdf (last accessed on August 19, 2009), at Schedule 6, Part VI.

[157] See *Id.*

[158] Interactive Gaming Council, "Online Gambling Sites Less Susceptible to Money Laundering Than Real-World Counterparts," *Winner Online,* September 24, 2002, http://www.winneronline.com/articles/september2002/fatf.htm (last accessed on September 11, 2009).

[159] See *Supra* at footnote 115.

[160] See *Supra* at footnote115.

[161] As noted in an August 13, 2009 correspondence with Katharina Riedl of bwin (Austria).

procedures to be in place on player accounts.[162] Moreover, technology can equip site operators with tools to scrutinize inconsistent player behavior, and then capture and report the transaction.[163]

Another essential anti-money-laundering measure noted by the IGC is to require that gamblers be paid any winnings in the same way in which the money was originally deposited.[164] This system allows an audit to track transfers of funds much more easily and removes the ability of launderers to use an account as a pass-through for funds.[165] Also, care must be taken when allowing transfers of funds between players, which could potentially be a conduit for money laundering. Alderney's money laundering guidance suggests that transferred funds be allowed only for gambling and not for withdrawal or that site operators undertake further due diligence on players involved in transfers.[166]

In addition to a system modeled on requirements for bricks-and-mortar gambling, a regulator can require the same procedures that are required of online merchants, banks, and payment providers. In Europe, online gambling operators have been bound by these requirements since 2003 under the Third European Money Laundering Directive.[167] U.S. licensed operators would also be bound by relevant anti-money-laundering requirements. Most nations are also subject to the recommendations of the Financial Action Task Force, an international body formed to combat money laundering and terrorist financing. Each nation may also have its own money laundering regulations, such as the United Kingdom's Money Laundering Regulations, which cover both financial and nonfinancial businesses.[168]

Although financial businesses are still subject to the most stringent regulation, all of these regulations use a risk-based approach, in which the level of scrutiny of transactions is commensurate with the risk of money laundering in those transactions.[169] The most important aspects of financial companies' risk mitigation involve three broad activities: (1) "know your customer" procedures, (2) monitoring for suspicious activity, and (3) procedures for reporting suspicious activity.[170] Identity verification can involve both paper and electronic identification,

---

[162] As noted in an August 5, 2009 interview with Glenn Gibson, Manager of Technical and Systems Audit at the Tasmanian Gaming Commission, and Damien Jarvis, Assistant Director of the Liquor and Gaming Branch of the Tasmania Department of Treasury and Finance (Australia).

[163] See *Id.*

[164] See *Supra* at footnote 158.

[165] See *Supra* at footnote 148 at p. 26.

[166] *Id.* at p. 20.

[167] *Id.* at p. 1.

[168] Id.

[169] *Id.* at p. 2.

[170] *Id.* at p. 29–31.

and the level of additional identification required rises with the risk in the particular industry and transaction. Suspicious activity monitoring involves standard procedures that are designed to reveal signs of monitoring while retaining privacy protection. All suspicious activity must be reported to law enforcement, which takes over the investigation immediately. Suspicious activity reporting, as part of the regulations, is the responsibility of all company staff members, who must be trained in the signs of money laundering and be able to report their suspicions expeditiously. In the United Kingdom, not reporting suspected money laundering is a criminal offense with a maximum sentence of two years in prison.[171]

4. Conclusion

Players or groups of players acting in concert may attempt to use legitimate gambling operations for money laundering. To curb such activities, regulators could subject online gambling operators to anti-money-laundering regulations that are currently in place for bricks-and-mortar casinos and for online merchants, banks, and payment providers. The online environment provides better opportunities for detecting money laundering by players or player groups than do bricks-and-mortar casinos.

In an effective anti-money-laundering regime, site operators would be required to retain comprehensive data on all deposits, withdrawals, and betting transactions and to make these available to regulators for examination and analysis. Given complete data, most patterns related to money laundering (such as light betting or matched bets placed by collaborators) would be easier to detect than they are in a physical environment (where complete transaction histories are available only in the form of video recordings).[172] Software for detecting anomalies and suspicious behavior may be operated easily and routinely on digital databases by operators, regulators, or both.

The site operators' obligations with respect to their own detection of money laundering would form a part of their ordinary compliance obligations under such a licensing regime. Because of the absence of cash in online gambling transactions, the auditable record that is created, and the regulator-imposed reporting requirements for most transactions, it is likely that site operators can prevent money laundering by players and terrorist financing at least as effectively as can bricks-and-mortar casinos.[173] In contrast, the current prohibitions related to online gambling forces players to use unconventional forms of payment that leave harder-to-follow audit trails, and may therefore increase the risk of money laundering.

---

[171] *Id.* at p. 23.

[172] As noted in an August 5, 2009 interview with Phill Brear, Head of Gambling Regulation at the Gibraltar Regulatory Authority.

[173] As noted in an August 3, 2009 interview with Paul Mathews, Former Senior Vice President of IGT Wagerworks.

F. Money Laundering by Site Operators

In addition to money laundering by players, there are concerns about money laundering by site operators.[174] The volume, speed, and international reach of Internet transactions, along with the offshore location of many Internet gambling sites, increase the potential for misuse of these sites by operators for laundering money. As such behavior would constitute criminal conduct by site operators, effective management of the problem involves regulatory restrictions designed to keep criminals out of the Internet gambling industry.

1. The Issue of Money Laundering by Site Operators

The GAO reported in 2002 that U.S. law-enforcement officials believed money launderers might develop Internet gambling sites for the sole purpose of laundering money.[175] GAO sited the possibility that a gambling site operator could design software to skim a percentage of customer deposits and cloak the transactions as gaming losses. In reality these deductions would serve as the operator's service fee for laundering illicit funds. An alternate scenario might involve a gambler transferring funds to the site operator or to a collaborator within the e-casino by continuing to play until he loses the requisite amount. Conversely, if the site operator wanted to transfer funds to a gambler, the games could be rigged so the gambler won.[176]

Two recent cases, involving NETeller and playwithal.com, highlight the possibility of online gambling operators using third-party conduits to engage in money laundering, concealing the true nature and purpose of financial transactions. In early 2007, the founders of NETeller, a popular third party payment processor based in the Isle of Man, were arrested and charged with laundering billions of dollars of Internet gambling proceeds.[177] In 2006, the Federal Bureau of Investigation (FBI) began investigating how NETeller processed payments and helped facilitate sports bets. NETeller used payment and shell companies to process Automatic Clearinghouse (ACH) transactions, thus hiding the nature of payments made to U.S. customers. To get money out of the United States, NETeller would have a payment service company receive funds on its behalf and transfer the funds to an account controlled by NETeller in Alberta, Canada.

In the case involving playwithal.com, a sports betting website, 27 people were charged with numerous counts, including money laundering.[178] The defendants were accused of laundering

---

[174] General Accounting Office, *Internet Gambling: An Overview of the Issues*, GAO-03-89, December 2002, at p. 36.

[175] See *Id* at p. 37.

[176] Testimony of John G. Malcolm Before the Committee on Banking, Housing, and Urban Affairs, March 18, 2003, http://www.usdoj.gov/criminal/cybercrime/malcolmTestimony318.htm (last accessed on July 29, 2009).

[177] Verrinder, Matthew, *NETeller Ex-directors on Money Laundering*, January 16, 2007, http://www.reuters.com/article/internetNews/idUSN1622302920070116 (last accessed on September 11, 2009).

[178] Online Gambling Operations in Queens Busted, November 16, 2006, http://online.casinocity.com/article/online-gambling-operation-in-queens-busted-68919 (last accessed on September 11, 2009).

and stashing away millions of dollars using shell corporations and bank accounts in Central America, the Caribbean, Switzerland, and Hong Kong.

2. Existing Controls in Other Jurisdictions

The United States has already enacted strict regulations to detect and deter money laundering, and site operators should clearly be forced to comply. Control strategies for this risk thus focus on keeping organized crime, other criminals and criminal behavior out of the industry.[179] As for all the other concerns about criminal conduct by operators, regulators will set a high bar for initial qualification and conduct periodic reviews of key personnel and their associations. Other jurisdictions do this already. The Isle of Man, U.K., and Alderney assess the suitability of license applicants and require them to submit documentation to satisfy the enforcement authorities that they are persons of good character, honesty and integrity.[180] Operators in these jurisdictions are also required to provide comprehensive financial statements and internal accounting records for audit.[181]

In many U.S. states, background checks and employee verification are already standard procedure for bricks-and-mortar casinos. For example, in New Jersey and Nevada, to obtain a license, each casino employee must supply his or her name, address, fingerprints, and consent to a criminal background check.[182] Bricks-and-mortar casinos are also required to provide periodic financial reports at a level of detail and in formats specified by regulators.[183]

3. Relevant Technologies for Risk Mitigation

Effective strategies to combat money laundering by site operators involve frequent and comprehensive auditing, the application of pattern recognition to aggregated financial transaction data, and exclusion of criminals.

---

[179] McCormick, Amanda, *Review of Online Gambling Literature*, British Columbia Center for Social Responsibility, 2007.

[180] Testimony of Mary Williams, in U.S. House of Representatives, Committee on Financial Services, *Can Internet Gambling Be Effectively Regulated to Protect Consumers and the Payments System?* 110th Cong., 1st Session, June 8, 2007, p. 128. Also see *Supra* at footnote 128. Also see Testimony of André Wilsenach, in U.S. House of Representatives, Committee on Financial Services, *Can Internet Gambling Be Effectively Regulated to Protect Consumers and the Payments System?* 110th Cong., 1st Session, June 8, 2007, at p. 140–141.

[181] Testimony of Mary Williams, in U.S. House of Representatives, Committee on Financial Services, *Can Internet Gambling Be Effectively Regulated to Protect Consumers and the Payments System?* 110th Cong., 1st Session, June 8, 2007, at p. 126–127.

[182] New Jersey Permanent Statutes, Title 5, Amusements, Public Exhibitions and Meetings, 5:12-82: Casino license – applicant eligibility. Also see Nevada Revised Statutes, Chapter 463.335.

[183] See *Id* Nevada Revised Statutes at Chapter 463.156–159.

4. Conclusion

As with the prevention of fraud and any other criminal conduct by site operators, an effective regulatory regime would seek to bar criminals from entering the Internet gambling industry, and seek to detect and prevent linkages developing between site operators and criminal organizations. Regulators would also develop the capacity to search for laundering patterns among the betting transaction data, as well as among the external financial flows data for regulated sites. Regulators of the online gambling industry would also become natural partners for the broader law-enforcement community seeking to detect and prevent money laundering.

G. Violation of Jurisdictional Restrictions or Prohibitions

A key concern of some policymakers is the ability of regulated online gambling sites to adhere to various jurisdictional restrictions and prohibitions.[184] For example, with bricks-and-mortar casinos, some states have complete prohibitions (e.g., Utah) while others have legalized most forms of gambling (e.g., Nevada).[185] Add to this mix the numerous Native American tribal areas, and a complicated multilayered jurisdictional map emerges. This section does not comment on federalism or the appropriateness of various levels of jurisdictional control over online gambling. Rather, we look at the ability to ensure through federal regulation that restrictions and prohibitions imposed at various other jurisdictional levels continue to be respected.

1. The Issue of Violation of Jurisdictional Restrictions

A central issue in the debate over legalization of online gambling pertains to different jurisdictions' abilities to preclude gambling website operators from operating from, or serving customers within, specific states or territories.[186]

Federal laws, such as the Wire Act and the UIGEA, removed some aspects of states' ability to choose legalization and regulation.[187] On the one hand, the passage of the UIGEA in 2006

---

[184] In October 2008, Governor Steve Beshear of Kentucky initiated a lawsuit against gambling sites serving customers in Kentucky; a court ordered 141 website domain names to be transferred to the state's control. The case was later overturned on appeal in January 2009 and is currently being appealed to the Kentucky Supreme Court. In April 2009, the state of Minnesota sent notice to 11 Internet service providers (ISPs) seeking to force them to block access to gambling sites for Minnesota residents. In June, the state rescinded its order. See *Poker News Daily,* "Minnesota Rescinds Internet Gambling Notices to ISPs after iMEGA Settlement," June 8, 2009, http://www.pokernewsdaily.com/minnesota-rescinds-internet-gambling-notices-to-isps-after-imega-settlement-2749/ (last accessed on August 10, 2009).

[185] American Gaming Association, *States with Gaming,* AGA Fact Sheet, http://www.americangaming.org/Industry/factsheets/general_info_detail.cfv?id=15 (last accessed on July 21, 2009).

[186] Kevin F. King, "Cutting Internet Gambling's Gordian Knot: Geolocation and Federalism on the Internet," *Northwestern University Law Review,* July 14, 2009, http://ssrn.com/abstract=1433634 (last accessed on July 20, 2009).

increased the federal government's control over online gambling and restricts users' ability to fund their online accounts, casting a broad net over any state attempts to legalize online gambling.[188] On the other hand, states have no recourse against offshore sites that provide gambling services to their residents.[189]

Despite concerns that the legalization of online gambling would override various jurisdictions' rights to regulate gambling, technology can give states that opt out of legalization some assurance that their restrictions will be enforced.[190] A well-crafted federal regulatory regime could respect jurisdictional differences with regard to legalization of online gambling.

2. Regulatory Strategy

Proposed legislation provides for the ability of states and Native American tribal groups to opt out of legalization.[191] A federal licensing system would need to ensure (1) that site operators "adopt and implement systems to enforce any applicable Federal, State, and Indian tribe limitations on Internet gambling" and (2) that license applicants have a program "to verify the State or tribal land in which the customer is located at the time the customer attempts to initiate a bet or wager."[192] Further, currently proposed legislation prohibits licensees only from "knowingly" accepting bets from jurisdictions that opt out, presumably to prevent state actions against operators for mere negligence.[193] It would be possible to press operators further, requiring them to acquire and operate state-of-the-art methods in this area, effectively guaranteeing their "knowledge" in all but the most unusual of circumstances.

A regulatory strategy to solve jurisdictional issues must entail oversight by a regulator that can monitor site operators, including the use of mystery shopper, to ensure compliance. Beyond that, however, the issue of different jurisdictional restrictions or prohibitions is essentially a technical question: does the technology exist to implement such restrictions or prohibitions?

---

[187] See *Id.* at p. 2–5.

[188] See *Supra* at footnote 18 at p. 933.

[189] See *Id.* at p. 930.

[190] Spencer Bachus, "Online Gambling Leads to Crime and Hurts Young, So Why Encourage It? Asks Spencer Bachus," *US News & World Report*, June 1, 2009, http://www.usnews.com/articles/opinion/2009/06/01/online-gambling-leads-to-crime-and-hurts-young-so-why-encourage-it-asks-spencer-bachus.html (last accessed on July 30, 2009).

[191] "There is a need to extend the regulatory provisions of this Act to all persons, locations, equipment, practices, and associations related to Internet gambling, with each State and Indian tribe having the ability to limit Internet gambling operators from offering Internet gambling to persons located within its territory by opting out of the provisions of this Act" (Internet Gambling Regulation, Consumer Protection, and Enforcement Act, H.R. 2267, 111th Cong. (2009), §5381, ¶6).

[192] See *Id.* at §5381, ¶5. Also see *Id* at §5384(b)(1).

[193] See *Id.* at §5386(a)(1)(A). Also see *Supra* at footnote 186 at p. 17.

3. Relevant Technologies for Risk Mitigation

Many technologies are available to mitigate the risks of jurisdictional violations of restrictions or prohibitions.

To adhere to UIGEA restrictions that prohibit funding of online gambling accounts, some overseas gambling operators, such as PartyGaming, Sportingbet, and Paradise Poker, have used geolocation techniques to selectively deny services to their customers on the basis of their location within the United States.[194] Similar technology may also be applied to help address the problem of jurisdictional differences in gambling law within the United States.

Geolocation entails using "Internet infrastructure information to determine the geographic location of Internet Protocol (IP) addresses associated with Internet-connected devices."[195] It is a way of determining the physical location of an Internet user, with varying degrees of accuracy. When an Internet user types a website address into a Web browser, the browser sends an access request to the server of the requested website. This request reveals the IP address of the user, which the requested website forwards to a geolocation provider. The provider, which has built a database of the locations of IP addresses, assesses the location of the user. Public-source geolocation data can often identify the location of IP addresses at the country, state, and even city levels.[196]

Gambling websites would, of course, require initial registration information from their users, including the users' name and address. This is the first line of defense against jurisdictional concerns, because a person attempting to register with a Utah address, for example, would be precluded from opening an account.[197] This information can be cross-checked against supplied information, such as credit card information, bank account numbers, driver's license details, or passport information to determine any mismatch in the reported location.[198] Players from excluded jurisdictions, or ones whose physical location cannot be verified, can summarily be prevented from opening an account.

This process should serve as a deterrent to casual users in prohibited jurisdictions who do not intend to circumvent the laws of their jurisdiction. Subsequently, however, the site must use geolocation to ensure that users, even if they were eligible at registration, are in a permitted

---

[194] See *Supra* at footnote 60, at ¶¶34–36.

[195] Quova, *The Factors of Geolocation,* iGaming Business, http://gw.vtrenz.net/index.cfm?method=cMicrositeSecurity.displayLogin&dkey=XOV3IU9JU5 (last accessed on July 21, 2009).

[196] D. J. B. Svantesson, "How Does the Accuracy of Geo-Location Technologies Affect the Law?" *Masaryk University Journal of Law and Technology,* 2, No. 1 (Summer 2008): 11–21, at p. 12.

[197] Assuming that the state of Utah, which currently prohibits gambling, would continue to do so under a federal regulatory regime.

[198] As noted in an August 21, 2009 interview with Andrew Fritchie, General Counsel of PartyGaming PLC.

jurisdiction while gambling. Geolocation software can pinpoint the user's location and, if in doubt, flag it for site operators to either further investigate or block access immediately.

Critics of geolocation claim that it is inherently unreliable and subject to relatively easy circumvention, citing failure rates in the range of 20% to 30%.[199] For example, a wireless access card, a common method of accessing the Internet on a laptop while traveling, may confuse geolocation services, and each service may show the user to be in highly disparate locations.[200] The online gambling firm bwin uses a geolocation service, and although the company believes that the service can reliably determine the country in which a player is located, it does not currently rely on results at a state or city level.[201] Supporters and geolocation companies themselves, however, insist that the technology is highly accurate. Quova, a market leader in geolocation technology, claimed virtually 100% accuracy in helping Ladbrokes, the world's largest bookmaker, to block Dutch users from accessing its site.[202] Other estimates of accuracy run from 85% to 99%.[203]

Geolocation technology is already used for a number of purposes, such as restricting access to content, protecting media rights, and delivering location-based content to users. It is used by organizations such as the New York State Lottery, the British Columbia Lottery, Major League Baseball, and the Alaska Permanent Fund.[204] It is also used to detect and deter fraud at online retailers by comparing the user's location with his or her credit card address, for example, and governments and law enforcement agencies use geolocation to help track Internet criminals.[205]

Technologies to circumvent geolocation do exist, such as "overt and transparent proxies, firewalls, filters and filtering services, Network Address Translators, private address spaces, point-to-point links, tunnels, and Virtual Private Networks (VPNs), that further obfuscate the

---

[199] Statement of Jeff Schmidt, in U.S. House of Representatives, Committee on Financial Services, *Can Internet Gambling Be Effectively Regulated to Protect Consumers and the Payments System?* 110th Cong., 1st Session, June 8, 2007, at p. 18-19.

[200] See *Id.*

[201] As noted in an August 13, 2009 correspondence with Katharina Riedl of bwin (Austria).

[202] A Dutch court had ordered Ladbrokes, a U.K. bookmaker, to prevent domestic users from accessing its site See *Supra* at footnote 195.

[203] See *Supra* at footnote 186 at p. 15.

[204] See *Supra* at footnote 40 at p. 53. Also see Larry Barrett, "Major League Baseball Struggles to Reach Fans Online," *Baseline*, March 7, 2005, http://www.baselinemag.com/index2.php?option=content&do_pdf=1&id=3506 (last accessed on September 4, 2009). Also see Quova, *Quova Helps the Alaska Permanent Fund Dividend Division Run Like a Well-Oiled Machine*, Quova case study, 2008, https://www.vtrenz.net/imaeds/ownerassets/818/08277_Alaska_casestudy_REV2.pdf (last accessed on September 10, 2009).

[205] Quova, *The Science of Geolocation*, http://www.quova.com/Technology/thescienceofgeolocation.aspx (last accessed on September 4, 2009).

true source and destination of communications."[206] In some cases, the user could be on a different continent from the one indicated by their IP address because he or she may be using one of the above technologies that masks the true location. VPN programs, which many people use to access work networks from home or while traveling, effectively mask one's location. In fact, many gateways to the Internet, such as America Online or proxy servers, by their nature offer geographic separation between the IP address and the end user.[207]

Geolocation software, however, can exploit the physical characteristics of the connection, such as the round-trip delay, to detect these countermeasures and assign a "confidence factor," indicating the probability that the reported location is the user's actual location.[208] Also, the software can determine if the destination address belongs to a cable company, a DSL provider, or a dial-up ISP. Thus, the destination can indicate the user's connection type and whether it is too risky to accurately verify the user's location.[209] In these cases, the customer's account can be blocked completely from using the service until his or her location can be determined with greater certainty, or the site's compliance department can flag the account for further review. Further review could involve requiring the user to submit additional information, which then may be subject to manual or real-time verification.[210]

The regulator may impose specific requirements on the confidence of any geolocation information, on the basis of the confidence factor determined by the software, in essence to "tune" the thresholds for acceptance, rejection, and further verification.[211] For example, the New York Lottery and the British Columbia Lottery use Aristotle's verification service for geolocation. Both organizations require nearly 100% confidence scores in order to allow users to participate in their respective lotteries.[212] In this way, regulators can have as much assurance as they require in the geolocation system, making it an effective means of excluding individuals in any specific jurisdiction.

4. Conclusion

Beyond the issue of sanctions, licensed sites may have an incentive to be lax with geolocation controls: excluding users from certain states lowers their overall customer base. Therefore, a

---

[206] See *Supra* at footnote 199 at p. 83.

[207] As noted in an August 21, 2009 interview with Andrew Fritchie, General Counsel of PartyGaming PLC.

[208] Quova, *GeoPoint by Quova*, white paper, July 2006, https://www1.vtrenz.net/imarkownerfiles/ownerassets/818/GeoPointbyQuova_WHITEPAPER.pdf (last accessed on July 21, 2009), at p. 7.

[209] See *Supra* at footnote 195.

[210] See *Id.*

[211] As noted in an August 3, 2009 interview with Paul Mathews, Former Senior Vice President of IGT Wagerworks. Also see *Supra* at footnote 162.

[212] See *Supra* at footnote 40 at p. 53.

regulator must ensure that geolocation controls are updated frequently and meet desired standards of quality. Frequent mystery shopping at U.S. sites conducted from locations within restricted states is one option, and violators could risk losing their valuable operating license if they chose to operate lax verification techniques. This combination of oversight and state-of-the-art technology should help ensure that various jurisdictions maintain control over their own gambling laws and prevent complex interstate legal disputes.

H. Breaches of Data Confidentiality

Online gambling websites often hold personal and confidential information of their customers, including credit card and bank account numbers, names, addresses, and other sensitive information. One of the challenges for a regulator is to ensure that personal information is used only for legitimate purposes and is not disseminated or accessed improperly.

1. The Issue of Data Confidentiality

All online businesses involved in monetary transactions are susceptible to breaches of data confidentiality.[213] Breaches can include hackers stealing credit card or other personal information, employees storing or accessing sensitive information improperly, and sites accidentally releasing personal information.[214] Although the deliberate theft of data is a significant problem, more than 88% of all cases of data breaches in 2008 resulted from insiders' negligence.[215] Once released, the data can then be used for various illegal purposes and may lead to identity theft and credit card fraud.

Unlike other countries, the United States does not maintain any general data privacy laws at a federal level.[216] Instead, individual states have wide latitude to enact laws protecting consumers' data, and currently 45 states have laws governing data breaches by companies.[217] Online

---

[213] In January 2009, Heartland Payment Systems, the United States' fifth-largest payment processor, announced a data breach caused by hackers that may have compromised up to 100 million credit cards. TJX, a major operator of retail stores, experienced a data breach in 2006 that exposed tens of millions of cards. See Rachel King, "Lessons from the Data Breach at Heartland," *Business Week*, July 7, 2009, http://www.msnbc.msn.com/id/31778540/ns/business-businessweekcom/ (last accessed on July 29, 2009)

[214] *Identity Theft Daily*, "Identity Theft News: 2008 Data Breach Count is 69% greater than 2007," *Identify Theft Daily,* http://www.identitytheftdaily.com/index.php/20080716371/Latest/Identity-Theft-News-2008-Data-Breach-count-is-69-greater-than-2007.html (last accessed on July 29, 2009).

[215] PGP Corporation, *2008 Annual Study: Cost of a Data Breach,* conducted by the Ponemon Institute, LLC, February 2009, at p. 5, http://www.encryptionreports.com/download/Ponemon_COB_2008_US_090201.pdf (last accessed on July 31, 2009).

[216] Dan Kaplan, "Leahy, for Third Time, Submits Federal Data Security Law," *SC Magazine,* July 24, 2009, http://www.scmagazineus.com/Leahy-for-third-time-submits-federal-data-security-law/article/140604/ (last accessed on July 29, 2009).

[217] See *Id.* Also see National Conference of State Legislatures, *State Security Breach Notification Laws,* as of July 27, 2009, http://www.ncsl.org/Default.aspx?TabId=13489 (last accessed on September 10, 2009).

gamblers residing in the United States currently have no protection against breaches of their personal data beyond those implemented by the online gambling site itself.

2. Existing Controls in Other Jurisdictions

In 2003, California became the first state to pass a comprehensive law on notification of data breaches. The law requires companies that experience a breach to notify all data subjects "in the most expedient time possible and without unreasonable delay" if certain types of personal information are released unintentionally. It is important to note that the data must have been unencrypted to trigger the notification.[218]

A 2009 bill proposed by Senator Patrick Leahy of Vermont, dubbed the Personal Data Privacy and Security Act, aims to "require data brokers and companies to establish and implement data privacy and security programs."[219] Leahy notes that more than 250 million records containing personal information have been breached since 2005.[220] The law would require companies that store customers' personal data to establish internal control policies and to give notice when a breach of data occurs. The bill would preempt state laws on these matters.[221] It also would establish an Office of Federal Identity Protection to assist consumers with issues of identity theft and data correction.[222]

In Europe, most data privacy laws are highly stringent—much more so than in the United States. The European Union's Data Protection Directive, issued in 1995, introduced strong controls on data privacy and the rights of consumers.[223] Among other provisions, it requires that data be relevant to the purpose for which it is kept, stored no longer than necessary, and verifiable by consumers. It also requires that, if data are to be processed (i.e., collected and used), (1) the data subject should have given explicit consent for its use and (2) the processing must be necessary for the performance of a contract, required by a legal obligation, necessary to protect the data subject's life, or necessary to perform a task of public interest.

Various jurisdictions across the world that have legalized and regulated online gambling maintain rules on data confidentiality and privacy:

---

[218] See California Office of Privacy Protection, "Recommended Practices on Notice of Security Breach Involving Personal Information," May 2008, http://www.oisp.pp.ca.gov/consumer_privacy/pdf/secbreach.pdf (last accessed on July 31, 2009), at p. 8.

[219] Office of Senator Patrick Leahy, *Leahy Introduces Cybersecurity Legislation*, July 22, 2009, http://leahy.senate.gov/press/200907/072209b.html (last accessed on July 29, 2009), at p. 1.

[220] See *Id.*

[221] See *Id.* at p. 5-8.

[222] See *Id.* at p. 9.

[223] *Data Protection in the European Union*, European Commission, United Kingdom, http://ec.europa.eu/justice_home/fsj/privacy/docs/guide/guide-ukingdom_en.pdf (last accessed on September 10, 2009).

- The Isle of Man's gambling regulations "specify detailed rules on the way accounts must be managed, privacy of information on account holders and prescribe the penalty for contravention which is £5,000 for each violation."[224] Site operators in the Isle of Man are also bound to the rules in the Data Protection Act 2002, the island's legislation concerning data privacy. One of the Act's provisions provides for compensation for "[a]n individual who suffers damage by reason of any contravention by a data controller of any of the requirements of this Act."[225]

- Iderney's regulatory system requires that "[c]ustomer privacy and data protection principles are observed."[226]

- Gibraltar requires that information about a player not be disclosed to a third party except under certain circumstances.[227] Gibraltar's regulator also requires that data be obtained lawfully, kept and used only for the purposes for which it was obtained, stored safely, and accessible by the customer.[228]

3. Relevant Technologies for Risk Mitigation

Effective data protection begins with the establishment of internal controls and policies by the gambling website. Betting site 888.com states in its privacy policy that it is "committed to respecting your privacy and to complying with applicable data protection and privacy laws and we have therefore provided this Privacy Policy to help you understand how we collect, use and safeguard your PII [personally identifiable information]."[229] It also states that the site's employees and data processors have an obligation to respect users' privacy. Betfair's privacy policy claims the site "endeavour[s] to ensure that [its] business practices that involve the use of...Personal Information are compliant with privacy regulations in the countries where [it] operate[s]," and it claims that it has assembled a "world class Information Security Management System."[230]

---

[224] See *Supra* at footnote 31 at p. 126.

[225] Data Protection Act 2002, Treasury of the Isle of Man, at §11(1).

[226] See *Supra* at footnote 30 at p. 144

[227] See *Supra* at footnote 133 at §30.

[228] See *Supra* at footnote 32 at p. 16.

[229] See http://www.888 com/, under "Privacy Policy for Users" (last accessed on September 10, 2009).

[230] See http://content.betfair.com/aboutus/?product=exchange&brand=betfair&region=GBR&locale=en (last accessed on September 10, 2009).

Maintaining secure computer systems is a demanding task. Although the various technological solutions—secure operating systems, file encryption, network firewalls—have their weaknesses the primary failure mechanism for data security is human mistakes and carelessness.[231]

Absent regulation, gaming site operators would not bear many of the costs associated with the improper disclosure of personal information. Thus, a regulatory mechanism is needed to align the operator's incentives with those of consumers. A significant fine for each consumer record improperly released is one such incentive.

With the proper incentives, the gaming site operator will engage in the security engineering, training of staff, and auditing needed to protect consumer records.

4. Conclusion

In an effective regulatory regime, the regulator would require the internal controls and privacy policies described in this section to be present on gambling websites and be highly visible to customers. The regulator would ensure that employees receive training in relevant data protection policies and that players have the ability to access and, if necessary, modify their personal information. It would also establish the types of data that can be stored and the length of time after which the data must be deleted. Finally, the regulatory regime may impose criminal or civil liability on site operators whose data is breached, and it can require regular audits, either by the regulator itself or by independent third parties, of data encryption policies and other protection systems. There is no reason to believe that licensed online gambling operators would be any less able or willing to fulfill these obligations than other online merchants with similar data custody obligations. For more discussion on technological strategies to protect sites' integrity and customers' personal data, see Section I, Communications and Computer Security Failures.

I. Communications and Computer Security Failures

Security of websites, to prevent improper use of or access to sensitive data, is a ubiquitous and serious concern in e-commerce. Hackers can undermine site security, alter a site's behavior, shut it down, access customers' confidential information, or use one site as a platform from which to launch broader malicious activities across the web. Online gambling sites would be responsible, in just the same way as other merchant sites, for implementing proper controls and in cooperating with law enforcement agencies in the control of cybercrime.

1. The Issue of Communications and Computer Security Failures

Web server security can be compromised from two directions. The first is over the network (i.e. through internet connections). Second, and perhaps more importantly, a website's servers are also subject to attack or misuse by the gaming site's own employees. A key employee may be able to install software that subverts a system, destroys the integrity of games, interferes with

[231] See Ross Anderson, Security Engineering, A Guide to Building Dependable Distributed Systems 2nd Edition, Wiley, 2008, at p. 17-62.

customer accounts, or improperly transmits customers' personal or financial information. Even an ordinary virus may render a site inoperative, making it impossible for customers to access their accounts or recover their deposits. Phishing attacks, directed at customers through a gambling website, may also be a concern.

Attacks may involve unauthorized attempts to login using someone else's account, or exploitation of some security weakness in the web server software itself or in the communications software on the server.[232]

Protecting gaming websites from intruders is little different from the problem faced by government agencies or online merchants such as Amazon. Many organizations do this quite well as a matter of course, and licensed gambling site operators should be held to a high standard.

There are currently no U.S. federal laws regarding data breaches, and the issue is left to individual states. However, acts of hacking and computer fraud are addressed by the Computer Fraud and Abuse Act, originally enacted in 1986, which covers any interstate or international computer communications.[233] The Act criminalizes a wide range of computer fraud, including improperly accessing a "protected" computer with intent to defraud and knowingly transmitting a program or code that causes damage to multiple computers. A 2008 amendment to the law eliminated the requirement for the communications to be interstate or international in cases involving theft and broadened the definition of a "protected computer" to mean any computer used in interstate or foreign communication.

Like other heavily-used websites, gambling sites are susceptible to denial-of-service attacks, which overload a website's servers and force it to shut down.[234] The threat of such attacks has been used to extort money from website operators. Perpetrators of such extortion have included organized crime groups from the Middle East and Asia.[235] In 2004, British bookmakers alone lost $70 million due to "cyber-extortion" by just one hacking team, and companies such as

---

[232] For a description of a recent (September 2009) discovery of a security weakness in web server software, see Gregg Keizer, *Microsoft promises patch for critical Web server bug*, Computerworld, September 2, 2009, http://www.computerworld.com/s/article/9137438/Microsoft_promises_patch_for_critical_Web_server_bug (last accessed on September 9, 2009).

[233] See U.S. Department of Justice, *Chapter 1 – Computer Fraud and Abuse Act*, Computer Crime & Intellectual Property Section, http://www.usdoj.gov/criminal/cybercrime/ccmanual/01ccma.pdf (last accessed on July 29, 2009).

[234] Denial-of-service attacks use computers to inundate a website with large amounts of internet traffic that eventually slows the site or shuts it down completely. See Jack M. Germain, "Global Extortion: Online Gambling and Organized Hacking," *Tech News World*, March 23, 2004, http://www.technewsworld.com/story/33171.html?wlc=1248627730 (last accessed on July 26, 2009). Also see Jordan Robertson, "Tech 101: How a Denial-of-Service Attack Works," *Associated Press*, July 8, 2009, http://www.usnews.com/articles/science/2009/07/08/tech-101-how-a-denial-of-service-attack-works.html?PageNr=1 (last accessed on July 28, 2009).

[235] See *Id.*

Canbet, Harrods Casino, Inter Casino Poker, Totalbet, VIP Casino, and William Hill have been the victims of denial-of-service attacks.[236]

Users of gambling websites are also susceptible to phishing, or the use of fraudulent but credible-looking website-mimics to deceive the user into releasing personal information or to install viruses and other malware onto their computers.[237] Phishing may take many forms including fraudulent or misleading email, website pop-up advertisements, or other forms of electronic communication such as text messaging. Phishing attacks cost consumers more than $3 billion annually in the form of fraudulent credit card charges, withdrawals from compromised bank accounts, time spent rectifying fraud problems, and reduced trust in online commerce.[238] Depending upon factors such as the website's payout policy or the ability to transfer funds between players, gambling websites can be attractive targets for phishing.[239]

2. Existing Controls in Other Jurisdictions

In a licensed regulatory environment, gambling site operators would be expected to play their part—just like any other e-commerce merchant—in eliminating their own security vulnerabilities and cooperating with law-enforcement agencies in cybercrime control. Existing U.S. laws (federal and state) regarding computer intrusion would apply, and sites would have recourse to law enforcement support if they suffered attacks. Other nations have legal regimes similar to the U.S. with respect to cybercrime. France, Germany, and the United Kingdom all have laws specifically targeting cybercrime, and the European Union is currently looking to both strengthen its laws on cybersecurity and harmonize the laws of its member states.[240] The European Union is also considering a system through which members can report Internet-based attacks to each other and record arrests and prosecutions.[241] The Licensing, Regulation, and Alcohol Strategy division

---

[236] See John McMullan and Aunshul Rege, *Cheating and Cybercrimes @ Gambling Sites.com*, presentation to the Alberta Gambling Research Institute Annual Conference, March 2009, slide 17. Also see John McMullan and David Perrier, "The Security of Gambling and Gambling with Security: Hacking, Law Enforcement and Public Policy," *International Gambling Studies* 7, No. 1 (2007): 43–58 at p. 47.

[237] Rachna Dhamija *et al.*, *Why Phishing Works*, Experimental Social Science Laboratory (Xlab), Paper XL06-013 (August 14, 2006): 581–590 at p. 581, http://repositories.cdlib.org/iber/xlab/XL06-013 (last accessed on August 3, 2009). Also see Cyveillance, *The Cost of Phishing: Understanding the True Cost Dynamics Behind Phishing Attacks*, white paper, December 2008, http://www.cyveillance.com/web/docs/WP_CostofPhishing.pdf (last accessed on August 3, 2009). Also see APWG, *Phishing Activity Trends Report Q1/2008*, January–March 2008, http://www.antiphishing.org/reports/apwg_report_Q1_2008.pdf (last accessed on August 3, 2009).

[238] See *Id* Cyveillance.

[239] Marvin Fabuli, "Online Casinos an Easy Bet for Phishers," Symantec, February 27, 2008, http://www.symantec.com/connect/blogs/online-casinos-easy-bet-phishers (last accessed on August 3, 2009).

[240] Palmer, Maija, "EU plans tougher cybercrime laws," *FT com*, June 14, 2009, http://www.ft.com/cms/s/0/10a407b6-5913-11de-80b3-00144feabdc0.html (last accessed on August 2, 2009).

[241] See *Id.*

in Australia's Northern Territory requires license applicants to submit their information technology security protocols for a risk assessment, and their controls must adhere to Australian and New Zealand AS/NZS 4444 standards for information security.[242]

The issue of hacking is not completely unfamiliar to bricks-and-mortar casinos. They use quite sophisticated electronic systems, which are vulnerable as well.[243] A regulatory strategy for online gambling would require implementation and maintenance of state-of-the-art security controls, cooperation with law-enforcement on cybercrime issues, comprehensive testing of site and account security for the sake of defending consumers' privacy and interests, and mandatory reporting of any attacks.[244]

3. Relevant Technologies for Risk Mitigation

The key technologies for gambling website security are the same as those used by other on-line merchants. These include (1) network firewalls that isolate databases, administrative systems, and development systems from the Internet, (2) high-quality servers with up-to-date security patches, (3) a continuing process of monitoring and logging attempts to break into the system over the Internet, (4) secure database and transactional software, and (5) the use of secure, encrypted protocols for communications between users and the gambling website.[245]

Intruders who gain access to a user's credentials and use those credentials to open a fraudulent connection can be combated in several ways. Many gambling sites work by having users download and install dedicated client software to access the site rather than relying on standard web browsers. This dedicated client software can implement security protocols that resist a variety of exploits such as keystroke loggers and "man-in-the-middle" attacks.[246] For example, the gambling site could use encryption keys based, in part, on information exchanged at registration and stored on the user's computer. This approach, however, is not as user friendly as a simple login (e.g., user name and password), as it would make the use of any computer other than the user's regular computer more difficult.

---

[242] As noted in an August 31, 2009 correspondence with John Sealy, Manager of Information Systems and Technology Services at the Licensing, Regulation and Alcohol Strategy division of the Northern Territory Department of Justice (Australia).

[243] See John McMullan and David Perrier, "The Security of Gambling and Gambling with Security· Hacking, Law Enforcement and Public Policy," *International Gambling Studies* 7, No. 1 (2007): 43-58 at p. 44.

[244] See *Id* at p. 53.

[245] Keys Botzum, WebSphere Application Server V6 advanced security hardening -- Part 1, Overview and approach to security hardening, IBM WebSphere Developer Technical Journal, December 2005, http://www.ibm.com/developerworks/websphere/techjournal/0512_botzum/0512_botzum1.html (last accessed on September 14, 2009)

[246] Keystroke loggers are programs that record users' keystrokes for the purpose of garnering private information such as passwords. "Man-in-the-middle" attacks are cryptographic attacks in which an eavesdropper relays messages between two victims. The eavesdropper can read and even alter the messages.

Another approach is to add a feature to the user's password. It is common for high-value websites to put an additional password on a physical device, such as a small keyfob that displays a six-digit number that changes once per minute.[247] The user logs in by supplying the user name, password, and the number on the fob, and these are passed through to the server, which authenticates them and permits the user to log in. This technology protects against lost and easy-to-guess passwords but not against man-in-the-middle attacks. However, if the site requires the user to employ dedicated client software, that client software can use the 6-digit number as part of the encryption key for establishing the connection between the user's computer and the web server; this technique would successfully protect against man-in-the-middle attacks.[248]

Gambling site operators are already aware of some of these options. For example, PartyGaming's privacy policy states that it stores all players' personal information in a password-protected database behind a state-of-the-art firewall, and the site itself supports SSL version 3 security with 128-bit encryption.[249] It also states that it ensures that affiliates, subsidiaries, agents, and suppliers use secure technology. The site 888.com claims that it uses advanced SSL and PGP protocols for security along with public/private key encryption and firewalls.[250] Both sites employ secure, dedicated client software. Other gambling sites also enumerate details about their security policies and procedures, all of which are designed to prevent unauthorized access to personal information.

Denial-of-service attacks present a particular challenge to gaming site operators. The harmful traffic usually arises from thousands or tens of thousands of computers that have been infected with a virus that permits the author of the virus to remotely control the infected computer. The individual commanding such a network can direct the entire network to begin loading pages from the gambling website. If the website is designed to serve a thousand active users but ten thousand computers begin loading web pages at ten times the rate of a normal user, service from the website could collapse.

Some technological countermeasures are available to the website operator—for example the website could place limits on the number of new computers from which it will accept connections. However, if the flow of incoming traffic is big enough it will overload the connections between the gambling site and the rest of the Internet. Thus, the ultimate control of denial-of-service attacks must come from web administrators, providers of operating system software, and network service providers.

---

[247] This process is called two-factor authentication. One factor is the normal password which the user types, and the other is the code from the key fob. The interactive role-playing game service World of Warcraft provides such key fobs to its users for a fee of $6.50. See http://www.blizzard.com/store/details.xml?id=1100000622 (last accessed on September 9, 2009).

[248] If the 6-digits are used as a shared secret to generate part or all of the encryption key for the communications between the user and the game site, then a man-in-the-middle attack is impossible because the attacker lacks the shared secret.

[249] See https://secure partyaccount.com/about/privacy_s.do (last accessed on August 24, 2009).

[250] See http://www.888.com/ (last accessed on August 24, 2009).

Security failures in computer operating systems are the gateway through which most viruses infect computers. Network service providers have the ability to monitor traffic flows on many different paths and can detect patterns of activity that indicate the beginnings of a denial-of-service attack. They may also be able to control denial-of-service attacks at locations far from the connection to the gambling site.

For this reason, sites must work closely with regulators and government agencies to identify and deal with cybercriminals. Regulators should develop cooperative relationships with private security experts and advocate for cost-effective, industry-wide benchmarks for cyber-security.[251] Finally, legislators should consider imposing civil liability on site operators for any harm caused by computer intrusions, at least when site security precautions were not up to the requisite standard.[252]

Finally, gambling site operators, like all other online merchants, should implement anti-phishing measures to prevent financial harm to consumers and maintain the integrity of their operations. The sites should play their role in helping to educate consumers about safe browsing habits and how to recognize phishing.[253]

4. Conclusion

Significant international attention is already being paid to cybercrime in general. Website security is a matter of global concern for businesses and government alike, by no means specific to online gambling. According to a Cyberspace Policy Review report released in 2009 by the Cybersecurity Chief at the National Security Council, "a growing array of state and non-state actors are compromising, stealing, changing, or destroying information and could cause critical disruptions to U.S. systems."[254] The report recommends a coordinated effort by federal, state, and local governments along with security experts in the private sector, and it urges the government to "identify procurement strategies that will incentivize the market to make more secure products and services available to the public."[255] It goes on to recommend "adjustments to liability considerations (reduced liability in exchange for improved security or increased

---

[251] See John McMullan and Aunshul Rege, *Cheating and Cybercrimes @ Gambling Sites.com*, presentation to the Alberta Gambling Research Institute Annual Conference, March 2009, slide 23.

[252] John McMullan and David Perrier, "The Security of Gambling and Gambling with Security: Hacking, Law Enforcement and Public Policy," *International Gambling Studies* 7, No. 1 (2007): 43–58 at p. 56.

[253] MarkMonitor, "Rock Phishing: The Threat and Recommended Countermeasures," White Paper, August 2007, http://www.markmonitor.com/download/wp/wp-rockphish.pdf (last accessed on August 3, 2009), at p. 7–8.

[254] Cyberspace Policy Review, *Assuring a Trusted and Resilient Information and Communications Infrastructure*, National Security Council, May 2009, http://www.whitehouse.gov/asset.aspx?AssetId=1906 (last accessed on August 2, 2009), p. iii. Also see http://www.whitehouse.gov/cyberreview/.

[255] See *Id* at p. iv-v.

liability for the consequences of poor security), indemnification, tax incentives, and new regulatory requirements and compliance mechanisms."[256]

While all online merchants would benefit from increased governmental and law enforcement support, online gambling operators are ultimately responsible for their own sites' security. Site operators will naturally be concerned with their reputations for integrity and reliability, but regulation can introduce new incentives to ensure that operators deploy effective security. The regulator might choose to mandate some specific technologies, such as SSL encryption and dedicated client software; and it can sharpen the incentives for effective control by imposing higher levels of liability for any sites that fail to implement adequate precautions.

J. Problem Gambling

1. Problem Gambling

We expect that problem gambling behaviors may receive more attention in the upcoming debates than any of the other categories of risk. Therefore, we discuss problem gambling in more detail in Section III below.

[256] See *Id* at p. v.

III. SPECIAL ATTENTION TO PROBLEM GAMBLING

A. Introduction

Unlike the other nine risks, the potential effect of legalization on problem gambling is less obvious a priori. On the one hand, in a well-regulated online environment, gamblers (including existing U.S.-based online gamblers) would have more access to mechanisms with which to try to curb their problem behavior. These include tools for self-exclusion and self-limits as well as greater awareness of and access to clinical and self-help resources. On the other hand, pathological or addictive gambling behaviors might nevertheless be exacerbated by the increased opportunity to gamble at any time and from anywhere.

B. What is Problem Gambling?

1. Terminology

Problem gambling is a term without a specific definition that refers to the fact that some individuals who gamble do so irresponsibly and damage or disrupt personal, financial, or social pursuits.[257] The term can apply to a wide spectrum of cases, from less severe ones where individuals experience some degree of gambling-related problems to more severe cases in which individuals are clinically diagnosed with *pathological gambling*—an impulse control disorder.[258]

---

[257] Lack of specific definition noted in an August 5, 2009 interview with Phill Brear, Head of Gambling Regulation at the Gibraltar Regulatory Authority. National Council on Problem Gambling, *FAQs – Problem Gamblers,* http://www.ncpgambling.org/i4a/pages/Index.cfm?pageID=3315 (last accessed on July 11, 2009).

[258] In 1980, the American Psychiatric Association (APA) first included pathological gambling in the Diagnostic and Statistical Manual for Mental Disorders (DSM). It was described as a "chronic and progressive failure to resist impulses to gamble, characterized by undesirable outcomes ranging from borrowing money from family or friends and losing time at work, to being arrested for offenses committed to support gambling." National Research Council, *Pathological Gambling: A Critical Review*, Washington, DC: National Academy Press (2005), at p. 2. In the most current manual, DSM-IV, the APA lists 10 diagnostic criteria of which five have to be met to make a clinical diagnosis of pathological gambling. See *Id* at p. 27. Various screening mechanisms have been developed to assess levels of problem gambling, including the South Oaks Gambling Screen (SOGS), the Problem Gambling Severity Index (PGSI) of the Canadian Problem Gambling Index (CPGI), and the National Opinion Research Center DSM Screen for Gambling Problems (NODS). See Michael Belletire *et al., Legislating and Regulating Casino Gaming: A View from State Regulators,* paper commissioned by the Regulation, Enforcement and Internet Subcommittee of the National Gambling Impact Study Commission, 1999, at p. 11. Also noted in interviews with Peter Collins, Professor of Public Policy Studies and Director of the Center for the Study of Gambling at the University of Salford (U.K.), and Sam McQuade, Graduate Program Coordinator at the College of Applied Science and Technology at the Rochester Institute of Technology.

2. Prevalence Rates and Trends

Worldwide: Most research indicates that about 1% of the adult population worldwide experiences severe problem gambling.[259] Moreover, studies indicate that severe problem gambling rates globally have stabilized over time at about 1%.[260]

United States: Various studies have been conducted to estimate the prevalence of problem gambling in the United States. According to the National Council on Problem Gambling, about 1% of the U.S. adult population meets the criteria for pathological gambling in a given year. Another 2% to 3% would be considered problem gamblers.[261] In a meta-analysis of 120 previously conducted prevalence studies in the United States and Canada, researchers at the Division of Addictions at Harvard Medical School derived point-in-time estimates of problem gambling rates. They noted that 1% to 2% of the adult population met criteria for lifetime pathological gambling.[262] A more recent estimate from a nationally representative survey in the United States found lifetime pathological gambling rates within the general population of 0.4%.[263] In an interview in mid 2009, Howard J. Shaffer, an addiction expert at Harvard University, noted that despite the substantial growth in gambling opportunities and overall gambling volume over the last two decades in the United States, the rate of problem gambling among the adult population has stayed roughly constant. Shaffer also stated that the incidence of problem gambling in the United States had declined slightly since the 1970s, from 0.7% to 0.6%.[264]

Online Gambling and the Incidence of Problem Gambling: Some studies have claimed an association between increased gambling exposure and increased incidence of problem

---

[259] Jamie Wiebe *et al.*, *Problem Gambling Prevalence Research: A Critical Overview*, a report to the Canadian Gaming Association, December 2007, at p. 2, http://canadiangamingassociation.com/media_uploads/pdf/78.pdf (last accessed on September 10, 2009).

[260] See *Id.* Also see D. A. LaPlante and H. J. Shaffer, "Understanding the Influence of Gambling Opportunities: Expanding Exposure Models to Include Adaptation," *American Journal of Orthopsychiatry*, 77, No. 4 (2007): 616–623 at p. 619.

[261] See *Supra* at footnote 257. Also noted in a June 5, 2009 interview with Keith Whyte, Executive Director of the National Council on Problem Gambling

[262] Howard Shaffer *et al.*, "Updating and Refining Prevalence Estimates of Disordered Gambling Behaviour in the United States and Canada," *Canadian Journal of Public Health*, 92, No. 3 (2001): 168–172 at p. 169. Also see Howard Shaffer *et al.*, *Estimating the Prevalence of Disordered Gambling Behavior in the United States and Canada: A Meta-Analysis*, Boston: Presidents and Fellows of Harvard College, 1997, at p. iii. Also see Howard Shaffer *et al.*, "Estimating the Prevalence of Disordered Gambling Behavior in the United States and Canada: A Research Synthesis," *American Journal of Public Health*, 89, No. 9 (1999): 1369–1376 at p. 1370.

[263] N. M. Petry *et al.*, "Comorbidity of DSM-IV pathological Gambling and Other Psychiatric Disorders: Results from the National Epidemiologic Survey on Alcohol and Related Conditions," *Journal of Clinical Psychiatry*, 66, No. 5 (2005): 564–574 at p. 564.

[264] As noted in a June 10, 2009 interview with Howard Shaffer, Director of the Division on Addictions and Associate Professor of Psychology in the Department of Psychiatry at the Cambridge Health Alliance.

gambling.[265] In addition, commentators have suggested that the increased accessibility inherent in online gambling magnifies such risks.[266] However, more recent studies specific to online gambling, most conducted since the advent of legal and regulated online gambling, have indicated that online gambling does not inherently encourage excessive gambling.[267] For example, researchers at Harvard Medical School studied real-time betting activities of 48,000 Internet players over two years and found that their betting levels in Internet sports gambling and casino games were moderate. Most gamblers placed fewer than four bets per day, and sports gamblers tended to moderate their play based on their wins and losses; i.e., they played less often when they lost money and more often when they won money.[268] Also, a large-scale British study in 2007 found no increase in the rate of problem gambling in the United Kingdom since 1999, despite a large increase in the number of new gambling opportunities (although the number of people who had gambled in the past year decreased between 1999 and 2007).[269]

C. Potential Effects of Legalization of Online Gambling on Problem Gambling

Some researchers and policymakers have expressed concerns about the impact of online gambling on problem gambling.[270] They fear that legalization of online gambling might spur excessive gambling and problem gambling incidence by facilitating (1) unlimited access and availability of gambling platforms; (2) anonymity, which would allow gamblers to participate without fear of stigma; (3) gambling under the influence; (4) decreased perception of value of

---

[265] See Brian Rush *et al.*, "Mapping the Prevalence of Problem Gambling and Its Association witb Treatment Accessibility and Proximity to Gambling Venues," *Journal of Gambling Issues,* 20 (2007): 193–214.

[266] As noted in interviews with Howard Shaffer, Director of the Division on Addictions and Associate Professor of Psychology in the Department of Psychiatry at the Cambridge Health Alliance, and Simon Holliday, Director of H2 Gambling Capital (U.K.).

[267] Richard LaBrie *et al.*, "Assessing the Playing Field: A Prospective Longitudinal Study of Internet Sports Gambling Behavior," *Journal of Gambling Studies*, 23, No. 3 (2007): 231–243. Also see Richard LaBrie *et al.*, "Inside the Virtual Casino: A Prospective Longitudinal Study of Actual Internet Casino Gambling," *European Journal of Public Health*, 18, No. 4 (2008): 410–416. Also see Debi LaPlante *et al.*, "Sitting at the Virtual Poker Table: A Prospective Epidemiological Study of Actual Internet Poker Gambling Behavior," *Computers in Human Behavior*, 25, No. 3 (2009): 711–717.

[268] See "Real-Time Betting Analysis of Internet Casino Gambling," *Responsible Gaming Quarterly*, 6, No. 2 (Fall 2008), at p. 9, http://www.americangaming.org/assets/files/RGQ_Fall_08.pdf (last accessed on August 10, 2009). Also, as noted in interviews with Peter Collins, Professor of Public Policy Studies and Director of the Center for the Study of Gambling at the University of Salford (U.K.), Bo Bernbard, Director of Gambling Research at the UNLV College of Hotel Administration, and Charles Wellford, Professor of Criminology and Criminal Justice at the University of Maryland, College Park, the availability of new forms of gambling does not necessarily lead to increased incidence of problem gambling.

[269] See *Supra* at footnote 13, Heather Wardle *et al.* at p. 9-10.

[270] Martin Owens and Guy C. Clark, "Internet Gambling Deserves a New Chance," The Debate Room, *Businessweek*, 2007, http://www.businessweek.com/debateroom/archives/2007/09/internet_gambli.html (last accessed on September 10, 2009). Also see Michael P. Scharf and Melanie K. Corrin, "On Dangerous Ground: Passive Personality Jurisdiction and the Prohibition of Internet Gambling," *New England Journal of International and Comparative Law*, 8, No. 1 (2002).

money; and (5) isolation.[271] A notable example of this concern is the 1999 assertion by the National Gambling Impact Study Commission that the three main reasons to prohibit online gambling are abuse by underage gamblers, addiction by pathological gamblers due to its high speed and instant gratification, and the potential for criminal activities.[272] Policymakers are also concerned about negative spillovers to the rest of society, including increases in crime, lost work and school hours, and increase in personal debt. However, the only reason cited in the Safe Port Act (the sponsoring legislation of the UIGEA) for banning financial transactions to and from online gambling sites is that it leads to debt collection problems for U.S. financial institutions.[273]

The following sections describe and analyze mechanisms through which legalization could affect the level of problem gambling in the United States. We identify several mechanisms by which legalization is commonly expected to increase the incidence of problem gambling and two mechanisms by which regulation might be expected to alleviate problem gambling.

1. Potential Adverse Effects of Legalization

The following section describes several mechanisms by which legalization is commonly expected to increase the incidence of problem gambling.

a. *Removal of Legal Deterrence*

Potential Effect: It is commonly believed that current legal restrictions on online gambling have deterred would-be gamblers from engaging in the Internet's version of gambling. Therefore, legalization may accentuate problem gambling by eliminating any legal inhibitions would-be gamblers have toward online gambling. In the 2007 UNLV survey of Nevadans, researchers found that approximately 12% of "non-online gamblers" (defined as those respondents who had not gambled online, but who may or may not have otherwise gambled) would be more likely to participate in online gambling if it were licensed and regulated by the state of Nevada.[274]

---

[271] See *Id* Scharf and Corrin. Also see *Supra* at footnote 25 at p. 50. Also Griffiths notes that among other factors, increased access to gambling provided by online gambling might facilitate the development of gambling related issues. M. D. Griffiths, "Internet Gambling: Issues, Concerns and Recommendations," *Cyberpsychology & Behavior*, 6, No. 6 (2003): 557–568; cited by Sarah E. Nelson *et al*, "Real Limits in the Virtual World: Self-Limiting Behavior of Internet Gamblers," *Journal of Gambling Studies*, 24 (2008): 463–477, DOI 10.1007/s10899-008-9106-8. Also The Committee on the Social and Economic Impact of Pathological Gambling notes that "More people are gambling, and they are wagering more. As a result, there is increased concern about pathological gambling." The Committee further notes that "With the increased availability of gambling and new gambling technologies, pathological gambling has the potential to become even more widespread." National Research Council, *Pathological Gambling: A Critical Review* (National Academy Press, Washington, DC, 2005), at p. 3.

[272] *National Gambling Impact Study Commission, Final Report*, 1999, at p. 5-4 to 5-6, http://govinfo.library.unt.edu/ngisc/reports/finrpt.html (last accessed on September 10, 2009).

[273] See *Supra* at footnote 69 at p. 62.

[274] See *Supra* at footnote 6 Bo Bernhard at p. 25, 46. Note $N = 1{,}000$. Also 96.3% of responders were non-online gamblers; that is, they stated that they had not gambled online in the last five years.

Mitigating Considerations: It can be argued that the lifting of the prohibition itself is unlikely to have any significant impact on would-be gamblers' willingness to gamble online, because gamblers in the United States are generally ignorant or completely confused about existing legal restrictions.[275] Support for this argument is found in the survey mentioned above, in which researchers discovered that 53.7% of responders were unclear regarding the legal status of online gambling. Approximately 17% thought online gambling was legal, and the remaining 29.5% thought it was illegal.[276] This result indicates general confusion among gamblers in the United States about current legal restrictions.[277] In addition, 87.9% of the responders noted that the current legal status of online gambling did not affect their desire to gamble online, whereas 4% indicated that their desire to gamble online was very much affected by its current legal status.

Moreover, the absence of any enforcement against online gamblers until very recently may have diluted the deterrent effect of legal restrictions on would-be gamblers' inclination to gamble, leading one to argue that complete removal of such restrictions in the future would not have a major impact on the behavior of would-be gamblers.[278]

b. *Introduction of Trustworthy Brands*

Potential Effect: Legalization may lead to increased comfort with gambling online, because U.S.-based sites, with trusted brands and subject to strict regulation, would offer a range of protections to gamblers that many offshore sites do not.[279] Moreover, greater competition in the sector, with gambling platforms offering better deals to would-be gamblers, might lead to increased volumes and greater incidence of problem gambling.

Researchers indicate that security concerns and legitimacy are two main reasons cited by gamblers for not gambling online.[280] Currently, Online Casino City, a guide to online gambling websites, lists 1,906 gambling websites from 70 different jurisdictions, 42 of which have sites

---

[275] As noted in a June 5, 2009 interview with Keith Whyte, Executive Director of the National Council on Problem Gambling, Americans are generally ignorant of the legal status of online gambling, and many do not believe they will be prosecuted for gambling online.

[276] Researchers further noted that 54% of non-online gamblers were unclear about the current status of online gambling, whereas 16% deemed it legal and the remaining 29% deemed it illegal. [276] See *Supra* at footnote 6 Bo Bernhard at p. 26.

[277] Gaul notes that "even as bettors around the world gamble millions of dollars online, confusion reigns about the legal status of those bets and the companies that handle them." See *Supra* at footnote 83. Also, in a June 10, 2009 interview, Bo Bernhard, Director of Gambling Research at the UNLV College of Hotel Administration noted that the legal status of online gambling is "very unclear" in people's minds in the United States.

[278] See *Supra* at footnote 14.

[279] Section 2b discusses responsible gambling practices and safeguards that may be offered by regulated online gambling websites.

[280] See *Supra* at footnote 19, Sally Monaghan.

that allow players from the United States.[281] The majority of these websites are privately owned, and many are located in countries with no reporting requirements.[282]

In such situations, where consumers are uncertain and have limited experiences with providers, brand associations are known to be particularly influential.[283] In a recent survey, researchers at the University of Lethbridge found that the general reputation of the website was the most common reason identified by online gamblers for choosing to gamble at one Internet site over another.[284] Thus, the introduction of branded providers that are inherently perceived to be trustworthy might attract more gamblers to participate in online gambling.[285]

Mitigating Considerations: It can be argued that gamblers most likely to be influenced by the availability of trusted brand-name sites are those who gamble already, perhaps in the casino environment, and hence know the brands.[286] Although these gamblers may indeed shift their business, this shift would represent displacement, not overall growth. Further, the displacement would be from bricks-and-mortar to online gambling, which can offer more options and protections for problem gamblers than can land-based casinos.[287]

---

281 As of September 14, 2009. See Online Casino City, *Online Gaming Site Owners*, http://online.casinocity.com/ownership. Also note, amongst these 1,906 sites are included 34 sites based in the United States, most of which involve skill games, free poker tournaments in which players can win real money, or state-sponsored lottery or sports betting.

282 Gaul notes that in a joint investigation, the *Washington Post* and CBS's *60 Minutes* found that "many Internet gambling sites operate in a shadowy world of little regulation and even less enforcement," See *Supra* at footnote 83.

283 Stevie Watson *et al.*, "The Legalization of Internet Gambling: A Consumer Protection Perspective," *Journal of Public Policy & Marketing*, 23, No. 2 (2004): 209–213, at p. 211.

284 Robert Wood and Robert Williams conducted two surveys. The first survey was a random digit dial telephone survey of 8,498 Canadian adults conducted from January 2006 to June 2007. The second survey was an online self-administered survey of 12,521 adults from 105 countries, conducted from June to December 2007. See Robert Wood and Robert Williams, *Internet Gambling in Comparative Perspective: Patterns, Problems, and Interventions*, University of Lethbridge, Presentation to the Alberta Gambling Research Institute Annual Conference, March 2009.

285 As noted in an August 4, 2009 interview with Simon Holliday, Director of H2 Gambling Capital (U.K.), the legalization of online gambling would probably increase the number of online gamblers. Also, the previously cited UNLV study revealed that 12% of non-online gamblers would be more likely to participate in online gambling if it were licensed and regulated by Nevada. Although some of these respondents may fear legal repercussions, some may be unwilling to gamble online due to a lack of credible, branded providers, because a large portion of respondents had doubts about the integrity of online gambling. See *Supra* at footnote 73.

286 MGM Mirage, a large U.S. bricks-and-mortar casino operator, set up an Internet gambling site based in the Isle of Man and marketed the site using MGM's brand name and credibility. See Richard McGowan, *The Gambling Debate* (Westport, CT: Greenwood Press, 2008), at p. 43.

287 Wiebe and Lipton note that "If players value such regulation, then the unregulated operators will be at a competitive disadvantage." Jamie Wiebe and Michael Lipton, *An Overview of Internet Gambling Regulations*, submitted to the Ontario Problem Gambling Research Centre, August 2008, at p. 15.

c. *Increased Accessibility*

Potential Effect: One of the most common critiques of online gambling is the increase in access and availability inherent in Internet-based gambling platforms.[288] Many believe that increased access to gambling and 24-hour-a-day availability may exacerbate problem gambling.[289] In addition, online gambling also facilitates (1) anonymity, allowing gamblers to participate without fear of stigma; (2) gambling under the influence; and (3) decreased perception of the value of money, thereby elevating the risks of problem gambling. Potential risks posed by the frequency and speed of gaming, variety of games, and smaller permissible bet size on the Internet are frequently cited.[290]

Mitigating Considerations: U.S. residents already have online gambling options available to them all day, everyday, and from anywhere. So the addition of U.S.-licensed sites would not alter that particular reality.[291] Furthermore, as discussed in Section 2b below, regulation can assuage these concerns. Responsible gaming features and safeguards, including links to problem gambling help-lines and websites, self-exclusion programs, and self-imposed time and money limits, are some common features that can be enforced to curb problem gambling. In fact, some have suggested that problem gamblers may benefit the most from the legalization of online gambling, because they would gain access to the tools required by the regulator.[292]

d. *Easier Flow of Funds if UIGEA Restrictions are Lifted*

Potential Effect: Absent UIGEA restriction, U.S. residents would be able to make deposits to and withdrawals from online sites with greater ease. The UIGEA was intended to stop the transfer of funds from U.S. gamblers to online gambling websites. Instead of criminalizing gambling itself, the UIGEA was intended to prevent U.S. residents from gambling by restricting the role of financial institutions in transmitting payments to and from gaming operators.

Mitigating Considerations: Currently, enough workarounds have been designed, and are actively promoted to consumers by offshore online gambling sites, to render the existing restrictions largely ineffective. U.S. gamblers primarily use services provided by offshore financial intermediaries unrelated to gambling sites, such as e-wallets, that allow customers to get around the restrictions placed by the UIGEA. An e-wallet is an online account in which money can be deposited and used in commercial transactions. The e-wallet draws on a consumer's bank or

---

[288] See *Supra* at footnote 69 at p. 61. Also noted in August 7, 2009 interview with Jamie Wiebe, Director at the Centre for the Advancement of Best Practices of the Ontario Responsible Gambling Council.

[289] Michael Smeaton and Mark Griffiths, "Internet Gambling and Social Responsibility: An Exploratory Study," *CyberPsychology & Behavior*, 7, No. 1 (2004): 49–57, at p. 50.

[290] See *Supra* at footnote 69 at p. 61.

[291] See *Supra* at footnote 153 at p. 15.

[292] As noted in an August 27, 2009 interview with André Wilsenach, Chief Executive Officer of the Alderney Gambling Control Commission.

credit card and routes the funds to the merchant, in this case an online gambling website. The most widely used e-wallets facilitate billions of dollars in commerce annually and are based and regulated offshore.[293]

The UIGEA restrictions have not produced the intended deterrence to online gambling and may have unintentionally led to the surfeit of unregulated offshore intermediaries, which act as alternatives to regulated U.S.-domiciled financial institutions. Removal of these restrictions is therefore expected to have limited impact on the incidence of problem gambling.

In addition, as discussed in Section E, legalization would give regulators an opportunity to gain better oversight on such international money transfers when routed through regulated financial institutions. It would also provide consumers with the protections already available to credit card holders in the event of fraud, disputes, and complaints.

c. *Advertising*

Potential Effect: Currently, the U.S. Department of Justice (DOJ) has the authority to prohibit the advertising of illegal Internet gambling websites. In 2003, the DOJ issued letters to the National Association of Broadcasters and other media groups noting that allowing advertising for online gambling websites may be considered aiding or abetting illegal gambling operations.[294] Legalization of online gambling may, however, facilitate resumption of advertising in support of the online business.[295]

The high level of exposure to land- and river-based gambling and state lottery advertisements has contributed to gambling's normalization and perception as an ordinary and harmless activity.[296] Various marketing strategies, including pop-up promotions, free or practice games, and direct email campaigns, are already being used to promote online gambling.[297] Some advocates suggest that such advertising could lure would-be and existing gamblers to participate in online gambling, thereby leading to greater incidence of problem gambling.[298]

---

[293] Todd notes that the UIGEA does not seem to have had an impact on online gambling in the United States. Aaron Todd, *NETeller Exit Impacts U.S. Internet Gambling Market*, onlineCasinoCity, Jan. 18, 2007, http://online.casinocity com/news/news.cfm?ArticleId=70015 (last accessed on September 11, 2009); cited by Gerd Alexander, "The U.S. on Tilt: Why the Unlawful Internet Gambling Enforcement Act is a Bad Bet," *Duke Law & Technology Review,* 5 (2008), at ¶6.

[294] See *Supra* at footnote 60 at ¶11–12.

[295] It should be noted, however, that the FTC and the various state attorneys general would in all likelihood retain jurisdiction over advertising online and the FCC would retain jurisdiction over advertising on broadcast and cable media.

[296] See *Supra* at footnote 19 Sally Monaghan.

[297] See *Id.*

[298] See *Id.*

Mitigating Considerations: A note of caution is needed about the links that connect increased advertising for online gambling with increased problem gambling. First, the connection between increased advertising and aggregate growth of online gambling volume is likely and is supported by forecasts of increased online gambling post legalization.[299] However, no research has been done to establish how much of the increase in online gambling is displacement of already existing land-based gambling versus new gamblers or increased activity by existing gamblers. Second, the connection between increased online gambling and increased incidence of problem gambling is also not established. Early research indicates that, at least in mature markets such as the United Kingdom, access to additional gambling opportunities in general and the addition of online gambling opportunities in particular do not appear to increase the incidence of problem gambling.[300]

Some regulations have been enacted to limit the advertisement of gambling products across various jurisdictions. In the United Kingdom, the introduction of the Gambling Act brought new restrictions on gambling advertising and subjected it to regulation by the Department for Culture, Media and Sport (DCMS), the British Gambling Commission, and the Advertising Standards Agency, as well as its former regulatory bodies, the Broadcast Committee of Advertising Practice (BCAP) and the Committee of Advertising Practice (CAP).[301] The various regulations include provisions prohibiting advertising to minors or vulnerable adults, among others.

In addition to these rules, however, the gambling industry has issued a "voluntary" code for socially responsible advertising, which specifically requires that advertisements include the address of the United Kingdom's problem gambling help website and encourages operators to include responsible gambling messages in their advertisements.[302] The code also introduces a "watershed" time of 9 p.m., before which any newly permitted forms of gambling cannot be advertised, although the code does allow for the advertising of sports betting around televised

---

[299] As noted in an August 4, 2009 interview with Simon Holliday, Director of H2 Gambling Capital (U.K.). Also, in a note to investors, the investment bank Goldman Sachs predicted a legalized online gambling market in the U.S. worth $12 billion (more than double the estimated size of the current market). See Jon Parker, "US to legalize online gambling; worth $12bn, Goldman Sachs predicts," *eGaming Review,* June 29, 2009, http://www.egrmagazine.com/news/industry/168682/us-to-legalise-online-gambling-worth-and3612bn-goldman-sachs-predicts.thtml (last accessed on August 26, 2009). Also, in an analysis provided to a payment processing firm, PricewaterhouseCoopers estimated the federal revenue effect of legalized online gambling to range from $13.0 billion (with a higher number of states opting out of the legislation) to $25.9 billion (with a lower number of states opting out) for the period 2010–2019. See PricewaterhouseCoopers, *Estimate of Federal Revenue Effect of Proposal to Regulate and Tax Online Gambling – Executive Summary,* prepared for UC Group, April 24, 2009, http://www.safeandsecureig.org/media/pwc09.pdf (last accessed on August 28, 2009)

[300] See *Supra* at footnote 293.

[301] Simon Fielder and Dominic Hodgkinson, *United Kingdom's Gambling Industry Adopts Voluntary Code on Advertising Standards,* Pillsbury Winthrop Shaw Pittman LLP, September 2007, http://www.pillsburylaw.com/siteFiles/Publications/AD40F0C315922BF5A969E8BF6379B2E4.pdf (last accessed on August 7, 2009).

[302] See *Id.*

sporting events.[303] In Australia, advertising restrictions are determined by the states/territories; most prohibit advertising to minors and the use of misleading statements, while some have no specific regulations.[304] The National Gaming Board of South Africa has set forth guidelines regarding advertising, prohibiting, among others, advertising to minors and advertising that may encourage excessive gambling.[305] The U.S. could impose whatever targeted restrictions on advertising deemed necessary or appropriate.

2. Potential Benefits of Legalization

The following sections describe two mechanisms through which regulation could reduce problem gambling. Regulators could implement (1) public policy measures designed to educate the public on the dangers of problem gambling and (2) efforts to provide resources to those affected by problem gambling.[306]

a. *Access to Funding to Increase Awareness of Problem Gambling*

If the United States decides to legalize and tax online gambling, significant revenues may accrue from the imposition of taxes and license fees.[307] Australia, Costa Rica, Great Britain, Aruba, and Antigua are some of the many countries that have recognized tax benefits from legalizing online gambling.[308]

The United States could use tax and license revenues to substantially boost publicly funded prevention, counseling, and treatment programs as well as research on gambling addiction.[309] Currently, statutes in some states require that information regarding problem gambling be provided to persons participating in any form of legalized gambling. At least three states require that telephone helplines be maintained for problem gamblers.

---

[303] See *Id.*

[304] See Advertising Federation of Australia, *Gambling,* http://www.afa.org.au/public/content/ViewCategory.aspx?id=509 (last accessed on August 7, 2009).

[305] Mpande Advisors, *Report on the Regulation of Interactive Gambling,* prepared for the National Gambling Board of South Africa, October 2005, at p. 50 and 67.

[306] See *Supra* at footnote 153. Also see *Supra* at footnote 60 at ¶11–12.

[307] Researchers have estimated that at a flat tax rate of 6.25%, online gambling could generate more than $750 million annually. See *Supra* at footnote 69 Christopher Grohman at p. 68.

[308] See *Id.*

[309] See *Supra* at footnote 258 Michael Belletire at p. 12–13. Also see General Accounting Office, *Internet Gambling: An overview of the Issues,* GAO-03-89, December 2002; cited by Gerd Alexander, "The U.S. on Tilt: Why the Unlawful Internet Gambling Enforcement Act is a Bad Bet," *Duke Law & Technology Review,* 5 (2008), at ¶9.

Advocates for problem gamblers have been very vocal about the under-funding in existing budgets for prevention, counseling, and treatment services and observe that most health insurers currently do not cover these services.[310] Only 25 states provide any funding for problem gambling programs.[311] Availability of tax dollars from online gambling revenues and licensing fees could be used to substantially bolster problem-gambling awareness and treatment programs, and to provide educational supports for parents and higher-educational institutions dealing with underage gambling.

b. *Wider Implementation of Responsible Gambling Features*

Legalization of online gambling could lead to the introduction and wider implementation of regulations that give online gamblers tools for controlling their own gambling behaviors.[312]

Online gamblers today have access to a variety of online gambling options. However, research indicates the general lack of responsible gambling practices and safeguards offered by these online gambling websites. A 2004 exploratory study of 30 U.K.-based Internet gambling sites found that very few sites engaged in socially responsible practices.[313] Of the 30 sites, 26 had no reference to a problem gambling help resource; further, 20 sites showed no evidence of social responsibility and 29 sites did not seem to give an option to self-exclude from the site.

Various types of responsible gambling practices have been advocated, including links to problem gambling helplines and websites, self-exclusion programs, and self-imposed time and money limits. [314] Some common elements of regulatory structures across leading online gambling jurisdictions include (1) requiring operators to provide players with mechanisms to set their own

---

[310] Franklin discusses lack of federal funding for treatment or awareness of problem gambling, lack of insurance parity for problem gamblers, and limited or lack of funding from most states in the United States. Joanna Franklin, *Problem Gambling in the U.S – From the Beginning into 2001*. Presentation available at Responsible Gambling Council, http://www.responsiblegambling.org/articles/Problem_and_Pathological_Gambling_A_view_from_the_States.pdf (last accessed on September 10, 2009). Also Winslow discusses the lack of state funding for problem gambling services in Colorado and other states in the United States. Kyle Winslow, "A Problem for Gamblers," *The American Prospect,* March 10, 2008, http://www.prospect.org/cs/articles?article=a_problem_for_gamblers (last accessed on September 10, 2009).

[311] As noted in a June 5, 2009 interview with Keith Whyte, Executive Director of the National Council on Problem Gambling.

[312] See *Supra* at footnote 153 at p. 15.

[313] See *Supra* at footnote 25.

[314] As noted in a June 10, 2009 interview with Howard Shaffer, Director of the Division on Addictions and Associate Professor of Psychology in the Department of Psychiatry at the Cambridge Health Alliance. Also, as noted in a June 10, 2009 interview with Bo Bernhard, Director of Gambling Research at the UNLV College of Hotel Administration, Nova Scotia recently introduced voluntary loss limits as a self-regulatory device in its land-based gaming operations. Also as noted in an August 5, 2009 interview with Phill Brear, Head of Gambling Regulation at the Gibraltar Regulatory Authority, gambling websites regulated by Gibraltar have responsible gaming features such as "cool-off" periods and self-exclusions mechanisms.

betting limits or limit the deposits they make to their online gambling accounts; (2) requiring site operators to allow gamblers to self-exclude from participating in gambling with the operator; (3) permitting family members to petition to exclude a gambler from a website; (4) banning extension of credit to players; (5) requiring operators to display prominent links to support and counseling services.[315] In addition to these, the European Gaming and Betting Association lists approximately 50 provisions related to mitigating problem gambling.[316] U.S. regulators could use this list as a menu from which to identify and evaluate various safeguards. The list includes requiring registration pages to offer self-diagnostic tests designed to help would-be gamblers understand their own attitudes and vulnerabilities, and requiring operators to impose speed-of-play, compulsory time-outs, or player-loss-rate caps.[317] Aristotle, Inc., mentioned previously, has produced the Integrity Self-Exclusion List (SEL), an international database of people who have chosen to exclude themselves from bricks-and-mortar and online gambling.[318] If an excluded gambler attempts to open an account, Integrity will not return an approval code from its verification system.[319] Finally, gambling sites can train staff to identify spending patterns that indicate problem gambling and to contact the gambler directly.[320]

In assessing the general effectiveness of responsible gaming features in the context of online gambling, one 2008 study by researchers at Harvard University demonstrated that responsible gaming safeguards can be effective in the Internet gambling environment. With self-limits, online gamblers reduced their frequency of play—both the number of days on which they placed bets and the number of bets they placed per betting day. The amount they wagered per bet did not change significantly, although the online gamblers did reduce the total amount they wagered.[321] In a large-scale survey of online gamblers, when asked about the usefulness of including

---

[315] See *Supra* at footnote 287 at p. 10–12. Also Grohman notes that the United States could set up a protocol such that banks or other financial institutions must monitor deposits onto sites and report habitual or problem gamblers to proper authorities. In addition, he notes that the government could empower families to monitor problem gamblers by installing monitoring chips in computers. See *Supra* at footnote 69 Christopher Grohman at p. 67. Also see *Supra* at footnote 25. Also see *Supra* at footnote 153 at p. 15. Also see *Australia: Uniform Standards for the Regulation of Interactive Gaming,* The National Working Party on Interactive Gaming, Exposure Draft, April 5, 2001, at p. 22.

[316] *EGBA Standards Benchmark Study: Overview,* European Gaming & Betting Association, 2008, Table 2, at p 11–13.

[317] See *Id.*

[318] Integrity, *Self-Exclusion List (Online Gaming),* Aristotle, Inc., http://integrity.aristotle.com/index2.php?option=com_content&do_pdf=1&id=52 (last accessed on August 11, 2009).

[319] See *Id.*

[320] As noted in an August 5, 2009 interview with Phill Brear, Head of Gambling Regulation at the Gibraltar Regulatory Authority.

[321] Sarah E. Nelson *et al.*, "Real Limits in the Virtual World: Self-Limiting Behavior of Internet Gamblers," *Journal of Gambling Studies*, 24 (2008): 463–477, http://www.divisiononaddictions.org/html/reprints/selflimits.pdf (last accessed on September 11, 2009), at p. 7.

responsible gambling features, such as self-imposed time limits, self-exclusion, regular financial statements, and regular self-assessments tests, online gamblers indicated that they would find it "quite useful." The Executive Director of the National Council on Problem Gambling, Keith Whyte, testified before the U.S. Congress as follows:

> The graphical and interactive structure of the internet provides a revolutionary opportunity to create informed consumers with access to a variety of information designed to encourage safe choices and discourage unsafe behavior....
>
> The technology also exists, unlike for other forms of gambling, to allow players and operators to set limits on time, wagers, deposits, etc...as well as to exclude themselves.[322]

D. Concluding Remarks

Legislative restrictions have failed to prevent U.S. gamblers from engaging in online gambling. Rather, those restrictions have led to additional business for Internet gambling operators beyond the regulatory reach of the United States. The current environment lacks responsible gaming features and safeguards offered to gamblers and limits publicly funded resources to educate the populace about problem gambling. We believe that regulators should be able to design sufficient protections to prevent any significant growth in problem gambling that results from legalization. Operators licensed within the United States should be required to offer a best-in-the-world range of services and resources for problem gamblers as well as to prevent underage gambling. Moreover, a proportion of the tax revenues and licensing fees derived from the U.S.-based industry could be used to substantially bolster the level of support for educational programs and services. According to André Wilsenach, head of the Alderney Gambling Control Commission, problem gamblers would receive "clear-cut" benefits from regulated online gambling, since land- and river-based gaming does not provide the tools that are possible in an online environment.[323]

---

[322] Statement of Keith Whyte, in U.S. House of Representatives, Committee on Financial Services, *Can Internet Gambling Be Effectively Regulated to Protect Consumers and the Payments System?* 110th Cong., 1st Session, June 8, 2007, at p. 120.

[323] From an August 27, 2009 interview with André Wilsenach.

APPENDIX A

Table 1 provides an overview of the 10 risks, providing for each:

- an indication of protections afforded under the current U.S. regulatory framework;
- an indication of the natural regulatory structure and strategy for control; and
- comments regarding relevant technologies and tactics, and the respective role of other parties.

TABLE 1: Major Categories of Risk Related to Online Gambling

	Category	Existing Protection	Natural Regulatory Structure & Strategy	Relevant Controls & Technologies
1	**Gambling by minors**	No effective protection. Offshore sites range from well regulated to completely unregulated.	Industry's short-run incentives ***supervisory***. Industry's long-run/strategic view· ***cooperative***	(Strongest form) Positive id matching at player registration against existing databases of known adults Range of weaker forms of age verification available at player registration. Provision of child-protective software for parents, to keep minors off their parents' accounts
2.	**Consumers defrauded by site operators**	No effective protection. Offshore sites range from well regulated to completely unregulated	***Supervisory:*** Enforcement focus aimed at disreputable operators Exclusion of bad actors	Vetting applicants and monitoring existing licensee behavior Licensee oversight that includes software audits, mystery shopping, and betting pattern monitoring by regulator Available complaint procedures players report directly to regulators and have access to U S. courts
3	**Players cheated by other players**	Detection mostly by other players Remedies unavailable if sites deny the problem	***Naturally cooperative:*** Public and industry's interests both served by preserving integrity of games.	Comprehensive data retention by sites. Routine operation of pattern recognition systems for anomaly detection Complaint procedures available for players to report anomalies to operators and to regulators. Regulatory oversight of complaint investigation and disposition
4	**Involvement of organized crime**	No effective protection with respect to offshore activities.	***Supervisory:*** Enforcement focus aimed at disreputable operators. Exclusion of bad actors	Vetting applicants and monitoring existing licensees/operators for criminal backgrounds, criminal associations, and · hidden ownership interests
5.	**Money laundering by site operators**	Offshore operations subject to international cooperative enforcement efforts	***Supervisory:*** Enforcement focus aimed at disreputable operators Exclusion of bad actors	Vetting applicants and monitoring existing licensees/operators for · criminal backgrounds, criminal associations, and hidden ownership interests.
6.	**Money laundering by players**	No effective protection	Short-run incentives: ***supervisory.*** Long-run/strategic view. ***cooperative.***	Anti-money-laundering laws apply Comprehensive data retention by sites Details of every transaction recorded (not possible in casinos) Pattern recognition by operators as part of a compliance operation, and by regulators as part of oversight audit operation

TABLE 1 (continued): Major Categories of Risk Related to Online Gambling

	Category	Existing Protection	Natural Regulatory Structure & Strategy	Relevant Controls & Technologies
7.	**Violation of jurisdictional restrictions or prohibitions**	No effective protection States have no remedy with respect to offshore sites.	Short-run incentives ***supervisory.*** Long-run/strategic view ***cooperative.***	Right of government to prohibit or restrict operators within state, and · services offered to residents by operators outside of state Federal regulation of licensees that obliges them to respect list of state exclusions/restrictions. Residence validation at player registration Geolocation monitoring for each player session (e.g , by ISP analysis) Regulatory audits of operators' software controls Mystery shopping/testing by states exercising rights to restrict. Federal and state remedy against licensed operators through federal or state law.
8.	**Breaches of data confidentiality**	No effective protection. Offshore operators outside U.S. jurisdiction.	Short-run incentives. ***supervisory.*** Long-run/strategic view: ***cooperative.***	Licensees subject to all U S -based requirements regarding data confidentiality Licensees subject to criminal sanctions and civil liability for breaches/abuses. Data-protection controls subject to audit
9.	**Communications and computer security failures**	No effective protection. Offshore operators outside U.S. jurisdiction	Short-run incentives: ***supervisory.*** Long-run/strategic view: ***cooperative.***	Principal responsibility for state-of-the-art security should rest with site operators Civil liability for site operators with respect to any harm to consumers. Regulator's role in auditing site security software/systems
10.	**Problem gambling behaviors**	No effective protection Offshore sites range from well regulated to completely unregulated.	Short-run incentives: ***supervisory.*** Long-run/strategic view. ***cooperative.***	Site-imposed limitations & controls Self-imposed exclusion options. Self-imposed limiting options Taxes and license-fee revenue distribution can extend & enhance counseling & support services.

Bibliography

AARP Bulletin. "State Lotteries." AARP, April 2009. http://bulletin.aarp.org/publish/etc/medialib/aarp_media_library/bulletin/print_issues/april_2009_print.Par.27512.File.dat/April09.pdf (last accessed on July 23, 2009).

Advertising Federation of Australia. *Gambling.* http://www.afa.org.au/public/content/ViewCategory.aspx?id=509 (last accessed on August 7, 2009).

Albanese, Jay. "Casino Gambling and Organized Crime: More Than Reshuffling the Deck." In *Contemporary Issues in Organized Crime*, edited by Jay Albanese, 1–15. Monsey, New York: Criminal Justice Press (1995).

Alderney Gambling Control Commission. *The Alderney eGambling Regulations,* 2006. http://www.gamblingcontrol.org/userfiles/file/97.pdf (last accessed on August 19, 2009).

Alexander, Gerd. "The U.S. on Tilt: Why the Unlawful Internet Gambling Enforcement Act is a Bad Bet." *Duke Law & Technology Review,* 5 (2008).

American Gaming Association. *Internet Gambling.* AGA Fact Sheet. http://www.americangaming.org/Industry/factsheets/issues_detail.cfv?id=17 (last accessed on August 27, 2009).

American Gaming Association. *Money Laundering.* AGA Fact Sheet. http://www.americangaming.org/Industry/factsheets/issues_detail.cfv?id=3 (last accessed on July 28, 2009).

American Gaming Association. *State of the States: The AGA Survey of Casino Entertainment,* 2006. http://www.americangaming.org/assets/files/2006_Survey_for_Web.pdf (last accessed on July 23, 2009).

American Gaming Association. *States with Gaming.* AGA Fact Sheet. http://www.americangaming.org/Industry/factsheets/general_info_detail.cfv?id=15 (last accessed on July 21, 2009).

American Gaming Association. *Suspicious Activity Reporting Policy.* http://www.americangaming.org/assets/files/SARC_Policy_(6).pdf (last accessed on July 28, 2009).

An Exploratory Investigation in the Attitudes and Behaviours of Internet Casino and Poker Players. Report Commissioned by eCOGRA. Nottingham Trent University, 2007.

Anderson, Ross. Security Engineering, A Guide to Building Dependable Distributed Systems 2nd Edition. Wiley, 2008.

Annenberg Public Policy Center. *Internet Gambling Stays Low Among Youth Ages 14 to 22 But Access to Gambling Sites Continues; Sports Gambling Makes Resurgence.* University of Pennsylvania, November 26, 2008.
http://www.annenbergpublicpolicycenter.org/NewsDetails.aspx?myId=306 (last accessed on July 25, 2009).

Antigua and Barbuda – Directorate of Offshore Gaming. *Interactive Gaming and Interactive Wagering Regulations.*
http://www.antiguagaming.gov.ag/files/Antigua_and_Barbuda_Gaming_Regulations-Final.pdf (last accessed July 23, 2009).

APWG. *Phishing Activity Trends Report Q1/2008.* January–March 2008.
http://www.antiphishing.org/reports/apwg_report_Q1_2008.pdf (last accessed on August 3, 2009).

Audi, Tamara. "U.S. Deals Blow to Online-Poker Players." *The Wall Street Journal Online*, June 10, 2009.
http://online.wsj.com/article/SB124459561862800591.html (last accessed on August 3, 2009).

Bachus, Spencer. "Online Gambling Leads to Crime and Hurts Young, So Why Encourage It? Asks Spencer Bachus." *US News & World Report*, June 1, 2009.
http://www.usnews.com/articles/opinion/2009/06/01/online-gambling-leads-to-crime-and-hurts-young-so-why-encourage-it-asks-spencer-bachus.html (last accessed on July 30, 2009).

Barrett, Larry. "Major League Baseball Struggles to Reach Fans Online." *Baseline,* March 7, 2005.
http://www.baselinemag.com/index2.php?option=content&do_pdf=1&id=3506 (last accessed on September 4, 2009).

Belletire, Michael, Steve DuCharm, Dennis Neilander, Frank Catania, Chuck Patton, George Turner, Mel Fisher, Jack Thar, Jack Ketterer, Hillary Crain, and Mac Ryder. *Legislating and Regulating Casino Gaming: A View from State Regulators.* Paper commissioned by the Regulation, Enforcement and Internet Subcommittee of the National Gambling Impact Study Commission, 1999.

Bernhard, Bo J., Anthony F. Lucas, and Elena Shampaner. "Internet Gambling in Nevada." Prepared for the International Gaming Institute, University of Nevada, Las Vegas (April 2007).
http://gaming.nv.gov/documents/pdf/igi_ngcb_internet_gaming_nvfinalrpt.pdf (last accessed on July 23, 2009).

Bernhard, Bo J., Anthony F. Lucas, and Dongsuk Jang. *Responsible Gaming Device Research Report.* International Gaming Institute. University of Nevada, Las Vegas, 2006.

Blaszczynski, Alex, Robert Ladouceur, and Howard J. Shaffer. "A Science-Based Framework for Responsible Gambling: The Reno Model." *Journal of Gambling Studies,* 20, No. 3 (Fall 2004): 301–317.

Botzum, Keys. *WebSphere Application Server V6 advanced security hardening -- Part 1, Overview and approach to security hardening.* IBM WebSphere Developer Technical Journal, December 2005. http://www.ibm.com/developerworks/websphere/techjournal/0512_botzum/0512_botzum1.html (last accessed on September 14, 2009).

British Gambling Commission. Conditions and Codes of Practice applicable to: Remote Casino Licences, Remote Casino Ancillary Licences, December 2008.

British Gambling Commission. *Online Mystery Shopping Programme.* July 2009. http://www.gamblingcommission.gov.uk/pdf/online%20mystery%20shopping%20programme%20july%202009.pdf (last accessed on August 2, 2009).

Brunker, Mike. "Poker 'bots' raking online pots?" *MSNBC.com*, September 21, 2004. http://www.msnbc.msn.com/id/6002298/print/1/displaymode/1098/ (last accessed on July 25, 2009).

Cabot, Anthony, and John Aristotle Phillips. "Age Verification: UIGEA Compliance and Regulation." *World Online Gambling Law Report*, October 2006. http://integrity.aristotle.com/documents/AgeVerificationLawPublication.pdf (last accessed on August 10, 2009).

California Office of Privacy Protection. *Recommended Practices on Notice of Security Breach Involving Personal Information.* May 2008. http://www.oispp.ca.gov/consumer_privacy/pdf/secbreach.pdf (last accessed on July 31, 2009).

Clarke, Roger, and Gillian Dempsey. "The Feasibility of Regulating Gambling on the Internet." *Managerial and Decision Economics,* 22 (2001): 125–132.

Commission on Child Online Protection. *Report to Congress.* October 20, 2000. http://www.copacommission.org/report/COPAreport.pdf (last accessed on August 11, 2009).

Corporation for American Banking. *Due Diligence Report – New Account Opening Procedures.* American Bankers Association, July 2007.

Cotte, June, and Kathryn A. LaTour. "Blackjack in the Kitchen: Understanding Online versus Casino Gambling." *Journal of Consumer Research,* 35 (February 2009): 742–758.

Cunningham, John. *Online Treatment for Addictions.* Presentation to the Alberta Gambling Research Institute Annual Conference, March 2009.

Cyberspace Policy Review. *Assuring a Trusted and Resilient Information and Communications Infrastructure.* National Security Council, May 2009. http://www.whitehouse.gov/asset.aspx?AssetId=1906 (last accessed on August 2, 2009).

Cyveillance. *The Cost of Phishing: Understanding the True Cost Dynamics Behind Phishing Attacks*. White Paper, December 2008.
http://www.cyveillance.com/web/docs/WP_CostofPhishing.pdf (last accessed on August 3, 2009).

Data Protection Act 2002. Treasury of the Isle of Man. Chapter 2.
http://www.gov.im/lib/docs/infocentre/acts/dpa2002.pdf (last accessed on August 4, 2009).

Data Protection in the European Union. European Commission, United Kingdom.
http://ec.europa.eu/justice_home/fsj/privacy/docs/guidc/guide-ukingdom_en.pdf (last accessed on July 29, 2009).

Department for Culture, Media and Sport. *Gambling Review Report*. Presented to Parliament by the Secretary of State for Culture, Media and Sport by command of Her Majesty, July 2001.
http://www.culture.gov.uk/reference_library/publications/4642.aspx
(last accessed July 23, 2009).

Derevensky, Jeffrey L. "Youth Gambling and the Internet: The Good, the Bad and the Ugly." McGill University International Centre for Youth Gambling Problems and High-Risk Behaviours. Presentation to the Alberta Gambling Research Institute Annual Conference, March 2009.

Derevensky, Jeffrey L.. Laurie Dickson, and Rina Gupta. "Adolescent Attitudes toward Gambling." *Brazilian Journal of Cognitive Psychology*, 8, No. 1 (2008). http://pepsic.bvs-psi.org.br/scielo.php?script=sci_arttext&pid=S1808-56872008000100002&lng=en&nrm= (last accessed on September 1, 2009).

Dhamija, Rachna, J.D. Tygar, and Marti Hearst. "Why Phishing Works." *Experimental Social Science Laboratory (Xlab)*, Paper XL06-013 (August 14, 2006): 581–590.
http://repositories.cdlib.org/iber/xlab/XL06-013 (last accessed on August 3, 2009).

Draft Regulatory Control Model for New Forms of Interactive Home Gambling. Devloped by a meeting of Gaming Ministers in Australia, May 23, 1997.

Dunstan, Roger. "Gambling in California." *California Research Bureau*.
http://www.library.ca.gov/crb/97/03/crb97003.html#toc (last accessed on July 26, 2009).

European Commission. Background Report on Cross Media Rating and Classification, and Age Verification Solutions. Safer Internet Forum, September 2008.
http://ec.europa.eu/information_society/activities/sip/docs/pub_consult_age_rating_sns/reportage verification.pdf (last accessed on August 24, 2009).

European Gaming & Betting Association. *EGBA Standards Benchmark Study*, 2008.

Fabuli, Marvin. *Online Casinos an Easy Bet for Phishers*. Symantec, February 27, 2008.

http://www.symantec.com/connect/blogs/online-casinos-easy-bet-phishers (last accessed on August 3, 2009).

Federal Communications Commission. Report in the Matter of Implementation of the Child Safe Viewing Act; Examination of Parental Control Technologies for Video or Audio Programming. MB Docket No. 09-26, released August 31, 2009.
http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-09-69A1.pdf
(last accessed on September 1, 2009).

Fielder, Simon, and Dominic Hodgkinson. *United Kingdom's Gambling Industry Adopts Voluntary Code on Advertising Standards.* Pillsbury Winthrop Shaw Pittman LLP, September 2007.
http://www.pillsburylaw.com/siteFiles/Publications/AD40F0C315922BF5A969E8BF6379B2E4.pdf (last accessed on August 7, 2009).

Financial Crimes Enforcement Network. *A Survey of Electronic Cash, Electronic Banking, and Internet Gaming.* U.S. Department of the Treasury, 2000.

Financial Crimes Enforcement Network. *The SAR Activity Review – Trends, Tips & Issues.* May 13, 2008.
http://www.fincen.gov/news_room/rp/files/sar_tti_13.pdf (last accessed on August 5, 2009).

Franklin, Joanna. Problem Gambling in the U.S: From the Beginning – Into 2001. Trimeridian Inc, 2001.
http://www.responsiblegambling.org/articles/Problem_and_Pathological_Gambling_A_view_from_the_States.pdf (last accessed on July 14, 2009).

Full Tilt Poker. *Privacy.* http://www.fulltiltpoker.com/privacy-legal.php (last accessed on July 29, 2009).

Gambling Act, 2005 Chapter 19 (Eng.).

GamCare. *Press Release – Underage Internet Gambling Study.* July 27, 2004. http://www.gamcare.org.uk/news.php/27/press_release_underage_internet_gambling_study (last accessed on September 11, 2009).

GamesandCasino.com. *Blacklisted Casinos.*
http://www.gamesandcasino.com/blacklist.htm (last accessed on July 23, 2009).

Gass, Kevin. *BCLC the New Age of Gaming.* BCLC. Presentation to the Alberta Gambling Research Institute Annual Conference, March 2009.

Gaul, Gilbert M. "Players Gamble on Honesty, Security of Internet Betting." *The Washington Post,* November 30, 2008, p. A12.

General Accounting Office. *Internet Gambling: An Overview of the Issues.* GAO-03-89. Report to Congressional Requesters, December 2002.

Germain, Jack M. "Global Extortion: Online Gambling and Organized Hacking." *Tech News World*, March 23, 2004.
http://www.technewsworld.com/story/33171.html?wlc=1248627730
(last accessed on July 26, 2009).

Gibraltar Gambling Act 2005.
http://www.gra.gi/sites/gambling/downloads/42/gambling%20ord%202005.pdf (last accessed on August 6, 2009).

Gibraltar Regulatory Authority. *Code of Practice for the Gambling Industry.* Issued by the Gambling Commissioner, December 13, 2008.
http://www.gra.gi/sites/gambling/downloads/215/generic_code_v1.0.2009.pdf (last accessed on August 6, 2009).

Glass, Loris. "Gambling Education: Some Strategies for South Australian Schools." Funded by the Gamblers Rehabilitation Fund, South Australia, November 2002.
https://www.library.health.sa.gov.au/Portals/0/gambling-education-some-strategies-for-south-australian-schools.pdf (last accessed on September 2, 2009).

Goldman, Russell. "Online Poker Players Expose Alleged Fraud." *ABC News*, October 19, 2007. http://abcnews.go.com/print?id=3752500 (last accessed on July 24, 2009).

Gottfried, Jonathan. "The Federal Framework for Internet Gambling." *Richmond Journal of Law & Technology,* X, No. 3.
http://law.richmond.edu/jolt/v10i3/article26.pdf (last accessed on August 6, 2009).

Greenberg, Andy. "Cybercops Without Borders." *Forbes.com*, June 1, 2009.
http://www.forbes.com/2009/06/01/cyberbusts-security-internet-technology-security-cyberbusts.html (last accessed on July 27, 2009).

Griffiths, Mark D. "Does Gambling Advertising Contribute to Problem Gambling?" *International Journal of Mental Health & Addiction,* 3, No. 2 (2005): 15–25. http://ijma-journal.com/pdf/v3i2a02.pdf (last accessed on September 2, 2009).

Griffiths, M.D. "Internet Gambling: Issues, Concerns and Recommendations." *CyberPsychology & Behavior,* 6, No. 6 (2003): 557–568. Cited in Sarah E. Nelson *et al.* "Real Limits in the Virtual World: Self-Limiting Behavior of Internet Gamblers." *Journal of Gambling Studies,* 24 (2008): 463–477.

Grimes, Roger A. "How to Develop an Enterprise Encryption Strategy." *InfoWorld,* September 1, 2006. http://www.infoworld.com/print/24540 (last accessed on July 31, 2009).

Grohman, Christopher. "Reconsidering Regulation: A Historical View of the Legality of Internet Poker and Discussion of the Internet Gambling Ban of 2006." *Journal of Legal Technology Risk Management,* 1, No. 1 (Fall 2006): 34–74.

Hills, Chad. Internet Gambling: Irresponsible Policy
http://www.citizenlink.org/FOSI/gambling/A000004244.cfm (last accessed on July 11, 2009).

Holliday, Simon, David Henwood, Michael Bradbury, and Phil Martin. *Internet Gambling Market Overview: AGA Internet Gaming Task Force.* H2 Gambling Capital, December 2, 2008.

Hornbuckle, William J. Letter and Presentation to U.S. House of Representatives, Subcommittee Hearing on H.R. 21 (Unlawful Internet Gambling Funding Prohibition Act), April 2003.

Hugel, Paul, and Joseph Kelly. "Internet Gambling, Credit Cards and Money Laundering." *Journal of Money Laundering Control,* 6, No. 1 (2002): 57–65.

Identity Theft Daily staff. "Identity Theft News: 2008 Data Breach count is 69% greater than 2007." *Identify Theft Daily.*
http://www.identitytheftdaily.com/index.php/20080716371/Latest/Identity-Theft-News-2008-Data-Breach-count-is-69-greater-than-2007.html
(last accessed on July 29, 2009).

Illinois Gaming Board. Minimum Internal Control Standards – Section J-Currency Transaction Reporting and Suspicious Activity Reporting, October 1, 2007.

Integrity. *Case Study: Age Verification for Online Alcohol Sales.* Aristotle, Inc. http://integrity.aristotle.com/documents/Online_Wine_Sales-WhitePaper2006.pdf (last accessed on August 11, 2009). Integrity. *Integrity: Direct.* Aristotle Inc.
http://integrity.aristotle.com/index2.php?option=com_content&do_pdf=1&id=47 (last accessed on August 11, 2009).

Integrity. Self-Exclusion List (Online Gaming). Aristotle, Inc.
http://integrity.aristotle.com/index2.php?option=com_content&do_pdf=1&id=52 (last accessed on August 11, 2009).

Interactive Gaming Council. "Online Gambling Sites Less Susceptible to Money Laundering Than Real-World Counterparts." *Winner Online,* September 24, 2002.
http://www.winneronline.com/articles/september2002/fatf.htm (last accessed on August 5, 2009).

International Game Technology. *Online Gaming in a Regulated Environment.* Presentation to the American Gaming Association.

International Organization for Standardization. *Information Security Management Systems.*
http://www.iso.org/iso/iso_catalogue/management_standards/specific_applications/specific-applications_it-security.htm (last accessed on July 31, 2009).

Internet Gambling Regulation and Tax Enforcement Act of 2009, H.R. 2268, 111th Cong. (2009). http://frwebgate.access.gpo.gov/cgibin/getdoc.cgi?dbname=111_cong_bills&docid=f:h2268ih.txt .pdf (last accessed on August 28, 2009).

Internet Gambling Regulation, Consumer Protection, and Enforcement Act, H.R. 2267, 111th Cong. (2009).
http://www.house.gov/apps/list/press/financialsvcs_dem/21frank_008_xml.pdf (last accessed on July 23, 2009).

Internet Safety Technical Task Force. *Enhancing Child Safety and Online Technologies.* Final Report to the Multi-State Working Group on Social Networking of State Attorneys. Berkman Center for Internet & Society, Harvard University, December 31, 2008.
http://cyber.law.harvard.edu/sites/cyber.law.harvard.edu/files/ISTTF_Final_Report.pdf
(last accessed on September 11, 2009).

Isle of Man Gambling Supervision Commission. Online Gambling – Guidance Notes for the Prevention of Money Laundering and Countering of Terrorist Financing, April 2009 (draft version).
http://www.gov.im/lib/docs/gambling//onlinegamblingguidancenotesamlc.doc (last accessed on July 23, 2009).

Jonsson, Jakob. *Responsible Gaming and Gambling Problems among 3000 Swedish Internet Poker Players.* Spelinstitutet. Presentation to the Alberta Gambling Research Institute Annual Conference, March 2009.

Kahnawake Gaming Commission. *In the Matter of Absolute Poker – Investigation regarding Complaints of Cheating.* January 11, 2008.
http://www.kahnawake.com/gamingcommission/KGC-AP-0111.pdf
(last accessed on July 24, 2009).

Kahnawake Gaming Commission. *Kahnawake Gaming Commission Imposes Sanctions on Ultimate Bet with Regard to Cheating Incidents.* September 29, 2008.
http://www.kahnawake.com/gamingcommission/kgc092908.pdf (last accessed on July 24, 2009).

Kahnawake Gaming Commission. *Permit Holders.*
http://www.kahnawake.com/gamingcommission/ (last accessed on July 24, 2009).

Kahnawake Gaming Commission. *Regulations Concerning Interactive Gaming.* Last amended on March 29, 2007.
http://www.kahnawake.com/gamingcommission/Kahnawake%20Regulations%20Concerning%20Interactive%20Gaming.pdf (last accessed on July 24, 2009).

Kaplan, Dan. "Leahy, for Third Time, Submits Federal Data Security Law." *SC Magazine,* July 24, 2009. http://www.scmagazineus.com/Leahy-for-third-time-submits-federal-data-security-law/article/140604/ (last accessed on July 29, 2009).

Keizer, Gregg. "Microsoft promises patch for critical Web server bug." Computerworld, September 2, 2009. http://www.computerworld.com/s/article/9137438/Microsoft_promises_patch_for_critical_Web_server_bug (last accessed on September 9, 2009).

King, Kevin F. "Cutting Internet Gambling's Gordian Knot: Geolocation and Federalism on the Internet." *Northwestern University Law Review,* July 14, 2009, available at SSRN: http://ssrn.com/abstract=1433634 (last accessed on July 20, 2009).

King, Rachel. "Lessons from the Data Breach at Heartland." *Business Week,* July 7, 2009. http://www.msnbc.msn.com/id/31778540/ns/business-businessweekcom/ (last accessed on July 29, 2009).

Kinnee, Kevin B. *Practical Gambling Investigation Techniques.* New York: Elsevier (1992).

LaBrie, Richard A., Debi LaPlante, Sarah E. Nelson, Anja Schumann, and Howard J. Shaffer. "Assessing the Playing Field: A Prospective Longitudinal Study of Internet Sports Gambling Behavior." *Journal of Gambling Studies,* 23, No. 3 (2007): 347–362.

LaBrie, Richard A., Sara A. Kaplan, Debi LaPlante, Sarah E. Nelson, and Howard J. Shaffer. "Inside the Virtual Casino: A Prospective Longitudinal Study of Actual Internet Casino Gambling." *The European Journal of Public Health,* 18, No. 4 (2008): 410–416.

LaBrie, Richard. What Do Gaming Regulators Regulate? A Public Health Perspective on Disordered Gambling & Regulation. Presentation before the North American Gaming Regulators Association, 2006.

Ladouceur, Robert, Francine Ferland, Christiane Poulin, Frank Vitaro, and Jamie Wiebe. "Concordance between the SOGS-RA and the DSM-IV Criteria for Pathological Gambling among Youth." *Psychology of Addictive Behaviors,* 19, No. 3 (2005): 271–276.

Landes, Ryan. Layovers and Cargo Ships: The Prohibition of Internet Gambling and a Proposed System of Regulation, New York University Law Review, 82, No. 3 (2007): 913–943.

LaPlante, D. A., and H. J. Shaffer. "Understanding the Influence of Gambling Opportunities: Expanding Exposure Models to Include Adaptation." *American Journal of Orthopsychiatry,* 77, No. 4 (2007): 616–623.

LaPlante, Debi A., John H. Kleschinsky, Richard A. LaBrie, Sarah E. Nelson, and Howard J. Shaffer. "Sitting at the Virtual Poker Table: A Prospective Epidemiological Study of Actual Internet Poker Gambling Behavior." *Computers in Human Behavior,* 25, No. 3 (2009): 711–717.

MarkMonitor. Rock Phishing: The Threat and Recommended Countermeasures. White Paper, August 2007.

http://www.markmonitor.com/download/wp/wp-rockphish.pdf (last accessed on August 3, 2009).

McBride, Jessica. "Internet Gambling among Youth: A Preliminary Examination." *International Centre for Youth Gambling Problems & High-Risk Behaviors Newsletter,* 6, No. 1 (2006).

McCormick, Amanda. *Review of Online Gambling Literature.* British Columbia Center for Social Responsibility, 2007.
http://www.bccsr.ca/files/Literature%20Review_%20Online%20Gambling.pdf (last accessed on August 5, 2009).

McGraw, Gary, and Ming Chow. "Securing Online Games – Safeguarding the Future of Software Security." *IEEE Security & Privacy,* 7, No. 3 (May/June 2009).

McMullan, John, and Aunshul Rege. *Cheating and Cybercrimes @ Gambling Sites.com.* Presentation to the Alberta Gambling Research Institute Annual Conference, March 2009.

McMullan, John, and David Perrier. "The Security of Gambling and Gambling with Security: Hacking, Law Enforcement and Public Policy." *International Gambling Studies,* 7, No, 1 (2007): 43–58.

McGowan, Richard. *The Gambling Debate.* Westport, CT: Greenwood Press (2008).

MHA Consulting. The Threat of Money Laundering and Terrorist Financing through the Online Gambling Industry." Report prepared for the Remote Gambling Association, June 2009.

Monaghan, Sally. *Internet and Wireless Gambling – A Current Profile.* Prepared for the Australasian Gaming Council, May, 2008.
http://www.austgamingcouncil.org.au/images/pdf/Discussion_Papers/agc_dis_internet.pdf (last accessed on July 11, 2009).

Monaghan, Sally, Jeffrey Derevensky, and Alyssa Sklar. "Impact of Gambling Advertisements and Marketing on Children and Adolescents: Policy Recommendations to Minimize Harm." *Journal of Gambling Issues,* 22 (December 2008): 252–274.

Mpande Advisors. *Report on the Regulation of Interactive Gambling.* Prepared for the National Gambling Board of South Africa, October 2005.

National Centre for Academic Research into Gaming. *Internet Gaming and South Africa: Implications, Costs & Opportunities.* Interim Report for the National Gambling Board, Cape Town, South Africa, August 1999.

National Conference of State Legislatures. *State Security Breach Notification Laws.* As of July 27, 2009. http://www.ncsl.org/Default.aspx?TabId=13489 (last accessed on July 31, 2009).

National Council on Problem Gambling. *FAQs – Problem Gamblers.* http://www.ncpgambling.org/i4a/pages/Index.cfm?pageID=3315 (last accessed on July 11, 2009).

National Gambling Impact Study Commission. National Gambling Impact Study Commission – Final Report. 1999. http://govinfo.library.unt.edu/ngisc/reports/fullrpt.html (last accessed on July 23, 2009).

National Research Council. *Pathological Gambling: A Critical Review.* Washington, DC: National Academy Press, 2005.
National Working Party on Interactive Gaming. *Australia: Uniform Standards for the Regulation of Interactive Gaming (The AUS Model).* Exposure Draft, April 2001.

Nelson, Sarah E. *Actual Internet Gambling – Findings from a Longitudinal Study of Internet Gambling Behavior.* Division on Addictions, Cambridge Health Alliance, Harvard Medical School. Presentation to the Alberta Gambling Research Institute Annual Conference, March 2009.

Nelson, Sarah E., Debi A. LaPlante, Allyson J. Peller, Anja Schumann, Richard A. LaBrie, and Howard J. Shaffer. "Real Limits in the Virtual World: Self-Limiting Behavior of Internet Gamblers." *Journal of Gambling Studies,* 24 (2008): 463–477. http://www.divisiononaddictions.org/html/reprints/selflimits.pdf (last accessed on September 11, 2009).

Nevada Revised Statutes.

New Jersey Permanent Statutes.

Net Nanny. *Protecting Your Family on the Internet.* White paper. http://www.netnanny.com/products/netnanny/protecting_your_family (last accessed on September 10, 2009).

NFC Global. *Internet Gaming & Money Laundering: Measuring the Scope, Assessing the Risks.* Prepared for the Interactive Gaming Council, Vancouver, British Columbia, Canada, August 2005.

Nova Scotia Gaming Corporation. *World-Leading Software Launched to Protect Nova Scotia Youth.* Media Release, May 29, 2009. http://www.nsgc.ca/pdf/press/Microsoft%20Word%20-%20BetStopper%20Media%20Release%20FINAL_May%2028%20w%20photo.pdf (last accessed July 25, 2009).

Office of Congressman Barney Frank. *Frank Unveils Internet Gambling Legislation.* House Committee on Financial Services, May 6, 2009.

Office of Senator Patrick Leahy. *Leahy Introduces Cybersecurity Legislation.* July 22, 2009. http://leahy.senate.gov/press/200907/072209b.html (last accessed on July 29, 2009).

Online Casino Advisor. *Harvard Addiction Expert Says Online Gambling No Problem.*" Responsible Gambling Council, April 16, 2009. http://www.responsiblegambling.org/staffsearch/latest_news_articles_details.cfm?intID=12079 (last accessed on August 5, 2009).

Online Casino City. *Online Gambling Operations in Queens Busted.* November 16, 2006. http://online.casinocity.com/article/online-gambling-operation-in-queens-busted-68919 (last accessed on September 11, 2009).

Online Casino City. *Online Gaming Jurisdictions.* http://online.casinocity.com/jurisdictions (last accessed on September 14, 2009).

Online Gaming Monitoring. Pokerpages.com. http://www.pokerpages.com/ (last accessed on April 17, 2009).

Owens, Martin, and Guy C. Clark. "Internet Gambling Deserves a New Chance." The Debate Room, *Businessweek*, 2007. http://www.businessweek.com/debateroom/archives/2007/09/internet_gambli.html (last accessed on July 23, 2009).

Palmer, Maija. "EU plans tougher cybercrime laws." *FT.com*, June 14, 2009. http://www.ft.com/cms/s/0/10a407b6-5913-11de-80b3-00144feabdc0.html (last accessed on August 2, 2009).

Parke, Jonathan, Adrian Parke, Richard Wood, and Jane Rigbye. *An Exploratory Investigation into the Attitudes and Behaviors of Online Casino and Poker Players.* University of Salford. Presentation to the Alberta Gambling Research Institute Annual Conference, March 2009.

Parker, Jon. "US to legalise online gambling; worth $12bn, Goldman Sachs predicts." *eGaming Review,* June 29, 2009. http://www.cgrmagazine.com/print/news/industry/168682/us-to-legalise-online-gambling-worth-and3612bn-goldman-sachs-predicts.thtml (last accessed on August 26, 2009).

PCI Security Standards Council. *About the PCI Data Security Standard (PCI DSS).* https://www.pcisecuritystandards.org/security_standards/pci_dss.shtml (last accessed July 31, 2009).

Pearson, Tricia. 'Can I see some ID?' Why age verification is a hot topic for online retailers. Shoosmiths, June 24, 2009. http://www.shoosmiths.co.uk/news/2372.asp (last accessed on August 11, 2009).

Petry, N. M., Frederick S. Stinson, and Bridget F. Grant. "Comorbidity of DSM-IV Pathological Gambling and Other Psychiatric Disorders: Results from the National Epidemiologic Survey on Alcohol and Related Conditions." *Journal of Clinical Psychiatry*, 66, No. 5 (2005): 564–574.

PGP Corporation. *2008 Annual Study: Cost of a Data Breach.* Study conducted by the Ponemon Institute, LLC, February 2009.
http://www.encryptionreports.com/download/Ponemon_COB_2008_US_090201.pdf
(last accessed on July 31, 2009).

Poker News Daily. "Minnesota Rescinds Internet Gambling Notices to ISPs after iMEGA Settlement." June 8, 2009.
http://www.pokernewsdaily.com/minnesota-rescinds-internet-gambling-notices-to-isps-after-imega-settlement-2749/ (last accessed on August 10, 2009).

Poker Players Alliance. PPA Statement on Southern District of NY Action Against Online Poker Players. June 9, 2009.
http://www.scribd.com/doc/16266358/NY-PPA-Statement-on-Southern-District-of-NY-Action-Against-Online-Poker-Players-PPA-060909
(last accessed on July 22, 2009).

Poker Stars. Data Privacy for our Poker Software
http://www.pokerstars.com/poker/room/features/security/ (last accessed on July 24, 2009).

Poker Stars. *Interactive Gaming Council.* http://www.pokerstars.com/igc/ (last accessed on July 24, 2009).

Poker Stars. *Isle of Man Gambling Supervision Commission.* http://www.pokerstars.com/iom/ (last accessed on July 24, 2009).

Poker Stars. Online Poker Privacy Policy.
http://www.pokerstars.com/poker/room/privacy/#a4 (last accessed on July 29, 2009).

PricewaterhouseCoopers. *Estimate of Federal Revenue Effect of Proposal to Regulate and Tax Online Gambling – Executive Summary.* Prepared for UC Group, April 24, 2009. http://www.safeandsecureig.org/media/pwc09.pdf (last accessed on August 28, 2009).

Public Citizen. Mutual Recognition Agreements (MRAs).
http://www.citizen.org/trade/harmonization/MRA/ (last accessed on August 10, 2009).
Quova. "The Factors of Geolocation." *iGaming Business.*
http://gw.vtrenz.net/index.cfm?method=cMicrositeSecurity.displayLogin&dkey=XOV3IU9JU5
(last accessed on July 21, 2009).

Quova. *GeoPoint by Quova.* White Paper, July 2006.
https://www1.vtrenz.net/imarkownerfiles/ownerassets/818/GeoPointbyQuova_WHITEPAPER.pdf (last accessed on July 21, 2009).

Quova. *Quova Helps the Alaska Permanent Fund Dividend Division Run Like a Well-Oiled Machine.* Quova Case Study, 2008.
https://www.vtrenz.net/imaeds/ownerassets/818/08277_Alaska_casestudy_REV2.pdf
(last accessed on August 18, 2009).

Quova. The Science of Geolocation.
http://www.quova.com/Technology/thescienceofgeolocation.aspx (last accessed on September 4, 2009).

Reasonable Prudence in Regulation Act, H.R. 2266, 111th Cong. (2009).
http://www.house.gov/apps/list/press/financialsvcs_dem/gambling2.pdf (last accessed on July 23, 2009).

Responsible Gaming Quarterly, "Real-Time Betting Analysis of Internet Casino Gambling," 6, No. 2 (Fall 2008).
http://www.americangaming.org/assets/files/RGQ_Fall_08.pdf (last accessed on August 10, 2009).

Reznikov, Boris. "'Can I See Some ID?' Age Verification Requirements for the Online Liquor Store." *Shidler Journal for Law, Commerce & Technology,* 4, No. 5 (2007). http://www.lctjournal.washington.edu/Vol4/a05Reznikov.html (last accessed on July 25, 2009).

Rini, Bill. *The Definitive Guide to Online Poker Cheating.* April 16, 2008.
http://www.billrini.com/2008/04/16/the-definitive-guide-to-online-poker-cheating/ (last accessed on July 25, 2009).

Robertson, Jordan. "Tech 101: How a Denial-of-Service Attack Works." *Associated Press*, July 8, 2009.
http://www.usnews.com/articles/science/2009/07/08/tech-101-how-a-denial-of-service-attack-works.html?PageNr=1 (last accessed on July 28, 2009).

RSe Consulting. A Literature Review and Survey of Statistical Sources on Remote Gambling. October 2006.
http://www.culture.gov.uk/images/publications/RemoteGambling_RSeReport.pdf (last accessed on July 25, 2009).

Rush, Brian, Scott Veldhuizen and Edward Adlaf. "Mapping the prevalence of problem gambling and its association with treatment accessibility and proximity to gambling venues." *Journal of Gambling Issues,* 20 (June 2007): 193–214.

Satre, Philip G. *Youth Gambling: The Casino Industry's Response.* Adapted from address to Harvard Think Tank on Youth Gambling Issues, April 6, 1995.

Scharf, Michael P., and Melanie K. Corrin. "On Dangerous Ground: Passive Personality Jurisdiction and the Prohibition of Internet Gambling." New *England Journal of International and Comparative Law,* 8, No. 1 (2002).

Schopper, Mark D. "Internet Gambling, Electronic Cash & Money Laundering: The Unintended Consequences of a Monetary Control Scheme." *Chapman Law Review*, 5, No. 1 (2002): 303-330.

Schorow, Stephanie. "Going for Broke – Professor Says Vegas Gambling Machines Designed to Get People to 'Play to Extinction.'" *MIT TechTalk,* 53, No. 26 (May 20, 2009): 8.

Security and Accountability for Every Port Act. Public Law No. 109-347.

Shaffer, H. J., and M. N. Hall. "Updating and Refining Prevalence Estimates of Disordered Gambling Behaviour in the United States and Canada." *Canadian Journal of Public Health,* 92, No. 3 (2001): 168–172.

Shaffer, H. J., Matthew N. Hall, and Joni Vander Bilt. "Estimating the Prevalence of Disordered Gambling Behavior in the United States and Canada: A Meta-Analysis." Boston: Presidents and Fellows of Harvard College, 1997.

Shaffer, H. J., Matthew N. Hall, and Joni Vander Bilt. "Estimating the Prevalence of Disordered Gambling Behavior in the United States and Canada: A Research Synthesis." *American Journal of Public Health,* 89, No. 9 (1999): 1369–1376.

Skolnick, Jerome H. "The Social Transformation of Vice." *Law and Contemporary Problems,* 51, No. 1 (Winter 1988): 9–29.

Smeaton, Michael and Mark Griffiths. "Internet Gambling and Social Responsibility: An Exploratory Study." *CyberPsychology & Behavior,* 7, No. 1 (2004): 49–57.

Srinivasan, G. "EU slams US on its remote gambling, betting laws." *Business Line,* June 14, 2009.
http://www.thehindubusinessline.com/2009/06/14/stories/2009061450870400.htm (last accessed on June 30, 2009).

Stewart, David O. *An Analysis of Internet Gambling and its Policy Implications.* Prepared for AGA 10th Anniversary White Paper Series on Internet Gambling, 2006.

Stop predatory gambling.org. *The 'Perfect Storm' of Harm.*
http://ncalg.org/internet%20gambling.htm (last accessed on July 11, 2009).

Sullum, Jacob. "Some Bets Are Off: The Strangely Selective and Self-defeating Crackdown on Internet Gambling." *Reason Online,* June 2008.
http://www.reason.com/news/show/126022.html (last accessed on July 23, 2009).

Svantesson, D. J. B. "How Does the Accuracy of Geo-Location Technologies Affect the Law?" *Masaryk University Journal of Law and Technology,* 2, No. 1 (Summer 2008): 11–21.

Sychold, Martin. *Public and Private Sector Internet Gambling Operations: Some Useful Information from Europe.* Swiss Institute of Comparative Law. Presentation to the Alberta Gambling Research Institute Annual Conference, March 2009.

Testimony of John G. Malcolm Before the Committee on Banking, Housing, and Urban Affairs. March 18, 2003.
http://www.usdoj.gov/criminal/cybercrime/malcolmTestimony318.htm (last accessed on July 29, 2009).

Todd, Aaron. *NETeller Exit Impacts U.S. Internet Gambling Market.* Online Casino City, January 18, 2007.
http://online.casinocity.com/news/news.cfm?ArticleId=70015 (last accessed on July 13, 2009). Cited by Gerd Alexander, "The U.S. on Tilt: Why the Unlawful Internet Gambling Enforcement Act is a Bad Bet," *Duke Law & Technology Review,* No. 5 (2008).

U.K. Department for Culture, Media and Sport. "Gambling Act 2005 – Advertising Media Fact Pack." August 2007.
http://www.culture.gov.uk/images/publications/Mediapackadvertisingaug07.pdf (last accessed on July 31, 2009).

USAplayers.com. USA Poker Deposit Methods.
http://www.usaplayers.com/poker/deposit-methods/index.html (last accessed on August 8, 2009)

USAplayers.com *Online Poker Deposits and the UIGEA,* http://www.usaplayers.com/deposit-methods/articles/poker/online-poker-deposits-and-the-uigea.html (last accessed on August 8, 2009).

U.S. House of Representatives. Committee on Financial Services. *Can Internet Gambling Be Effectively Regulated to Protect Consumers and the Payments System?* 110th Cong., 1st Session, June 8, 2007.

U.S. House of Representatives. Committee on the Judiciary. *Establishing Consistent Enforcement Policies in the Context of Online Wagers.* 110th Cong., 1st Session, November 14, 2007.

UltimateBet.com. *Status Update on NioNio Investigation.* July 8, 2008.
http://www.ultimatebet.com/poker-news/2008/july/Investigation-Status-Update (last accessed on July 24, 2009).

UltimateBet.com. *UltimateBet Issues Statement Regarding Unfair Play.* May 29, 2008.
http://www.ultimatebet.com/poker-news/2008/may/NioNio-Findings (last accessed on July 24, 2009).

United States Department of Justice. *Chapter I – Computer Fraud and Abuse Act.* Computer Crime & Intellectual Property Section.
http://www.usdoj.gov/criminal/cybercrime/ccmanual/01ccma.pdf (last accessed on July 29, 2009).

Verrinder, Matthew. "NETeller Ex-Directors on Money Laundering Charges." *Reuters*, January 16, 2007.

http://www.reuters.com/article/internetNews/idUSN1622302920070116 (last accessed on September 11, 2009).

Wardle, Heather, Kerry Sprotson, Jim Orford, Bob Erens, Mark Griffiths, Rebecca Constantine, and Sarah Pigott. *British Gambling Prevalence Survey 2007.* National Centre for Social Research. Prepared for the Gambling Commission, September 2007. http://www.gamblingcommission.gov.uk/pdf/Britsh%20Gambling%20Prevalence%20Survey%2007%20-%20Sept%202007.pdf (last accessed on August 7, 2009).

Watson, Stevie, Pearson Liddell Jr., Robert S. Moore, and William D. Eshee Jr. "The Legalization of Internet Gambling: A Consumer Protection Perspective." *Journal of Public Policy & Marketing*, 23, No. 2 (2004): 209–213.

Wellford, Charles. "When It's No Longer a Game: Pathological Gambling in the United States." *National Institute of Justice Journal*, April 2001: 14–18.

Wiebe, Jamie. *Player Protection with Internet Gambling.*" Factz Research, Inc., Responsible Gambling Council. Presentation to the Alberta Gambling Research Institute Annual Conference, March 2009.

Wiebe, Jamie, and Michael Lipton. *An Overview of Internet Gambling Regulations.* Submitted to the Ontario Problem Gambling Research Centre, August 2008.

Wiebe, Jamie and Rachel A. Volberg. *Problem Gambling Prevalence Research: A Critical Overview.* A report to the Canadian Gaming Association. December, 2007. http://canadiangamingassociation.com/media_uploads/pdf/78.pdf (last accessed on July 11, 2009).

Williams, Robert, and Robert Wood. *Internet Gambling: Setting the Stage.* University of Lethbridge. Presentation to the Alberta Gambling Research Institute Annual Conference, March 2009.

Winslow, Kyle. "A Problem for Gamblers." *The American Prospect*, March 10, 2008. http://www.prospect.org/cs/articles?article=a_problem_for_gamblers (last accessed on July 13, 2009).

Wire Act of 1961. 18 U.S.C. §1084(a).

Wood, Richard T. A. *Online Support for People with Gambling Issues.* GamRes Limited. Presentation to the Alberta Gambling Research Institute Annual Conference, March 2009.

Wood, Richard T. A., and Mark D. Griffiths. "Why Swedish People Play Online Poker and Factors That Can Increase or Decrease Trust in Poker Web Sites: A Qualitative Investigation." *Journal of Gambling Issues,* 21 (July 2008): 80–97.

Wood, Robert, and Robert Williams. *Internet Gambling in Comparative Perspective: Patterns, Problems, and Interventions.* University of Lethbridge. Presentation to the Alberta Gambling Research Institute Annual Conference, March 2009.

List of Individuals Interviewed

Name	Date of Interview
Parry Aftab Executive Director Wired Safety	05/27/2009
Bo Bernhard Director of Gambling Research UNLV College of Hotel Administration	06/10/2009
Michael Bolcerek Senior Vice-President of Business Development Aristotle	08/10/2009
Phill Brear Head of Gambling Regulation Gibraltar Regulatory Authority	08/05/2009
Peter Collins Professor of Public Policy Studies, Director of the Center for the Study of Gambling University of Salford (U.K.)	06/10/2009
Philip J. Cook Senior Associate Dean for Faculty and Research, ITT/ Terry Sanford Professor of Public Policy, Professor of Economics and Sociology Duke University	06/10/2009
Kelli Emerick Executive Director Secure ID Coalition	08/06/2009
Andrew Fritchie General Counsel PartyGaming PLC	08/21/2009
Glenn Gibson Manager, Technical and Systems Audit Tasmanian Gaming Commission (Australia)	08/05/2009

Damien Jarvis 08/05/2009
Assistant Director
Liquor and Gaming Branch
Tasmania Department of Treasury and Finance (Australia)

Matthew Hill 06/12/2009
Director of Strategy, Research and Analysis
British Gambling Commission (U.K.)

Simon Holliday 08/04/2009
Director
H2 Gambling Capital (U.K.)

Joseph Kelly 06/01/2009
Professor
SUNY Buffalo Business Law

Paul Mathews 08/03/2009
Former Senior Vice President
IGT Wagerworks

Sam McQuade 06/03/2009
Graduate Program Coordinator
College of Applied Science and Technology,
Rochester Institute of Technology

Katharina Riedl 08/13/2009
bwin (Austria)

Paul Morris 06/12/2009
Policy Development Manager
British Gambling Commission (U.K.)

Chris Pinion 08/10/2009
National Account Manager
LexisNexis Risk and Information Analytics

Sue Schneider 08/17/2009
Founder
Interactive Gaming News

John Sealy 08/31/2009
Manager, Information Systems and Technology Services
Licensing, Regulation and Alcohol Strategy
Northern Territory Department of Justice (Australia)

Howard Shaffer 06/10/2009
Director of Division on Addictions
Associate Professor of Psychology, Department of Psychiatry
The Cambridge Health Alliance, Harvard Medical School

Charles Wellford 06/17/2009
Professor of Criminology and Criminal Justice
University of Maryland, College Park

Keith S. Whyte 06/05/2009
Executive Director
National Council on Problem Gambling

Jamie Wiebe 08/07/2009
Director
Centre for the Advancement of Best Practices
Ontario Responsible Gambling Council (Canada)

André Wilsenach 08/27/2009
Chief Executive Officer
Alderney Gambling Control Commission

Testimony of

Samuel A. Vallandingham
Chief Information Officer and Vice President, The First State Bank
Barboursville, West Virginia

On behalf of the

Independent Community Bankers of America

Before the

Congress of the United States
House of Representatives
Committee on Financial Services

Hearing on

"H.R. 2266, Reasonable Prudence in Regulation Act, and H.R. 2267, the Internet Gambling Regulation, Consumer Protection, and Enforcement Act"

December 3, 2009
Washington, D.C.

Chairman Frank, Ranking Member Bachus, Members of the Committee, my name is Samuel Vallandingham. I am Vice President and Chief Information Officer of the 104 year-old First State Bank in Barboursville, West Virginia. I am also vice chairman of the Payments and Technology Committee for the Independent Community Bankers of America (ICBA). Barboursville is a historic town of 3,200 people in the far western part of the state near the Kentucky border. Our bank employs 58 people at three locations and holds close to $214 million in assets.

Banking has been in my family for four generations. My great grandfather, a Kentucky tobacco farmer sold his farm to raise capital to start the First State Bank. It is said that my grandfather came to West Virginia in a horse and buggy and these too were eventually sold, with the proceeds used to set up the bank. The original charter, dated September 1, 1905 and the certificate of authority still hang on the wall in the bank's main office.

I am pleased to represent community bankers and ICBA's 5,000 members at this important hearing on H.R. 2266, the Reasonable Prudence in Regulation Act, and H.R. 2267, the Internet Gambling Regulation, Consumer Protection, and Enforcement Act.

On behalf of ICBA, I would like to commend Chairman Frank for introducing this legislation. H.R. 2266 would push back the compliance date for the Unlawful

Internet Gambling Enforcement Act (UIGEA) regulations one year – from December 1, 2009 to December 1, 2010 and H.R. 2267 would establish a federal regulatory and enforcement framework for lawful Internet gambling, providing greater certainty for all concerned.

We also commend both the Treasury and the Federal Reserve Board for extending the compliance date for the regulations implementing the UIGEA, Regulation GG, from December 1, 2009 to June 1, 2010. ICBA appreciates the agencies' responsiveness to our extension request that we made in a letter dated November 5, 2009. H.R. 2266 would provide even more time to resolve the difficult issues in this legislation and regulation.

ICBA Positions on UIGEA and Regulation GG

Throughout the deliberations regarding unlawful Internet gambling, ICBA has not taken a position on the appropriateness of prohibiting unlawful Internet gambling. We did, however, express our concerns over the burdens that the community banking industry and payment systems would face if charged with identifying and blocking unlawful Internet gambling payment transactions. ICBA has ongoing concerns when our nation's payment systems are used to track, analyze, and block individual payment transactions given the potential for such activity to undermine payment systems efficiency.

Payment systems were not designed for this function. With that said, community bankers are committed to support balanced, effective measures that will prevent terrorists from using the financial system to fund their operations and prevent money launderers from hiding the proceeds of criminal activities. ICBA believes that it is critical that the banking industry's resources be focused where risks to national safety and financial soundness are greatest. The added burden of monitoring all payment transactions for the taint of unlawful Internet gambling would drain finite resources currently engaged in complying with anti-terrorism, anti-money laundering regulations, the plethora of new regulations emerging from the financial crisis and the daily operation of community banks to meet the financial needs of their customers and communities.

We remain greatly appreciative of the Congressional decision to include ICBA-supported UIGEA provisions granting Treasury and the Federal Reserve authority to write the implementing regulations and the authority to exempt certain transactions when transaction tracking and blocking is not reasonably practical. The agencies wisely used this authority to write implementing regulations, Regulation GG, to place most of the compliance burden on financial institutions that maintain direct relationships with unlawful Internet gambling companies, rather than on banks that focus on providing service to individual customers.

Regulation GG Compliance

The UIGEA fails to define "unlawful Internet gambling," which is vitally necessary if banks are to comply with the law. Of course, the implementing rule, Regulation GG, adopts this flawed approach. As a result, the burden of identifying which entities are engaged in unlawful Internet gambling rests solely on financial institutions. Community banks are required to determine whether current or prospective customers are in violation of diverse federal, state and Indian Tribal gaming laws. Obviously, this is not workable.

Additionally, participants in the payments system that are non-exempt or covered by the law must establish and implement policies and procedures reasonably designed to prevent or prohibit unlawful Internet gambling transactions. Community banks and other financial institutions have the burden of conducting appropriate due diligence in establishing and maintaining commercial customer relationships and accounts to prevent or prohibit restricted transactions.

Card system participants may rely on merchant transaction coding to identify and block restricted transactions. (This is not available for non-card transactions, such as checks and automated clearing house transactions.) Even card-based systems have their limitations. Merchants can be assigned the correct merchant category code only if they fully disclose all lines of business. For example, a general merchandiser could operate an Internet gambling enterprise, but fail to

disclose this business line to the organization sponsoring the merchant's card system access.

Compliance with Regulation GG is a herculean, judicial-like responsibility particularly as community banks, which operate with limited compliance staffs, are in the midst of implementing a number of consumer laws and regulations.

Current Legislation

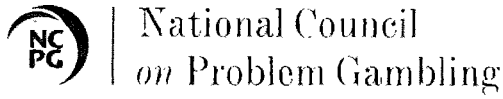
ICBA strongly endorses H.R. 2267, the Internet Gambling Regulation, Consumer Protection and Enforcement Act which establishes a federal regulatory and enforcement framework for licensing Internet gambling operators. Licensed operators would have the authority to accept bets and wages from individuals in the United States subject to certain conditions. The Treasury would have exclusive authority to establish and enforce regulations and issue licenses. Treasury's administrative costs would be borne by licensee fees.

H.R. 2267 appropriately grants a federal agency, the Treasury, the authority to establish, regulate and enforce lawful Internet gambling and most importantly, simplifies financial institution responsibilities for identifying and blocking unlawful Internet gambling transactions as mandated by the UIGEA. The certainty provided by this approach is the key to our support. It would resolve the problem with the current statute and regulation.

ICBA strongly urges the Committee and the Congress to expeditiously pass H.R. 2267.

Conclusion

Mr. Chairman, ICBA greatly appreciates your efforts to enact this legislation. While you and your colleagues must decide on the nation's policy regarding Internet gambling, we hope you can all agree that the nation's community banks – as well as all other participants in the payments system – should not be put in the impossible position of making legal judgments about which individual businesses are, or are not engaged in "unlawful Internet gambling." That would create an unnecessary burden and require non-governmental entities to make decisions that should be made by law enforcement agencies and the court system.



Statement of Keith S. Whyte, Executive Director
National Council on Problem Gambling

Submitted for the Record Concerning
H.R. 2266, "Reasonable Prudence in Regulation Act" and
H.R. 2267, "Internet Gambling Regulation, Consumer Protection and Enforcement Act"

United States House of Representatives
Financial Services Committee
Thursday, December 3, 2009, at 10:00 a.m.

Dear Chairman Frank, Ranking Member Baucus and Members of the Committee:

Thank you for the opportunity to testify on these bills. National Council on Problem Gambling (NCPG) is the national advocate for programs and services to assist problem gamblers and their families. Our mission is to increase public awareness of pathological gambling, ensure the widespread availability of treatment for problem gamblers and their families, and to encourage research and programs for prevention and education. As the advocate for problem gamblers, NCPG does not take a position for or against legalized gambling, but concentrates on the goal of helping those with gambling problems. We were founded in 1972 and our 37-year history of independence and neutrality makes the National Council the most credible voice on problem gambling issues. We are a 501(c)(3) not-for-profit charitable corporation. NCPG does not accept any restrictions on contributions.

Major NCPG programs include the National Problem Gambling Helpline Network (800.522.4700) a single national point of access for problem gambling information that received over 255,000 calls in 2008; National Problem Gambling Awareness Week; the National Conference on Problem Gambling, now in its 24th year; and an information clearinghouse. In addition, the majority of problem gambling services are provided on the state level by the 35 state affiliate chapters of NCPG.

I have been Executive Director since October 1998. My prior public policy experience includes positions at the American Gaming Association, American Bar Association and the U.S. Department of Health and Human Services. I am a graduate of Hampden-Sydney College. Neither I nor NCPG have received any Federal grants or contracts related to gambling issues since October 2006.

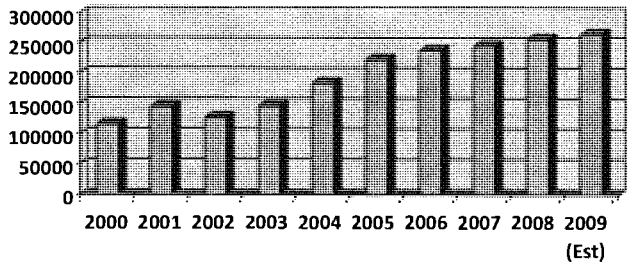
The National Council on Problem Gambling neither supports nor opposes H.R. 2266 or H.R. 2267. My purpose is to provide additional information and a broader perspective on problem gambling to assist the committee in its consideration of these matters.

Problem gambling is an important public health concern, characterized by increasing preoccupation with and loss of control over gambling, restlessness or irritability when attempting to stop gambling, and/or continued gambling despite serious negative consequences. Approximately 2 million adults (1%) meet criteria for pathological gambling in a given year. An additional 4-6 million (2-3%) adults plus 500,000 youth between the ages of 12-17 show less severe but still serious symptoms of a gambling problem in a given year. The estimated social cost to families and communities from gambling-related bankruptcy, divorce, crime and job loss was almost $7 billion last year. Problem gamblers also have high rates of co-occurring substance abuse and mental health disorders, including smoking, alcohol use and abuse, drug use and abuse, depression and suicidal behavior. Regardless of the legality of internet gambling, millions of Americans today are experiencing gambling problems, devastating individuals, families and communities.

The limited research and information we have on internet gambling shows that internet gambling in the U.S., Canada and the U.K. has the lowest participation rates of any form of gambling, regardless of the legality of internet gambling in the jurisdiction. Internet gamblers are also extremely likely to gamble in multiple "traditional" forums, to the extent it appears internet gambling is an add-on for people already involved in gambling. Internet gamblers who spend significant amounts of time and money, while relatively rare, are more likely to meet problem gambling criteria.

While participation in internet gambling by U.S. residents appeared to decline after the passage of Unlawful Internet Gambling Enforcement Act (UIEGA), we did not see a decrease in indicators of gambling problems, such as helpline calls. There are a number of possible explanations, including that our time frame is too short to see the effect. Figure 1 shows the total calls to the NCPG National Problem Gambling Helpline (800.522.4700) for the past 10 years.

National Problem Gambling Helpline Calls, 2000-2009



It is likely that individuals with gambling problems will find the internet attractive for pursuing their addiction. Risk factors for gambling problems on the internet include high speed of play, perceived anonymity, social isolation, use of credit/non-cash and 24-hour availability. Many of these factors can also be found in "traditional" forms of gambling.

The graphical and interactive structure of the internet provides an opportunity to create informed consumers with access to a variety of information designed to encourage safe choices and discourage unsafe behavior. With other addictive behaviors such as alcohol or tobacco use, such educational programs are usually done at home and school, not at the point-of-sale. The amount of online information and possible interventions are essentially unlimited.

The technology also exists to allow players and operators to set limits on time, wagers, deposits, etc...as well as to exclude themselves. These programs can be improved by utilizing the data collected by these websites to develop profiles of general online wagering behavior. From this information medians and benchmarks could be created to allow the development of predictive programs for abnormal usage as well as publicized norms, an important prevention tool. We urge the Committee to add language to require operators, as a condition of licensure, to provide public access to de-identified data on player behavior for research purposes.

It is important to note that gambling regulation is only a small part of a comprehensive solution for underage and problem gambling. A comprehensive solution would include funded programs for prevention, education, treatment, enforcement and research, or PETER, to effectively address the mental health disorder of problem gambling. It is regrettable that H.R. 2267 does not contain any funding for such programs.

We call the Committee's attention to H.R. 2906, the Comprehensive Problem Gambling Act, which would amend the Public Health Service Act to authorize Federal health agencies to address problem gambling and appropriate a total of $71 million over five years for competitive grants to states, tribes, universities and non-profit organizations for the prevention, treatment and research of problem gambling. We appreciate that Chairman Frank and several Committee members are co-sponsors of the bill and urge all Members to support this groundbreaking legislation.

The most ethical and effective response to problem gambling issues raised by gambling and internet gambling—regardless of legality—is a comprehensive public health approach. Problem gambling, like other diseases of addiction, will likely never be eliminated, but we can and must make better efforts to minimize and mitigate the damage.

Mr. Chairman, thank you and the Committee for the opportunity to submit my remarks for the record and I would be happy to respond to any questions.

Responses of Samuel A. Vallandingham to questions from the December 3, 2009 hearing on H.R. 2266 and H.R. 2267

Question 1: In your testimony, you said that you are concerned about tracking, analyzing, and blocking individual payment transactions. However, the final regulation does not require depository institutions to do this for checking and ACH transactions, so that the obligation of the depository institution is only to know whether its commercial customers engage in Internet gambling, and if so, to require the customer to provide proof that the business is legal. How have your concerns not been addressed? Why and exactly how are the changes from the initial to the final regulations insufficient?

Response: *Generally, community banks remain concerned about the burdens that the community banking industry and payment systems would face if charged with identifying and blocking transactions related to any activities deemed illegal given the negative impact such activity would have on payment systems efficiency. With specific regard to Regulation GG, most of the burden is appropriately placed on the financial institution maintaining a relationship with the entity engaged in Internet gambling.*

Question 2: If you are committed to preventing terrorist financing and money laundering, and if law enforcement has identified known vulnerabilities to both in Internet gambling, would not adding Internet gambling operations to the list be a negligible additional burden?

Response: *Community banks are committed to helping law enforcement track terrorist financing. However, the question does assume that law enforcement has or will identify "vulnerabilities" in Internet gambling transactions that would involve a "negligible additional burden" on community banks. I would need more specific information to answer the question in a meaningful way.*

Question 3: If Congress licensed online gambling, would you support a requirement to block all payments to unlicensed operators? If not, why not, and if not, please explain how you expect law enforcement and the government to ensure that operators apply for licenses or people only use licensed sites?

Response: *Banks have become accustomed to blocking certain transactions in compliance with applicable laws and regulations. If unlicensed Internet gambling companies were added to the list of prohibited entities, community banks would comply.*

Question 4: How many transactions with unknown entities do community banks handle on a regular basis? Aren't card transactions cleared by the associations or correspondent banks? Please help us understand how large the regulatory burden is for your banks, and how it cannot be mostly automated?

> ***Response:*** *ICBA does not have information on the number of transactions conducted with unknown entities and I am unaware of any entity capturing this information. Card networks and community bank agents (third-party processors or correspondent banks) facilitate the processing and settlement of payment card transactions on behalf of community bank customers. The compliance burden is not easily quantifiable given the differences in community banks' technology, size, staffs and available resources.*

Question 5: The Committee understands and appreciates the burden that complying with anti-money laundering regulations presents, especially to ICBA member banks, and tries to mitigate the burden as much as possible. Do all community banks comply with blocking orders issued through the Office of Foreign Asset Control (OFAC)? If so, are these blocking actions automated and a simple matter of comparing a list of transactions to a list of names? If you continue to foresee difficulties in complying with the regulations, would the job be easier if the government provided a regularly updated list of bad actors such as Mr. Dowling suggests?

> ***Response:*** *Community banks strive to comply with all applicable laws and regulations including blocking orders issued through the Office of Foreign Asset Control. Community bank compliance methodologies vary according to their size, staffs and available resources.*

Question 6: Building casinos costs millions of dollars. How much have your institutions loaned to casino developers in capital construction costs?

> ***Response:*** *ICBA does not have information on the specific types of commercial real estate loans made by ICBA member our members.*

U.S. Department of Justice

Federal Bureau of Investigation

Washington, D. C. 20535-0001

November 13, 2009

Honorable Spencer Bachus
Ranking Member
Committee on Financial Services
House of Representatives
Washington, DC 20515

Dear Congressman Bachus::

I am writing in response to your letter to Director Robert S. Mueller, dated October 19, 2009, concerning your questions relating to Internet gambling. I will address these as you mentioned them in your initial correspondence:

- Does technology exist that could facilitate undetectable manipulation of an online poker game?

Yes, the technology exists to manipulate online poker games in that it would only take two or three players working in unison to defeat the other players who are not part of the team. Technically, the online poker vendors could detect this activity and put in place safeguards to discourage cheating, although it is unclear what the incentive would be for the vendor. It really comes down to a cost analysis for the vendor. How much money will I make or lose by detecting cheating and implementing the safeguards?

- Could technology be used to illicitly transfer or launder money in the guise of "innocent" participation in an online poker game, or the undetectable theft of money from one participant in such a game, by others acting on concert? If yes, to what degree?

Yes, online poker could be used to transfer ill gotten gains from one person to another, or several other people. Private tournaments exist on several online poker programs which would allow a subject to create a private game with his/her money mules. Once the game is created, the subject could raise the pot, to whatever maximum amount is allowed, and then fold before the hand is finished. This would allow the subject to transfer the money from his account to the mule account. This activity could repeat itself several times, virtually "washing the money." Once again, this activity could be detected by the vendors, but at what cost? Also, there are several ways to cheat at online poker, none of which are illegal. Teams of players could work in

unison, revealing to each other what cards they have in their hands. Based on the known cards, the team could use this knowledge to raise the pot. The players who are not part of the team would be at a distinct disadvantage because they do not have the knowledge of what cards are already in play. Several bots, software programs, have been created to play online poker. These bots are programed to take in all the information about a given hand and use that information to formulate the chances of the bot having the winning hand. Most online poker sites have a specific section of their user agreement that bans bots from their poker rooms. Bots have a distinct advantage over real players in that they can use the processing power of the computer to determine the chances of winning.

- Does the Federal government have the ability in terms of qualified personnel and financial resources to regulate Internet poker if it is legalized?

FBI investigative resources are focused on our highest priorities, that being Counterterrorism, Counterintelligence, and Cyber threats to critical infrastructures.

- Do you believe the claims of vendors who say they have technology solutions that would validate the age of a potential player in an online poker game, or the physical location, beyond a shadow of doubt?

While the vendors may claim that they can validate age and location, they are more than likely relying on credit card information and geolocation to gather this information. Both can be spoofed. For age verification, the possession of a credit card is usually the only validation these sites require. Credit card numbers are easily compromised and can be bought by the hundreds on several "underground" websites. Therefore, the simple act of owning a credit card number does nothing to validate someone's age. For location verification, the vendors are more than likely going to rely on geolocation. While geolocation can be accurate when used to determine the physical country of residence, it becomes exponentially less accurate when determining the city or zip code. Additionally, the use of Internet Protocol (IP) address based information for geolocation allows for the manipulation of geolocation information. By changing the IP address information, someone can make it appear that their residence is in a different location.

- Has U.S. law enforcement discussed potential vulnerabilities of online poker with foreign counterparts? If so, what views have been expressed?

The FBI has not engaged in this discussion with our foreign partners.

- Please detail any known or alleged incidents of online cheating, particularly efforts by online casinos themselves, to manipulate the outcome of games using technology such as "pokerbots", for example.

While casino software could very easily be employed to manipulate games, the FBI has no data in this area.

I hope this information will be of assistance to you.

Sincerely yours,

Shawn Henry
Assistant Director
Cyber Division

December 2, 2009

The Honorable Barney Frank
Chairman
United States House of Representatives
Financial Services Committee
Washington, D.C. 20515

The Honorable Spencer Bachus
Ranking Member
United States House of Representatives
Financial Services Committee
Washington, D.C. 20515

Dear Chairman Frank and Ranking Member Bachus:

On behalf of Concerned Women for America's (CWA) 500,000 members nationwide, I am writing today to urge you to vote against any legislation that would undermine or delay the Unlawful Internet Gambling Enforcement Act of 2006 (UIGEA).

H.R. 2266 would unnecessarily delay the implementation of UIGEA and H.R. 2267 would completely undermine UIGEA which passed Congress with overwhelming bipartisan support in 2006. Internet gambling represents the most invasive and addictive form of gambling in history. Speed, accessibility, availability and anonymity make Internet gambling the perfect storm for gambling addiction.

While Internet gambling has been and continues to be illegal in the United States, the industry has grown into a multi-billion-dollar operation in recent years as offshore gambling websites have been able to evade U.S. law enforcement efforts. Prosecution of these foreign companies has been nearly impossible making it crucial to fully implement UIGEA.

Internet gambling also poses a number of dangers for our culture in general and the overall well-being of families in particular. Compulsive gambling threatens families with a variety of financial, physical, and emotional problems, including divorce, domestic violence, child abuse and neglect, and a range of problems stemming from the severe financial hardship that commonly results from pathological gambling.

Recent studies have shown that more women gamble than men. Women who are problem gamblers have a two to three times higher incidence of substance dependence than other women according to one report. A Harvard Medical School report found that gambling disorders were "significantly more prevalent among young people."

It also creates fertile ground for criminal activity and threatens homeland security. Internet gambling sites are vulnerable to money launderers and drug traffickers and it also could potentially fund terrorist activity.

CWA firmly believes UIGEA provides the best means to help stop much of the illegal Internet gambling that preys upon and destroys American families. Please oppose any effort to undermine this important legislation.

Sincerely,

Wendy Wright
President

cc: Financial Service Committee Members

May 14, 2009

Dear Members of the Financial Services Committee:

On May 6th, H.R. 2267 was filed to overturn American gambling laws and promote gambling, including sports betting, on the Internet. As Congress has long recognized, sports wagering threatens the integrity of professional and amateur athletics. It is on this basis that Congress has consistently legislated against sports betting. Because the newly-introduced bill would overturn decades of settled American law, we strenuously oppose this bill as introduced.

H.R. 2267 establishes a federal licensing and regulatory structure for private Internet gambling operations, with the caveat that the legislation does not authorize sports betting that would violate the Professional and Amateur Sports Protection Act of 1992 (PASPA). From that curious reference to PASPA, it may appear that the bill bars licensees from taking sports play. Instead, the bill does the exact opposite. H.R. 2267 reverses nearly 50 years of clear federal policy against sports betting and it opens the door wide to sports gambling on the Internet.

PASPA has nothing to do with the gambling being authorized by H.R. 2267 because PASPA simply prohibits states and tribal authorities from authorizing or operating sports betting. As the attached PASPA provisions and legislative history demonstrate, PASPA is not a ban on interstate sports wagering. That prohibition is found in the Wire Act, enacted in 1961. HR 2267 effectively repeals the Wire Act by granting private licensees who do not violate PASPA's bar on state-sponsored sports betting a "complete defense" from prosecution under the Wire Act.

Thus, H.R. 2267 references a law that is irrelevant to interstate sports gambling (PASPA) in order to disable the only one that is meaningful (the Wire Act).

To remain faithful to longstanding federal policy against sports betting, the bill could simply have barred licensees from accepting sports wagers. We urge the sponsors to do just that. Anything other than a straightforward prohibition on licensees conducting sports gambling will demonstrate a contrary intent.

Beyond this serious substantive defect, H.R. 2267 is badly timed. In May 2007, the United States began a process to exclude gambling from its commitments under the General Agreement on Trade in Services (GATS). That process is nearly concluded. Necessary agreements have been tentatively reached with all but one of our trading partners Completion of these negotiations, which is expected shortly, will protect federal and state gambling laws, including ones barring sports betting, from being challenged in the WTO as trade violations.

Passage of H.R. 2267 could dramatically complicate this process, and lead to sharply escalated demands for U.S. trade concessions. We support prompt completion of the gambling exclusion process, which will end this problematic situation without imposing undue costs.

At the same time, H.R. 2266 has been introduced to delay by one year the compliance deadline for regulations issued under the Unlawful Internet Gambling Enforcement Act – regulations that are already more than two years overdue. The bill would provide for delay only; it adds nothing in the way of alternative, stronger enforcement mechanisms. In its present form, H.R. 2266 would serve simply to disable a law that passed the House in July 2006 317-93, with large majorities of both party caucuses. Therefore, we oppose it.

Nearly 50 years ago, Attorney General Robert Kennedy proposed legislation that criminalized interstate sports wagering. Enacted as the 1961 Wire Act, this unambiguous ban has been the bedrock of federal sports betting policy. Do not reverse it now with legislation that is both ill-considered and ill-timed.

We urge you to reject H.R. 2267 and H.R. 2266. Thank you for considering our views.

Sincerely,

Rick Buchanan
Executive VP and General Counsel
National Basketball Association

Elsa Kircher Cole
VP of Legal Affairs and General Counsel
National Collegiate Athletic Association

David Zimmerman
Executive VP and General Counsel
National Hockey League

Tom Ostertag
Senior VP and General Counsel
Major League Baseball

Jeffrey Pash
Executive VP and General Counsel
National Football League

Professor John Warren Kindt
Box One, Wohlers Hall
University of Illinois
1206 S. Sixth Street
Champaign, IL 61820

Office & Fax (217) 333-6018
jkindt@illinois.edu

December 2, 2009

U.S. Representative Spencer Bachus
2246 Rayburn
U.S. House of Representatives
Washington, D.C. 20515

Dear Representative Bachus:

Pursuant to the requests of the House Committee on Financial Services for the research on the youth interface with Internet gambling published by academics at the University of Illinois and other universities, please find attached several "Executive Summaries of Academic Literature" published in the 2008-09 **United States International Gambling® Report** (USIGR) 3-volume series, specifically:

1. **Gambling: Executive Summaries and Recommendations**,
2. **Gambling with National Security, Terrorism, and Military Readiness**, and
3. **Gambling with Crime, Destabilized Economies, and Financial Systems**.

The subtitles/conclusions of the relevant "Executive Summaries of Academic Literature" relating to youth gambling which are attached are:

1. *New Addicted (Pathological) Gamblers and Problem Gamblers Caused by Decriminalized [Internet] Gambling: Percentages for Teens and Young Adults Increased up to 200 Percent.*
2. *Gambling Addiction is the Fastest Growing Addiction Among Young People.*
3. *Internet Gambling Activities Exemplify the Most Dangerous Aspects of Gambling.*
4. *Increased Legalized Gambling Increases Suicides by Creating New Gambling Addicts Among Adults, Young Adults and Teenagers.*
5. *Gambling Costs Equating to Drug Addiction Costs: The "Doubling" of Socioeconomic Costs to Taxpayers When [Internet] Gambling is Decriminalized.*

Known by the sociological and psychological academic communities as the "crack cocaine" of creating new gambling addicts, Internet gambling would be available at every work desk, at every school desk, and in every living room. In one day, a person could "click their mouse and lose their house."

The significant negative impacts of Internet gambling on youth are well-documented and involve financial, psychological, and physical child abuse by problem gambling parents, including the loss of sustenance funds to buy clothing, food, tuition, dental and medical care—resulting in significant numbers of avoidable child deaths by abusive and neglectful parents who are problem gamblers.

The USIGR parallels and cites frequently to the 1999 **U.S. National Gambling Impact Study Commission, Final Report** (NGISC Final Report). Published with a decade of additional academic research since the 1999 NGISC Final Report, the 2009 USIGR concurs *a fortiori* and cites to the conclusions and recommendations of the NGISC Final Report regarding gambling's negative impacts on youth. In several places, the USIGR also highlights the academic studies on youth gambling—which uniformly conclude that youth are particularly susceptible to gambling addiction via Internet gambling.

Sincerely,

John Warren Kindt
J.D., MBA, LL.M., SJD
Professor of Business & Legal Policy
University of Illinois

Attachments: "Executive Summaries of Academic Literature," 10 pages.

New Addicted (Pathological) Gamblers and Problem Gamblers Caused by Decriminalized Gambling: Percentages for Teens and Young Adults Increased up to 200 Percent

In 2007, the statistics still confirmed that the percentages of teenagers who became pathological (addicted) and problem gamblers were *double* the numbers for adults.[1] Therefore, throughout the 1990s and the advent of the 21st Century, gambling legislators enticed millions of teenagers into gambling addition, which sociologists compare to drug addiction and which future leaders will have to combat similarly to the "War on Drugs."[2] The gambling industry's promotion of the game "Texas-Hold-Em" became a pop phenomenon during the first decade of the 21st Century, and along with sports gambling and Internet gambling, Texas-Hold-Em became an "introductory drug" for hooking new teens and young adults to lifelong gambling addiction.

In the United Kingdom, the British Medical Association (BMA) reported during 2006 that the "adolescent" pathological gambling rate was 6 percent, which was 100 to 200 percent greater than the adult rate.[3]

In New York, a 2007 "survey suggest[ed] nearly 20 percent of New York students in grade[s] seven through 12 have a gambling problem"[4] from being enticed primarily by sports gambling.[5] The executive director of the N.Y. Council on Problem Gambling stamped youth gambling as an "epidemic."[6] While disingenuously claiming they were

---

[1] *See, e.g.*, Durand F. Jacobs, *Illegal and Undocumented. A Review of Teenage Gambling and the Plight of Children of Problem Gamblers in America, in* COMPULSIVE GAMBLING: THEORY, RESEARCH, AND PRACTICE 249 (1989) [hereinafter *Prof. Jacobs on Teenage Gambling and the Plight of Children*].

[2] John W. Kindt, *U.S. National Security And The Strategic Economic Base: The Business/Economic Impacts Of The Legalization of Gambling Activities*, 39 ST. LOUIS U. L.J. 567, 583 (1995) [hereinafter *Strategic Economic Base*], *available at* www.heinonline.org.

[3] For a summary of the British Medical Association's 2006 report, see Sally Peck & Agencies, *NHS treatment urged for gambling addicts*, Telegraph Media Group, Ltd. (United Kingdom), Jan. 17, 2007 [hereinafter *U.K. NHS treatment urged for gambling addicts*], *at* www.telgraph.co.uk.

[4] For the youth gambling interface with March Madness, see Assoc. Press, Binghamton, N.Y., *Youth problem gambling in New York called an 'epidemic,'* Mar. 26, 2007 [hereinafter *Youth gambling called an epidemic*], *at* www.wstm.com.

[5] *Id.*

[6] *Id.*

protecting children, governments continued to partner with Big Gambling as predators promoting gambling to all segments of society, such as in the United Kingdom where the Gambling Act 2005 codified target marketing to children via electronic gambling devices (EGDs)/slot machines.[7] Designated by the psychological community as the "crack cocaine" for addicting adult gamblers,[8] these EGDs were even more addictive to children and teens.[9] In a report sent to Parliament leaders in 2006, Europe's only professor of gambling, Professor Mark Griffiths of Nottingham Trent University warned "that Labour ministers are contravening their own pledge to protect the 'most vulnerable' from the effects of their gambling liberalization,"[10] and that these addiction machines were "often associated with drug use, crime, and academic failure."[11] In the United Kingdom, these EGDs were known collectively as "fruit machines," but some EGDs were targeted to children and the marketing strategy was known as "slots for tots."[12]

This callous U.K. approach to introducing teens and children to highly-addictive gambling was apparent also in the United States. In a parallel 2007 example, Harvard Law School Professor Charles R. Nesson formed the "Global Poker Strategic Thinking Society—dedicated to demonstrating that poker has educational benefits,"[13] after "he consulted

---

[7] Tim Shipman, *'Children at risk of slot machine addiction', warns gambling expert*, DAILY MAIL (United Kingdom), Nov. 6, 2006, at 1 [hereinafter *Children at risk for gambling addiction*], *at* www.dailymail.co.uk.

[8] *See, e.g.*, NAT'L GAMBLING IMPACT STUDY COMM'N, FINAL REPORT 5-5 (June 1999) [hereinafter NGISC FINAL REPORT], *at* http://govinfo.library.unt.edu/ngisc. *See also* Viveca Novak, *They Call It Video Crack*, TIME, June 1, 1998, at 58 [hereinafter *Video Crack*], *at* www.time.com; Scott Dyer, Capitol News Bureau, *Professor Says Video Poker 'Crack Cocaine' of Gambling*, THE ADVOCATE (Baton Rouge, La.), Feb. 16, 2001 [hereinafter *Professor Says Video Poker is "Crack Cocaine"*], *at* www.2theadvocate.com.

[9] *Id. See also* BRITISH MEDICAL ASS'N, BOARD SCI., GAMBLING ADDICTION AND ITS TREATMENT WITHIN THE NHS: A GUIDE FOR HEALTHCARE PROFESSIONALS 1–44 (Jan. 2007) [hereinafter BRITISH MEDICAL ASS'N 2007 REPORT ON GAMBLING], *at* www.bma.org.uk.

[10] *Children at risk for gambling addiction*, *supra* note 7.

[11] *Id*

[12] *Id.*

[13] Gary Rivlin, *High Stakes for Poker as a Learning Tool*, N.Y. TIMES, Dec. 12, 2007, at M8 [hereinafter *Poker Sold as Educating Children*], *at* www.nytimes.com.

with Howard Shaffer, director of the division on addictions at the Harvard Medical School to better understand the downside."[14]

> "I see great advantage in hitting kids as early as sixth grade, when they're dropping out of math," said Charles R. Nesson, the Harvard Law School professor who began the society with a group of his students. "I'm thinking of kids who are into their video games but instead of Halo-3 and World of Warcraft, we lead them into a game environment that has real intellectual depth to it, and feeds their curiosity rather than snuffs it out."
>
> The society has been working to establish chapters at campuses nationwide. This semester, it has sponsored seminars at Harvard featuring academics and authors to evangelize the wonders of poker. In the spring it plans to hold a workshop on using poker to teach math to children, to be held at the Smith Leadership Academy, as Boston charter school for at-risk kids in the sixth through eighth grades. "We see great potential for reaching our students in an innovative way," said Karmala Sherwood, the school's headmaster.[15]

[14] *Id*
[15] *Id.*

EXECUTIVE SUMMARY OF ACADEMIC LITERATURE

Strategic Problem (SP.6):

Gambling addiction is the fastest growing addiction among young people.[1]

In one 2006 example involving the United Kingdom, Professor Mark Griffiths of Nottingham Trent University, "Europe's only professor of gambling,"[2] warned that "[m]illions of children will become gambling addicts"[3] because the 2005 U.K. Gambling Act permits children to gamble on virtually anything—and particularly on slot machines.[4] Specifically, Professor Griffiths noted that for children the "Category D slot machines are often the first rung on the problem gambling ladder ... [and] often associated with drug use, crime and academic failure."[5] According to Shadow Culture Secretary Hugo Swire, the Culture Secretary "Tessa Jowell assured Parliament that protecting children was the number one aim of their new gambling laws,"[6] but despite warnings from opponents, such as the Salvation Army and the U.K.'s Methodist Church, Secretary Jowell and her government were "promoting gambling at every opportunity."[7]

---

[1] *See* AMATEUR SPORTS INTEGRITY ACT, S. REP. NO. 16, 107th Cong., 1st Sess. (2001) [hereinafter SPORTS INTEGRITY ACT 2001 SENATE REPORT or S. REP. 107-16], *at* www.gpoaccess.gov. *See also* John W. Kindt & Thomas Asmar, *College and Amateur Sports Gambling: Gambling Away Our Youth?*, 9 VILLANOVA SPORTS & ENTERTAINMENT L.J. 221, 221–52 (2002) (lead article) [hereinafter *Gambling Away Our Youth*], *available at* www.heinonline.org.

[2] Tim Shipman, *'Children at risk of slot machine addiction,' warns gambling expert*, DAILY MAIL (United Kingdom), Nov. 6, 2006, *at* www.dailymail.co.uk.

[3] *Id.*

[4] *Id.*

[5] *Id.* (quoting Prof. Mark Griffiths, Nottingham Trent Univ.).

[6] *Id.* (quoting Shadow Culture Secretary Hugo Swire).

[7] *Id.*

EXECUTIVE SUMMARY OF ACADEMIC LITERATURE

Strategic Problem (SP.9):

Internet gambling activities exemplify the most dangerous aspects of gambling.

Internet gambling is a large threat to the national security of individual countries, as well as the international community of nations.[1] Allegedly catalyzing and funding international organized crime and terrorism, Internet gambling constitutes a virulent threat to the maintenance of a favorable world public order.[2] Internet gambling also destabilizes national and international banking and financial systems.[3]

Monetary interests promoting Internet gambling have long referred to Internet gambling as the "killer application" of the Internet, the world

---

[1] *See generally Internet Gambling Prohibition Act of 2006: Hearing Before the Subcomm. on Crime, Terrorism, and Homeland Security of the House Comm. on the Judiciary*, 109th Cong., 2d Sess. (2006) [hereinafter *Cong. Hearing 2006 on Internet Gambling and Crime, Terrorism, and Homeland Security*], *at* www.gpoaccess.gov. *See also* Letter supporting the Unlawful Internet Gambling Enforcement Act legislation of 2006, from 49 St. Att'ys Gen., Nat'l Ass'n Att'ys Gen., to the Leadership of the U.S. House of Representatives and Senate, Mar. 21, 2006 (the Nev. Att'y Gen. was unsupportive) [hereinafter 49 St. Att'ys Gen. Support the Unlawful Internet Gambling Enforcement Act Legislation of 2006], *available at* www.heinonline.org; Letter opposing H.R. 2046 (2007), U.S. Rep. Barney Frank's (D-MA) bill to repeal the 2006 Unlawful Internet Gambling Enforcement Act, from 45 St. Att'ys Gen., Nat'l Ass'n Atty's Gen., to the Leadership of the U.S. House of Representatives and Senate, Nov. 30, 2007 [hereinafter 45 St. Atty's Gen. Oppose Repeal of the 2006 Unlawful Internet Gambling Enforcement Act], *available at* www.heinonline.org.

[2] *Id.*; *see* John W. Kindt & Anne E.C. Brynn, *Destructive Economic Policies in the Age of Terrorism: Government-Sanctioned Gambling as Encouraging Transboundary Economic Raiding and Destabilizing National and International Economies*, PROG. ARMS CONTROL, DISARMAMENT & INT'L SECURITY, U. ILL. 1, 1–31 (2005) (invited article reprinted) [hereinafter *Int'l Security: Gambling's Destabilizing Economies*], *available at* www.heinonline.org.

[3] *See, e.g*, John W. Kindt & John K. Palchak, *Legalized Gambling's Destabilization of U.S. Financial Institutions and the Banking Industry: Issues in Bankruptcy, Credit, and Social Norm Production*, 9 EMORY BANKR. DEV. J. 21, 21–69 (2002) (lead article) [hereinafter *Gambling's Destabilization of Financial Institutions*], *available at* www.heinonline.org.

wide web, and cyberspace, including cell phones (hereinafter referenced collectively as "Internet gambling").[4]

Internet gambling places electronic gambling at every work station, at every school desk, and in every living room. The phrase "click your mouse, lose your house" is a common phrase at academic conferences and state legislative hearings analyzing Internet gambling.[5]

In the United Kingdom in 2006, academics such as Professor Jim Orford of Birmingham University placed Internet gambling problems "on a par with drug addiction problems"[6] and calculated that "[u]p to one million people a year could become hooked on internet gambling,"[7] because of the U.K. Gambling Act 2005 encouraging gambling.[8] During a 6-month timeframe during 2006, an "average of 5.8 million people a month visited online gambling sites."[9]

---

[4] *See, e.g.*, William H. Bulkeley, *Feeling Lucky? Electronics is Bringing Gambling into Homes, Restaurants and Planes*, WALL ST. J., Aug. 16, 1995, at A1 [hereinafter *Bringing Gambling into Homes, Restaurants and Planes*], *at* www.wsj.com. For an academic article foreshadowing Internet gambling concerns by the business community, see Joseph G. LaTessa, *Internet Gambling and the Regulation of the Internet*, 29 ARK. BUS. & ECON. REV. 11–15 (1996) [hereinafter *LaTessa on Internet Gambling*], *available at* www.heinonline.org.

[5] John W. Kindt & Stephen W. Joy, *Internet Gambling and the Destabilization of National and International Economies. Time for a Comprehensive Ban on Gambling Over the World Wide Web*, 80 DENV. U. L. REV. 111, 111–53 (2002) [hereinafter *Gambling's Destabilization of Economies*], *available at* www.heinonline.org. For an overview of Internet gambling issues, see EDWARD A. MORSE & ERNEST P. GOSS, GOVERNING FORTUNE: CASINO GAMBLING IN AMERICA chapt. 10 (Univ. Mich. Press 2007) [hereinafter GOVERNING GAMBLING].

[6] *Online gambling 'could lead to a million addicts'*, Nov. 24, 2006 [hereinafter *U.K. Online Gambling Could Lead to a Million Addicts*], *at* www.thisislondon.co.uk.

[7] *Id.*

[8] *Id.*

[9] *Id.* By comparison, in the United States, which started widespread casino gambling via the Indian Gaming Regulatory Act of 1988, 25 U.S.C. § 2701 *et seq.* (1988), the 1999 U.S. National Gambling Impact Study Commission heard expert testimony reporting millions of new addicted gamblers, hooked initially by electronic gambling devices (EGDs)/slot machines. *See, e.g.*, Assoc. Press, *Millions are addicted to problem gambling, panel told*, EVANSVILLE PRESS (Ind.), Jan. 23, 1998, at 16 [hereinafter *U.S. Commission Reports Millions Addicted to Gambling*].

A 2006 study by RSe Consulting on Internet gambling commissioned by the U.K. Department for Culture, Media and Sport[10] cited "research showing that three out of four people who bet on the Internet are either problem or pathological [addicted] gamblers—compared with just ... [22 percent] who gamble, but not on the Internet."[11] The "study claims that criminal gangs are exploiting lax security on casino websites to launder millions"[12] and the U.K. Shadow Culture Secretary Hugo Swire highlighted "the admission in this government-funded report that online gambling is being used to fund criminal activity."[13]

Particularly dangerous was the reported link "between gambling sites and video games"[14] and Big Gambling's target marketing to children and teens of "'Free' games that allow[ed] adolescents to learn how to play without actually betting money [but which] 'distorted their perception of reality.'"[15] Professor Mark Griffiths of Nottingham Trust University also reported his 2006 survey that 9 percent "of 11 to 15-year-olds had gambled on the Internet."[16]

---

[10] *Alarming Claims In New Study*, Nov. 2, 2006 [hereinafter *U.K. Government Study Claims "Free" Gambling Games Lure Teens into Gambling Addictives Practices*], *at* www.online-casinos.com.
[11] *Id.*
[12] *Id.*
[13] *Id.*
[14] *Id.*
[15] *Id.*
[16] *Id.*

EXECUTIVE SUMMARY OF ACADEMIC LITERATURE

Strategic Problem (SP.15):

Increased legalized gambling increases suicides by creating new gambling addicts among adults, young adults and teenagers.[1]

Increasing numbers of experts and clinicians studying pathological gambling have reported that when a new person is "once hooked" they are "hooked for life."[2] The salient points are that: (1) these are new pathological (i.e., "addicted") gamblers and (2) these gamblers may be addicted for life (although in remission in many cases).[3] *A fortiori*, gambling via cyberspace and particularly via the Internet intensifies these problems—a substantial number of which will be irreparable, especially when manifested as a doubling of the adult suicide rates in gambling cities (versus nongambling cities)[4] and resulting in new gambling suicides among children, teens, and young adults.[5]

---

[1] *See Study Links Suicide Increase to Gambling*, N.Y. TIMES, Dec. 16, 1997, [hereinafter *Study Links Suicide Increase to Gambling*], *available at* http://webservl.startribune.com. For the complete study, see David P. Phillips et al., *Elevated Suicide Levels Associated with Legalized Gambling*, 27 SUICIDE & LIFE-THREATENING BEHAV. 373, 376–77 & Table 3 (1997) [hereinafter *Phillips on Elevated Suicide Levels Caused by Legalized Gambling*]. Of course, these studies regularly adjust for other causation variables. *See* Press Release, U. of Cal. San Diego, "Increase in Legalized Gambling Is Linked to Higher Suicide Rates in UCSD Study" (Dec. 15, 1997); Shaun McKinnon, *Study Links Gambling, Suicide*, LAS VEGAS REV.-J., Dec. 15, 1997, at B1 [hereinafter *Study Links Gambling, Suicide*], *at* www.lvrj.com. *See generally* Sandra Blakeslee, *Suicide Rate Is Higher in Three Gambling Cities: Study Shows as Betting Rises in U.S.*, N.Y. TIMES, Dec. 16, 1997, at A10 [hereinafter *Suicide Rate Is Higher in Gambling Cities*], *at* www.nytimes.com. *See also* Stephen Braun, *Lives Lost in a River of Debt*, L.A. TIMES, June 22, 1997, at A1 [hereinafter *Lives Lost in a River of Debt*], *at* www.latimes.com. This extensive article reports how coroner's subpoenas had to be issued to Illinois casinos to discover the $100,000s of dollars lost gambling by several suicides, and these problems were not reported as such in the local news until after this article was printed on page one of the *L.A. Times*. *See id. See generally* Art Nadler, *Nevada Suicide Rate No. 1 in U.S.*, LAS VEGAS SUN, Aug. 29, 1997 [hereinafter *Nevada Suicide Rate No. 1 in U.S.*], *at* www.lasvegassun.com.

[2] *See, e.g.*, *Mindsort, Colorado Lottery 1997.*

[3] Cam Simpson, *Baby Death Plot Told: Suburb Mom Indicted in Insurance Scheme*, CHI. SUN-TIMES, Mar.7, 1998, at 1–2 [hereinafter *Baby Death Plot*], *at* www.suntimes.com.

[4] See note 1 *supra* and accompanying text.

[5] *Id.*

Gambling Costs Equating to Drug Addiction Costs: The "Doubling" of Socioeconomic Costs to Taxpayers When Gambling is Decriminalized

In the case of concentrated and multiple electronic gambling devices (EGDs), such as in casinos and racinos (*i.e.*, EGDs at racetracks), the "accessibility" and new "acceptability" (*i.e.*, legalization) to the public dictates that the new pathological (*i.e.*, addicted) gamblers will double from approximately 1.0 percent of the public, increasing to 2 percent. Similarly, the new problem gamblers will double from approximately 2 percent of the public, increasing to 4 percent. When the category is specifically focused on teens and young adults, these rates are virtually doubled again to between 4 percent to 8 percent combined pathological and problem gamblers.[1] These "doubling increases" have reportedly occurred within the gambling facilities' "feeder markets."[2]

Gambling activities via cyberspace and particularly via the Internet, eliminate the radial feeder markets around the casino EGDs and maximize the accessibility and acceptability factors for gambling (and concomitant social negatives) by placing EGDs in every living room, at every work station, and at every school desk. Children, teens, and young adults conditioned by the Nintendo phenomenon of the 1990s were already demonstrating double the pathological and problem gambling rates of the older adult populations who matured without video games and without the accessible legalized gambling venues.[3]

Accordingly, the 1999 U.S. National Gambling Impact Study Commission (NGISC or 1999 U.S. Gambling Commission) recommended that there be no legalization of Internet gambling and that the U.S. laws

---

[1] *See e.g.*, Durand F. Jacobs, *Illegal and Undocumented: A Review of Teenage Gambling and the Plight of Children of Problem Gamblers in America*, in COMPULSIVE GAMBLING: THEORY, RESEARCH, AND PRACTICE 249 (1989), [hereinafter *Prof. Jacobs on Teenage Gambling and the Plight of Children*].

[2] NAT'L GAMBLING IMPACT STUDY COMM'N, FINAL REPORT 4-4 (June 1999) (50-mile feeder markets) [hereinafter NGISC FINAL REPORT], *at* http://govinfo.library.unt.edu/ngisc; John W. Kindt, *Diminishing or Negating the Multiplier Effect: The Transfer of Consumer Dollars to Legalized Gambling: Should a Negative Socioeconomic "Crime Multiplier" be Included in Gambling Cost/Benefit Analyses?*, 2003 MICH. STATE DCL L. REV. 281, 312–13 App. (2003) (lead article) (35-mile feeder markets) [hereinafter *Gambling's Crime Multiplier Effect*], *available at* www.heinonline.org. John Welte, St. Univ. N.Y. at Buffalo, 2004 Study (10-mile feeder markets).

[3] *See generally Prof. Jacobs on Teenage Gambling and the Plight of Children*, *supra* note 1.

criminalizing gambling over the wires be strengthened.[4] The Commission also de facto recommended that the laws criminalizing Internet gambling be redrafted to eliminate any ambiguities and to establish a virtual ban on gambling in cyberspace.[5]

[4] 18 USC § 1084 (the "Wire Act").
[5] NGISC FINAL REPORT, *supra* note 2, at recs. 5.1–5.4.

STOP PREDATORY GAMBLING IN NEW YORK

Coalition Against Gambling in New York

Hon. John J. LaFalce, *Honorary Chairperson*
Joel S. Rose, *Chairperson*
Rev. James David Audlin (Distant Eagle), *Vice Chairperson*
Charlotte Nindl Wellins, *Secretary*
Dr. Stephen Q. Shafer, *Treasurer*

310 Woodward Avenue
Buffalo, New York 14214

http://CAGNYinf.org
716-491-0305

Directors-at-Large:
Joseph P. Eldred
Douglas M. George-Kanentiio
Rev. Duane R. Motley
Damaris W. McGuire
Xavier Rodriguez
Joan U. Thursh
Daniel T. Warren

December 1, 2009

United States House of Representatives
Committee on Financial Services
c/o Representative Barney Frank, Chairman (via e-mail)
and Representative Spencer Bachus, Ranking Member (via e-mail)

Dear Committee Members:

On behalf of the Coalition Against Gambling in New York, I write in opposition to HR 2266 and HR 2267. Our Coalition, formed in 2004, has as affiliates more than 35 groups from across the state, collectively representing many thousands of people, as well as numerous individuals who are otherwise unaffiliated. We are united in our opposition to predatory gambling. For a more detailed explanation of who we are, please see <http://CAGNYinf.org/AboutCAGNY20091201.pdf>.

Most of our efforts to date have focused on casino gambling. In New York, that translates into opposition to off-reservation Indian casinos. These operations impoverish the host communities (as a brief visit to Niagara Falls will make abundantly clear), corrupt public officials, and destroy thousands of lives through gambling addiction and its secondary effects on family members and others. We have spared no effort to combat what sometimes seems to be an impulse for self-destruction on the part of many of our state and local public officials, who profess to believe that gambling will bring prosperity to our state.

But all the damage from casinos, and all of our efforts to fight casino gambling, will pale in significance if Congress introduces legalized Internet gambling to the United States. Internet gambling is, in effect, a casino in every home, every office, and, increasingly every café or similar establishment where WiFi access has been provided. A person struggling to free him/herself from the grip of gambling addiction can make an effort to stay out of casinos, but how do they avoid their computer -- a casino open to them twenty-four hours a day, seven days a week? The addict need never leave his home to lose that home, or even to put a shirt on his back to lose that shirt.

The danger of this form of gambling was brought home to me at a conference of Stop Predatory Gambling about a year ago, One of the speakers was a man from Ohio whose son, while away at college, got involved in Internet gambling and quickly became so hooked that he resorted to armed robbery to replace his losses.

Fortunately, the young man was caught before anyone was shot, but his academic career, needless to say, lay in ruins.

Against this background, we examine the two bills under consideration by your committee. Taken together, they would appear to amount to legalization of an activity long held to be illegal under both U.S. law and various state laws, under the guise of regulation.

The first bill, H. R. 2266, the Reasonable Prudence in Regulation Act, would delay for yet another year the enforcement of the 2006 Unlawful Internet Gambling Enforcement Act (UIGEA). That act did not make any form of gambling illegal; it merely enforced existing law by requiring banks and other financial institutions to refrain from processing transactions in support of illegal online gambling operations. That was a perfectly reasonable, modest effort to put some teeth in existing laws. The UIGEA has been on the books for three years. It is time to let the law work as intended.

The proposed new law requires close examination to divine its true intent and meaning. H.R. 2266 does not even mention the UIGEA by name; rather, it refers to obscure part and section numbers of the U.S. Code.

The second bill, H.R. 2267, the Internet Gambling Regulation, Consumer Protection, and Enforcement Act, reads like something intended to introduce new regulation to an already legal activity. Nowhere does it incorporate the term "legalize" or "legalization," but that, of course, is the clear intent of the bill.

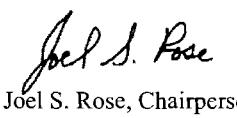
The proposed law purports to require Internet gambling service providers to "utilize appropriate technology to determine the age and location of users" and to "adopt and implement systems to protect minors and problem gamblers." Good luck with that! Currently there is no state or other jurisdiction that can claim any effectiveness in that area. What makes the supporters of this bill believe that it can or will be done? When do the "Mission Accomplished" banners come out?

You are considering the expansion of a pernicious industry into a form that knows no bounds in terms of access to its potential victims. Meanwhile the proposal gives lip service to types of regulation that seem totally illusory. This is a solution in search of a problem, and if it passes, the nation will surely rue the day.

Please drop these dangerous proposals and focus on the real and pressing needs of the nation.

Thank you.

Sincerely,



Joel S. Rose, Chairperson

CasinoFreePA

a statewide coalition of groups and individuals
opposing casino gambling in Pennsylvania
P.O. Box 151
Penryn, PA 17564
Phone (717)575-2771
www.casinofreepa.org

H.R. 2266, Reasonable Prudence in Regulation Act,
and H.R. 2267, the Internet Gambling Regulation, Consumer Protection, and Enforcement Act
10 a.m., December 3, 2009, 2128 Rayburn House Office Building
Full Committee

Members of the House Financial Services Committee:

Thank you for allowing this statement to be read aloud and placed into the record of this hearing on H.R. 2266 and H.R. 2267.

This letter asks for this committee to act with wisdom and discernment and to vote "NO" on both of these pieces of legislation.

Gambling is totally dependent on losers.

John Stuart Mill, who was very vocal on individual freedom, made his case clear in his development of the harm principle which holds that each individual has the right to act as he wants, so long as these actions do not harm others.

Gambling comes with a host of negative, harmful impacts. In addition to suicides and addiction, gambling has helped put people in bankruptcy, divorce and criminal courts further impacting individuals as well as society-at-large. The harm factor is very evident.

In a recent article, Dennis Martell, coordinator of health education at Michigan State University, said surveys show that the number of MSU students who admit that online gaming — which includes gambling — is affecting their academic work has more than doubled from 9% in 2000 to 18.5% today. And this is just among students who admit it.

"It is the fastest-rising health care issue on campus," Martell said. "Among male students, it's up to 22% admitting it's a problem." http://www.freep.com/article/20091110/COL32/91110047/1318/Can-you-count-on-having-Cadas-poker-success?-Dont-bet-on-it

The National Gambling Impact Study Commission had great concerns about Internet gambling and also strongly opposed convenience gambling. How much more convenient than to allow the gambling interests to come right into your home, place of employment, library, school, etc.?

UIGEA is following some of the wise recommendations in Chapter 5 of the National Gambling Impact Study Commission re Internet gambling. UIGEA is only one weapon in the arsenal in the battle against online bookies. To postpone the enforcement of UIGEA for a year is very unwise.

In Pennsylvania, a young man in his early twenties testified about his online gambling. At the time of the hearing, this young man was headed to prison because he had embezzled between $250,000 and $300,000 from the bank where he worked to gamble online.

This was only one person sending what to most people is an extraordinary amount of money into the black hole of cyberspace without knowing who is really behind the betting window and what his gambling losses would fund. If this is being done across the world, one can only imagine how this could destabilize not just individual economies but that of countries. Depending into whose hands that money goes, national and international security could be at very high risk.

The Economic Times on January 2, 2009 stated *Islamist terrorist networks, particularly al-Qaeda, are using gambling websites to launder money and train potential terrorists in Britain without them having to risk travelling to camps in Pakistan. .... Terrorism experts warned the security services that the Internet is increasingly being used to train terrorists and raise money and has become the primary medium for promoting radical Islam.* (The report came from experts from Jane's Intelligence Group.)
http://economictimes.indiatimes.com/Infotech/Terrorists_use_gambling_websites/articleshow/3927717.cms

Legalizing a harmful activity never removes the harm. It just changes the legal consequences.

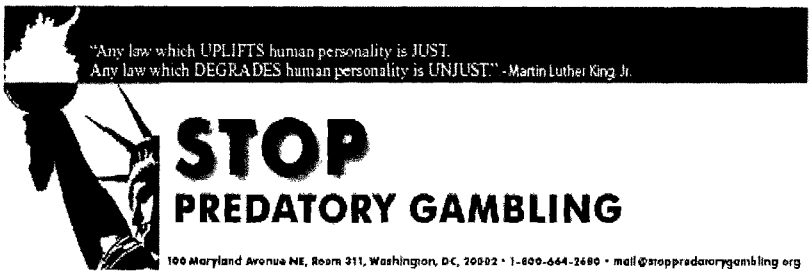
Deliberately and knowingly putting citizens in harm's way in order to gain tax revenues is irresponsible.

Dr. Mary Jane Wiseman in her paper, "Gambling and Virtue in Government," said that "Governments that promote gambling as a means of public revenue have pulled on the loose threads of the social fabric causing it to unravel."

Unraveling the social fabric of our Nation is the opposite of what we need at any time but especially at this time in our history.

We are urging a "NO" vote on both H.R. 2266 and H.R. 2267.

Dianne M. Berlin, coordinator, CasinoFreePA



December 2, 2009

The U.S. government's obligation to protect its citizens from a predatory, addictive product exceeds its responsibility to provide one more gambling venue to poker players or solitary slot aficionados. It is certainly appropriate to call Internet gambling "predatory," because it exploits the weakness of its victims to make profit. The main beneficiaries from HR 2267 would be millionaire Internet gambling moguls. There aren't even the gambling industry's usually trumpeted "jobs, jobs, jobs" to justify the carnage that legalized Internet gambling would cause.

Gambling addiction rises predictably with proximity of games and speed of play. Nothing is more proximate than a personal computer, and nothing works faster. Plus, the Internet adds the deadly element of anonymity. The neighbors won't spot you at the virtual casino. Solid citizens with no previous criminal record commit outrageous crimes when addicted to gambling.

These are probably the reasons behind the data supplied by two university studies on Internet gambling. In 2002, the University of Connecticut did a study on gambling using patients at their medical and dental schools. They found that over half of the subjects they studied who gambled on the Internet would be classified as problem or pathological gamblers. Their findings lead them to say, "This study is among the first to evaluate the prevalence of Internet gambling and suggests that people who gamble on the Internet are likely to have a gambling problem."

Although the U. of Connecticut study evaluated a small number of Internet gamblers, and the subjects were in a somewhat controlled environment, in 2007 the University of Lethbridge in Alberta, Canada studied 1,920 subjects from Canada, the U.S., and other nations and found that 42.7 percent of the subjects would be classified as problem gamblers. Although the Internet gambling industry has funded studies of their own that claim to show minimal harm, gambling industry funded studies on Internet and other gambling forms should be met with the same disdain and scorn that tobacco industry studies receive.

The rate of divorce, spousal and child abuse, drug and alcohol addiction, bankruptcy, and suicide rises disproportionately high with gambling addiction. HR 2267 says fine words about protection for problem gamblers, but the simple truth is that gambling interests would go broke without the addicts. Scholarly studies in the U.S., Canada, Australia and New Zealand show that problem and pathological gamblers provide from 35 to 70% of casino income. Gary Loveman, the CEO of Harrah's, did loyalty studies that

reported that 10% of the gamblers in their chain of casinos generated 90% of their income. Addicts are the lifeblood of the gambling industry, so their fine words are fluff and public relations.

This is not a "conservative moral issue," as it has been described by its critics. Disdain for Internet gambling crosses all party lines and interests. In 2006, the U.S. House of Representatives voted overwhelmingly to pass the Unlawful Internet Gambling Enforcement Act, which outlawed most forms of Internet gambling. Those votes contained huge majorities of Republicans and Democrats, liberals, moderates and conservatives. The NFL, the National Association of Attorneys General, nearly all amateur athletic leagues, hundreds of universities, dozens of religious organizations, and many other organizations supported the UIGEA and helped to get it through Congress and signed by the president.

Offshore opportunists claim that the U.S. can't control Internet gambling, so it should regulate and tax it. If it can't be controlled, then how could it be responsibly regulated or taxed? States already have a difficult enough time regulating gambling at casinos and racetracks. Internet gambling would prove much more difficult to monitor than brick-and-mortar casinos, where teens are reported to have gambled in the tens of thousands in Atlantic City alone. Gambling proponents claim legalization will decrease illegal gambling, though no jurisdiction has ever proved that. To the contrary, the mob loves legalized gambling. It trains future customers.

States should be very fearful of the implications of **HR 2267**. Representative Frank has recently been quoted: "The Internet is transcendent of State boundaries, so I would put aside the geographic location. I think that is irrelevant." If Representative Frank gets his way, states would be powerless to fight Internet gambling within their own boarders.

Internet gambling is a highly predatory, toxic product that would enrich gambling industry promoters and would cause a wave of gambling addiction and misery that would be a blight on the American public. **HR 2267** and **HR 2266** should be rejected and tabled.

Thank you for the opportunity to offer testimony.

Cordially,

Dr. Guy C. Clark, chairman
Stop Predatory Gambling
guy@clarkdds.com
(c) 505-259-7541

Helping Families Thrive

8605 Explorer Dr., Colorado Springs, CO 80920
FocusOnTheFamily.com
719-531-3400

December 2, 2009

U.S. House Financial Services Committee
Washington, D.C. 20515

Dear Members of the House Financial Services Committee:
Because H.R. 2267 effectively converts approximately 91 million U.S. homes with Internet service into federally taxed, online casinos, Focus on the Family considers Representative Barney Frank's online gambling policies to be socially and fiscally irresponsible. Focus on the Family, and the millions of citizens we represent, strongly urge you to oppose Rep. Frank's legislation that would delay implementation of the Unlawful Internet Gambling Enforcement Act (UIGEA), alongside another bill to overturn UIGEA by legalizing and taxing Internet gambling in the United States.

H.R. 2267 legalizes online gambling and overturns or repeals UIGEA, approved by Congress in 2006. H.R. 2266 delays the implementation of UIGEA regulations by a year. The Treasury Department and Federal Reserve recently delayed implementation of UIGEA regulations by another six months without sufficient reason. We are asking *why?* H.R. 2266 would delay UIGEA regulations by a whole year, putting families at risk, frustrating Congress and rendering UIGEA vulnerable to repeal by Rep. Frank's political manipulation. Furthermore, these unnecessary delays allow illegal online gambling sites to continue mocking U.S. laws and exporting illegal funds out of our nation's fragile economy without sufficient penalty. Other countries – most recently Poland – have policies prohibiting online gambling.

We urge you to consider your obligation to protect the wellbeing of U.S. citizens and families through wise financial prudence during these uncertain economic times. Taxing Internet gambling for federal revenues by exploiting people and addiction is a shameful business. No government policy should legalize or expand such an irresponsible and detrimental vice. Consider a few troubling facts:

- Problem gambling is three to four times higher with Internet gamblers than non-Internet gamblers.
- The Internet is piped into 91 million homes and used by nearly 230 million men, women and children in the U.S. – 24/7 gambling, addiction, speed, anonymity
- In 2009, approximately 2,184 online gambling sites operated by 585 foreign entities.
- Children - U.K. research established that one-third of online gambling sites could not stop children from gambling and many gambling sites conducted business irresponsibly.
- Crime is commonplace -terrorists using online gambling sites [*The Economic Times*, 1/2/2009]
  [See http://fota.cdnetworks.net/pdfs/2009-06-04-gambling-letter2.pdf for Fact Sheet and citations]

We cannot – and will not – stand by silently while online gambling interests manipulate a handful of Members of Congress, like Barney Frank, to push their dangerous agenda deep into U.S. federal policy. Lives and families are at stake, not to mention the future of our nation in the midst of economic duress. Neither state borders nor deadbolts on front doors can keep online casinos out of our homes. Thus, UIGEA must be upheld and its regulations implemented soon to protect families and state jurisdiction over gambling laws.

- **Please oppose H.R. 2266** – delays deadline for financial service compliance with UIGEA by a year.
- **Please oppose H.R. 2267** – legalizes, expands and taxes Internet gambling in the U.S.

Thank you for your time, consideration and service.

Sincerely,

Tom Minnery

Tom Minnery, Senior Vice President
Government and Public Policy

PREDATORY GAMBLING IN ERIE COUNTY

Hon. John J. LaFalce,
Honorary Chairperson
Joel S. Rose,
Co-Chairperson
Anna Kay France, Ph.D.,
Co-Chairperson
James A. Metzger, D.D.S.,
Vice Chairperson
Judith M. Metzger,
Secretary
Rev. Merle E. Showers,
Treasurer

http://NoCasinoErie.org
(716) 491-0305

Citizens Against Casino Gambling in Erie County

310 Woodward Avenue
Buffalo, New York 14214

Directors-at-Large

James E. Anderson
Anthony C. Battaglia
Hank J. Bromley, Ph.D.
Allen J. Coniglio
Mark D. Donnelly, Ph.D
Robert J. Heffern
Irving J. Rubin
Robert J. Schulman, M.D.

December 2, 2009

United States House of Representatives
Committee on Financial Services
c/o Representative Barney Frank, Chairman (via e-mail)
and Representative Spencer Bachus, Ranking Member (via e-mail)

Dear Committee Members:

On behalf of Citizens Against Casino Gambling in Erie County, I write in opposition to HR 2266 and HR 2267. Our group, formed in 2001, has over 1000 members and supporters in Western New York. We are opposed to any kind of casino gambling in our community, and to the legalization of access to casino-style gambling through the Internet.

Every gambling industry depends on the financial losses of its customers, with a high percentage of its profits coming from problem and addicted gamblers. And the catastrophic effects of gambling addiction reach to entire families and the surrounding community, leading to bankruptcy, divorce, broken homes, crime (including fraud, forgery, tax evasion, larceny, burglary, aggravated assault, robbery, and murder), and suicide.

This legislation would provide only the flimsiest of safeguards against such abuses: the requirement to "utilize appropriate technology to determine the age and location of users" and to "adopt and implement systems to protect minors and problem gamblers." But what sort of technological systems could possibly do that? And, if they were really available, who would make sure they were implemented? And how? The gambling industry itself would have every incentive to try to keep problem gamblers and minors as customers, to ensure present and future profits. How would our government really provide protection for us?

The surest way to protect our citizens would be to prevent any legalization of Internet gambling in the first place. We have long been fighting a war on drugs, opposing any legalization of potentially addictive drugs, to protect our society. Why would we choose to legalize an industry which gives virtually unlimited access to another source of addiction, already extremely damaging to our society?

We urge you to oppose this effort to bring legalized gambling within reach of our citizens through the Internet.

Sincerely,

Anna Kay France

Anna Kay France, Ph.D.
Co-Chairperson

Internet Gambling
Issues & Solutions

1 PROBLEM GAMBLING

Issue	Solution
A. Problem Gamblers	Pattern Recognition Software
B. Dangerous Gambling	Circuit Breakers
C. Online Gamblers Who Drink Too Much	Adaptive Testing

2 GAME HONESTY & TRANSPARENCY

Issue	Solution
A. Software Manipulation	Double Randomness
B. Assuring State Regulatory Compliance	Game-Level Restrictions
C. Concealed Odds	Standardized Truth-In-Labeling

3 CONSUMER PROTECTION

Issue	Solution
A. Underage Gambling	ID Requirement
B. Player Errors	Bet Verification
C. Dispute Resolution	Cryptographic Audit Trails
D. Novice Players	Unlimited Free-Practice Availability

4 ENFORCEMENT TOOLS

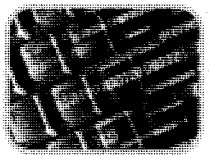
Issue	Solution
A. Assured Integrity	Bet Level Accounting & Auditing
B. Foreign Casinos	Prepaid Random Number Audit Codes
C. State-Apportioned Taxes	Bet-Level Accounting

To identify problem gamblers, Internet casinos can use

Pattern Recognition Software

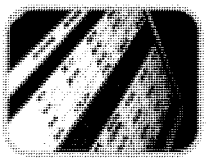
1 Some players are problem gamblers.

A tiny fraction of the population are "problem gamblers" who can't control their gambling. A physical casino's main way to spot problem gamblers is physical observation. Casinos train their workers in what to look for.



2 Internet casinos can't "watch" gamblers.

Internet casinos don't have live dealers or even video cameras. They cannot physically see their customers. But there are different and effective tools they can use.

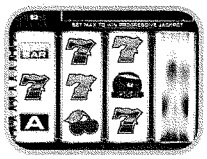


3 Internet casinos can save player data.

Internet casinos can digitally record all money deposited and every bet made. They can also save "non-betting" information like how fast customers play and how often they add new money.

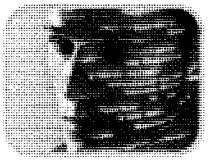
4 Automated software can recognize "problem patterns."

Since the Internet casino has this data, it can use special pattern recognition software to help spot problem gamblers. This software can automatically look for hidden patterns that could mean players are anxious or compulsive.



5 Problem patterns include...

Most slot players press "spin," watch the reels spin, then wait to see if they won before betting again. Problem gamblers don't wait to see if they won the prior bet before betting again. Casino software can flag players who hit the "spin" button repeatedly while the reels are still spinning or those who hit the button instantly as soon as reels stop – without waiting to see if they won or lost.



6 To find the patterns, you must be looking for them.

The software used by Internet casinos to spot problem gamblers (in much the same way as physical casinos) would be neither difficult nor expensive.

©2009 Walker Digital Gaming. 90088_V6

Internet casinos can prevent reckless losses using...

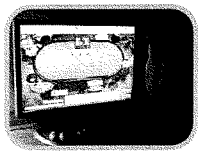
Circuit Breakers

1 Easy to lose quickly at web casinos.

Inexperienced gamblers can lose money very quickly, in either a physical casino or at an Internet casino. Physical observation of players is possible at a physical casino, but not on the web.

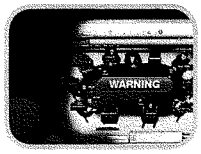
2 Hourly loss limits.

An Internet casino can have built-in limitations on how much money new players can lose per hour (unless they are registered high rollers). This limit can vary by type of game or even by the player's established history.



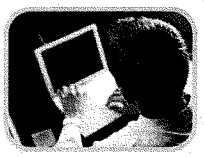
3 The Player plays normally.

Players do not need to do anything special. They play the casino games they choose and bet however they want to. Casino software tracks their losses in the background automatically.



4 Loss limit warning.

If a player's losses approach an hourly limit, either set by law or by the player himself, the casino can display a warning on the player's screen.



5 Players can then adjust their play.

Once a player is made aware that he is approaching an hourly loss limit, he can choose to make smaller bets, play more slowly, or stop playing.

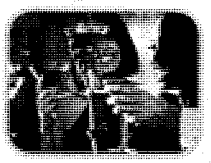
6 "Circuit breaker" Time-Out.

If a player reaches the hourly loss limit (e.g., $50 of losses per hour for slot play) then the casino temporarily stops taking bets from the player. This "circuit breaker" provides a "cooling off" period before he can start playing again.

©2009 Walker Digital Gaming. 90088_V8

How Can Internet Casinos Deal with

Online Gamblers Who Drink Too Much



1 Drinking and gambling often go together.

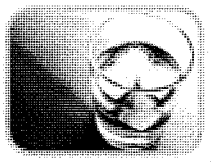
Many people like to drink while they gamble. Both drinking and gambling are forms of relaxation and escape.

2 That's why physical casinos serve free drinks.

Casinos are exciting venues where revelry is part of the fun for many people. Contrary to popular belief, casinos do not serve drinks to get players to make bad decisions.

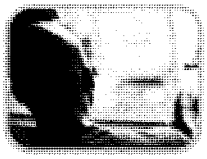
3 Physical casinos train employees and managers.

Casinos want to spot drunk or impaired gamblers before they create problems. That is why all casino employees are trained to handle these kinds of players.



4 Internet casinos cannot see if online players are drinking at home.

Even with a webcam, a casino would not be able to "see" someone who is drinking at home. This is very different from a physical casino.



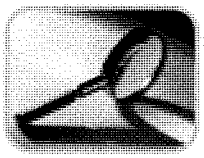
5 Internet casinos can use a different method to determine if players have been drinking, and if so, how much.

A very simple one-question quiz or puzzle can be shown to an Internet gambler every 10 to 20 minutes. If he gets it wrong, another one could be shown. This is the web equivalent to walking straight on a white line. Failure to pass two tests, for example, can lock a player out of the system for a pre-determined time.

©2008 Walker Digital Gaming, 90066_V8

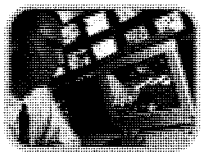
Internet casino games must be fair and honest. That calls for

Double Randomness



1 Games in physical casinos are constantly inspected.

To make sure games in physical casinos are fair, state regulators approve all game designs and carefully inspect all games, their components, and their handling by casino workers. These inspections are continuous and thorough.

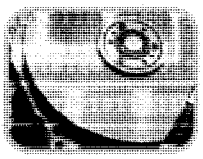


2 Physical games are recorded...and auditable.

To make sure physical casinos honestly report wins and losses to players, video cameras record every chip that is bet or paid and every card dealt or discarded. Each spin of a slot machine is recorded. This lets regulators perform audits when players and casinos have disputes.

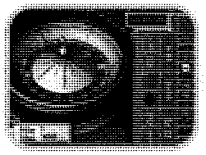
3 Internet casinos can't be physically inspected.

With an Internet casino, there is nothing physical to inspect. All games are server-based software. Internet casinos (or dishonest employees) could tamper with game software to cheat players or the casinos. Governments could lose tax revenues, too.



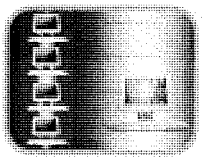
4 Internet casino games run on random numbers.

To be fair, all casino games must let a player win or lose based on pure chance. For Internet casinos, chance is created by having game software calculate a random number and then use that number to decide if the player wins or loses.



5 How random numbers determine wins or losses.

The random number is converted into a win or loss, according to a table of outcomes. For example, if an Internet roulette program generates random number 837265848, it might mean the roulette ball falls into the wheel's "14 Red" slot. But how can a player know that the number created by the software was truly random...and that the casino didn't tamper with it?



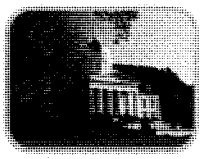
6 The solution:

The way to stop software tampering is to use a cryptographic process called "Double Randomness." Instead of letting Internet casinos run games based on their own random number (single randomness), players provide a random number each time (Double Randomness). Both random numbers are combined in a way that neither the player nor the casino can tamper with. Computer software does all the work automatically in about 1/10tb of a second.

©2003 Walker Digital Gaming. 90088_V8

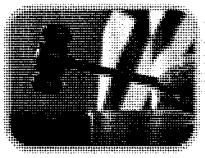
U.S. states will want Internet casinos to work with them on

Assuring State Regulatory Compliance



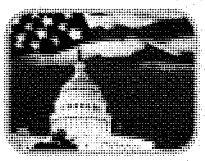
1 Gambling is heavily regulated by the states.
States have a legitimate interest in the regulation of gambling activities by their citizens. They will feel the same way whether the gambling is occurring at a physical or an online casino.

2 States will want to regulate Internet casinos, too.
States will not want Internet casinos to have an unfair advantage or lower consumer protection standards when compared with physical casinos located within their borders.



3 Many national companies comply with state and US regs.
For example, companies that sell goods and services from food to gasoline to credit cards comply with both Federal law and differing laws in the 50 states.

4 Casino companies operate in many different states.
In Pennsylvania, Harrah's Casino allows 18-year-olds to gamble. But in Nevada, Harrah's restricts gambling to players 21 and up since the two states have different laws. This does not present an undue burden.

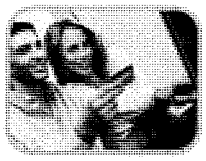


5 Internet casinos can handle state and federal regs.
To manage both Federal requirements and those of the individual states, Internet casinos must be directed from the start that they will have an obligation to comply with state and federal regulations so they can set up their software accordingly.

©2009 Walker Digital Gaming. 90088_V8

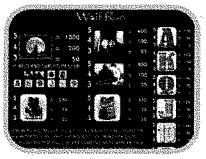
Consumer protection for Internet gamblers.

Standardized Truth-In-Labeling



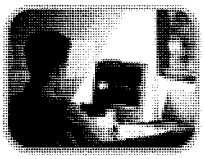
1 Consumers are entitled to know what they're buying.

Americans have come to expect accurate full disclosure labels on everything they buy – from hot dogs to clothing to automobiles.



2 At physical casinos the odds of winning are regulated by the state or players can ask.

For example, advertising might tell a slot machine player that for every dollar he bets, in the long term he can expect to win 92¢ back ("This slot machine has a 92% payback.") Players know that payback percentages are set by state regulations.



3 At Internet casinos, state regulations don't apply.

As a result, players have no way to know their chances of winning on any specific Internet casino game. This is especially true for slot machine games, where the odds cannot be determined; they must be revealed by the casino.

4 Internet casinos can provide consumer transparency.

The easiest way to for Internet casinos to operate fairly is to create a standardized pop-up window that shows the player the odds of winning any game offered by the Internet casino. Other key data can also be included.

5 "Truth in labeling" serves everyone.

Consumer protection in Internet casinos should be no different from anywhere else. People should be able to know the content of what they're buying.

©2009 Walker Digital Gaming. 90068_V8

To stop minors from gambling, Internet casinos can create an

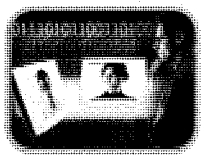
ID Requirement

1 Casinos should not serve minors.

Gambling is an adult activity.

2 Age verification on the Internet is unreliable.

Minors can easily use ID that belongs to parents or friends. A driver's license or a credit card number cannot be matched to an actual person who is sitting in front of a computer thousands of miles away.

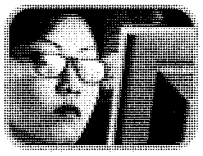


3 Real-time video is the best way to verify ID.

It uses the same method as the real world – having someone look at a specific photo ID and then comparing it to how the person *actually* looks.

4 A continuous video stream is not hard or expensive on the Internet.

Webcams are cheap and ubiquitous. Many modern computers have them already built in. An open live video talk connection (via Skype) is free.



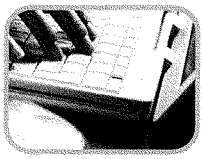
5 To prevent players from switching, casino personnel must occasionally check to see if the player has changed.

Otherwise an adult could start play (and then leave the room for a time) and a minor could sit down and gamble in someone else's place.

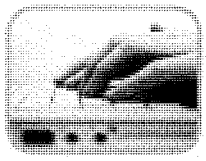
©2009 Walker Digital Gaming. 90088_V8

It's easy to make typing mistakes. Internet casinos can

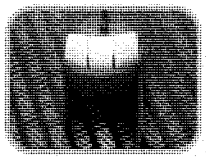
Prevent Errors Using Bet Verification



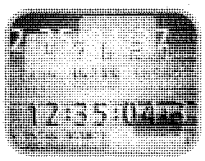
1 In an Internet casino, all bets are made by typing or clicking.
There are no chips used for betting as in a physical casino.



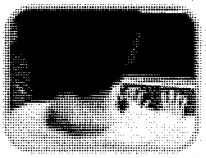
2 But people make typing and clicking errors all the time.
On many keyboards, holding down a key too long automatically repeats a number. A $10 bet accidentally becomes $100.



3 Internet casinos can add an extra verification step.
To prevent bet errors by online players, a casino can automatically verify any bet with a Yes/No confirmation click.



4 If a bet amount is out of the ordinary, software can trigger a query to verify it.
To keep play moving, only selected bets might be verified. For example, verification might be triggered if a player has never bet $100 before, or if a bet is a large percentage of the money in a player's account.

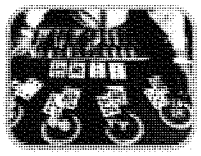


5 Verification allows for player correction.
The player clicks Yes if the bet is correct. If he clicks No, then he can enter the correct bet amount before the bet is accepted.

©2009 Walker Digital Gaming. 90088_V8

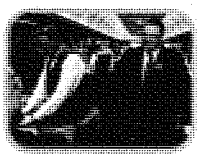
Since security cameras cannot monitor play in Internet casinos...

Cryptographic Audit Trails Resolve Disputes



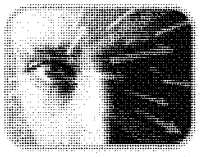
1 Consumer disputes are inevitable.

With so many chances for misunderstanding to occur, consumer disputes are inevitable. For example, sometimes it's unclear what bet decision the player intended.



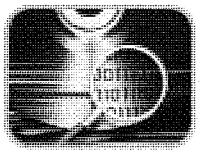
2 Physical casinos have developed practical ways to resolve disputes.

In a physical casino, multiple security cameras record every bet. Casino employees and other players serve as witnesses if a dispute arises. Managers are trained to resolve disputes quickly and fairly. Appeal procedures are established.



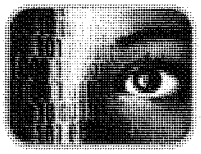
3 Internet casinos will generate different kinds of disputes.

Computers have their own peculiarities. Did my computer crash before the poker hand was finished? Did the player really push a certain key or button? How do I know that the card dealt was really the next one in the deck?



4 In digital environments, only encrypted audit trails can prove what really happened.

All bets and player decisions for online casinos can be stored in secure, encrypted form. Appropriate cryptography prevents post-event tampering.



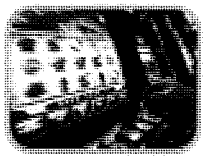
5 The player should be able to get live dispute resolution.

A U.S. licensed casino can offer a live person to resolve disputes using public key/private key pairs to unlock and review the audit trail for any gambling activity.

©2009 Walker Digital Gaming. 90088_V8

To protect novice players from an unsafe casino experience:

Unlimited Free-Practice Availability

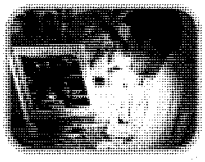


1 Millions of novice gamblers hurt themselves financially each year. They don't know how casino games work.

For example, if they press a "Max Bet" button on a slot machine they can unintentionally bet 10x more than they expected. Or, they might sit down at a $15 minimum blackjack table with a $50 bankroll hoping to "play for a while."

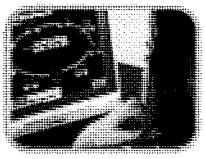
2 Physical casinos can't do much about this problem.

There aren't enough employees or resources to go around to help novices learn how to correctly bet and how to play safely.



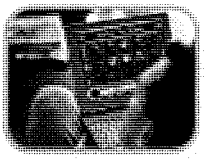
3 Internet casinos can do something about it. It would be easy and cost very little.

The Internet, without the need for live personnel or individual physical devices, can make it easy for players to learn about different games, rules and betting options.



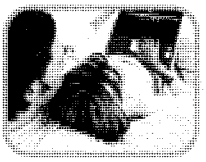
4 Offering a free practice area lets players learn a casino game without making bets.

Players can take their time and try out different options. This is especially valuable for new players who think casino gambling is "easy" but find out quickly that the only easy thing to do is lose when you don't know the game.



5 Offering free practice play is good for everyone.

Customers who learn how to play casino games have more fun, manage their budgets responsibly and come back to play again. Casinos do better when satisfied customers have a good time – win or lose.



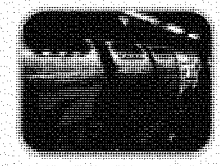
6 Free practice areas should be kept separate.

To prevent confusion, the free practice area of an online casino should be kept separate from the play-for-money area. This overall approach can be mandated as part of initial licensing requirements.

©2009 Walker Digital Gaming. 90088_V8

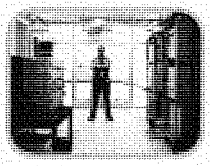
Standards for integrity in Internet gambling

Bet Level Accounting & Auditing



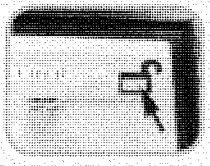
1 In physical casinos, state auditors regularly check physical gaming machines.

For example, state auditors verify that computer chips inside slot machines have not been tampered with. They check dice and cards frequently.



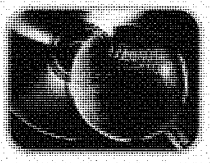
2 With Internet casinos, everything is based on software. Software can be manipulated.

Computer programs can be complex and interconnected. Only a handful of engineers would be able to detect tampering in a server-based casino system.



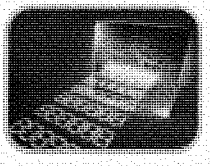
3 Software tampering can cheat players, casinos and the government.

How will a player, a casino or the U.S. Treasury know for certain that an online roulette wheel offered "true odds" on every spin?



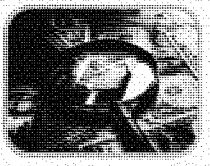
4 Only "total auditing" of every gambling outcome can reveal software tampering.

Spot checking leaves room for manipulation. If each deal of a "virtual" card, each roll of "virtual" dice and each spin of a "virtual" wheel is verified as random and honestly reported, everyone is protected.



5 No human labor need be involved.

Automated auditing software could continuously verify the integrity of each gaming outcome. The technology is available and not costly.



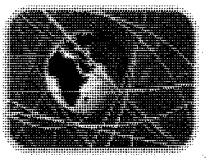
6 A flat fee per gambling outcome would cover the audit cost.

An audit fee would be independently assessed. It would not be dependent on whether a bet was won or lost or a profit was made.

©2009 Walker Digital Gaming. 90088_V8

U.S. regulators can gain an extra layer of safety with

Prepaid Random Number Audit Codes

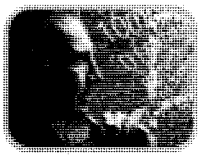


1 Online casinos will be based around the world.

Off-shore licensed Internet casinos will take bets from U.S. citizens.

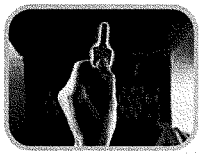
2 Assuring the integrity of off-shore Internet casinos has added challenges.

If a foreign casino or casino game is doing something suspicious, it may be harder to quickly turn the casino or game off pending resolution.



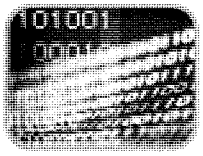
3 U.S. regulators would benefit from an added layer of protection.

That layer would involve the use of "blocks" of pre-assigned cryptographic audit codes provided to foreign licensed casinos by the U.S. Treasury.



4 Foreign Internet casinos would use audit codes to operate the casino's random number generator.

Each code number would be good for the creation of just one random number.



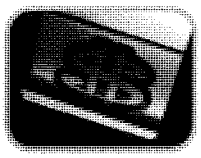
5 Foreign casinos would pre-pay for batches of these audit codes.

For instance, a million audit code numbers at 1¢ each would require prepayment of $10,000. Any casino that was not in compliance for any reason would not be sold codes and would be forced to stop operating.

©2009 Walker Digital Gaming. 90088_V8

To correctly pay state taxes, Internet casinos will need to utilize

State-Apportioned Taxes



1 For many U.S. states, casino taxes are an important revenue source.

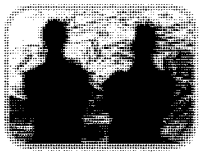
Each state has the right to collect gaming taxes from its citizens when those citizens gamble in a physical casino.

2 Congress will decide if Internet casinos will be required to pay state taxes.

Obviously, this a matter of significance to many states.

3 States will likely want to tax federally-licensed Internet casinos that serve their state's residents.

States will not want their physical casinos to have a competitive disadvantage against Internet casinos.



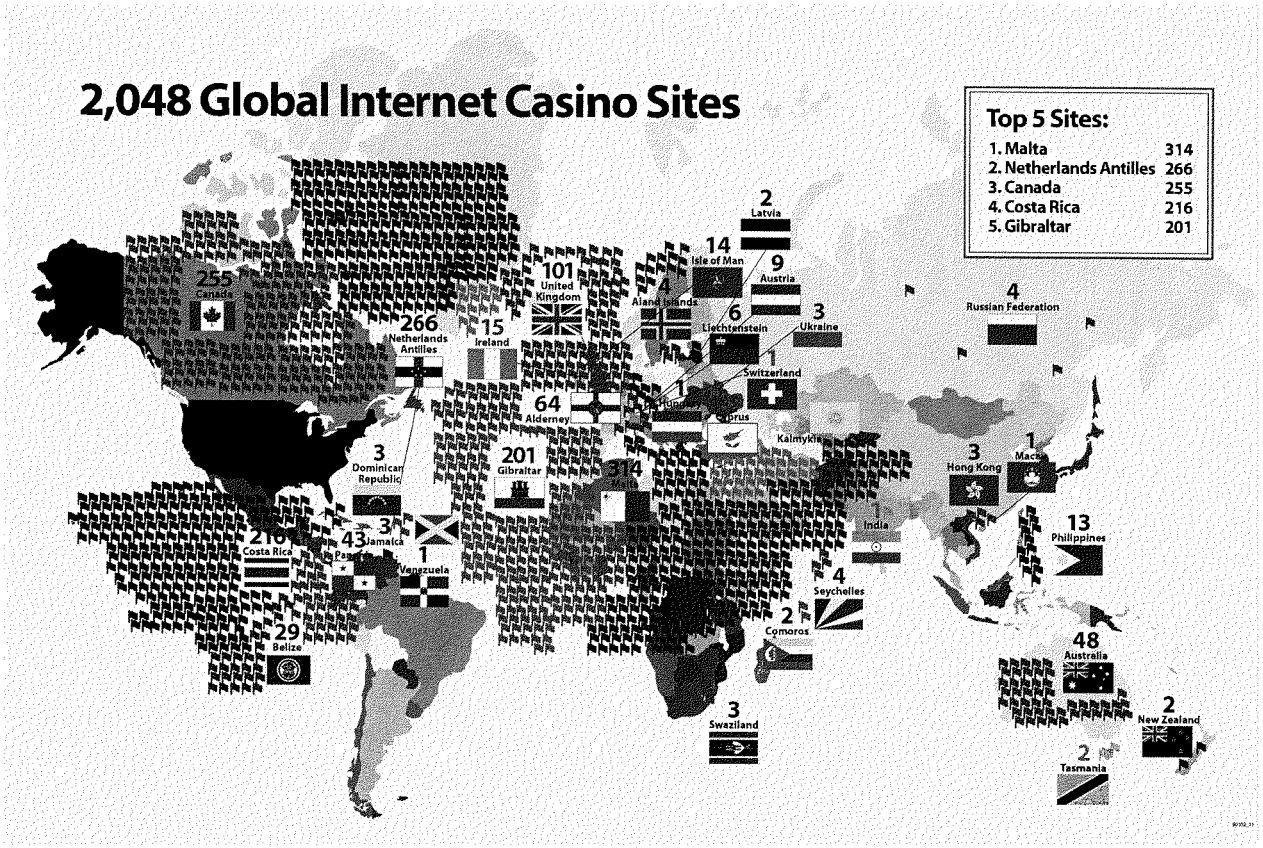
4 Each state may tax Internet casinos differently.

Just as each state has different taxes for physical casinos, each state will likely have its own tax structure for Internet casinos.

5 State tax regulations will impact Internet casino accounting.

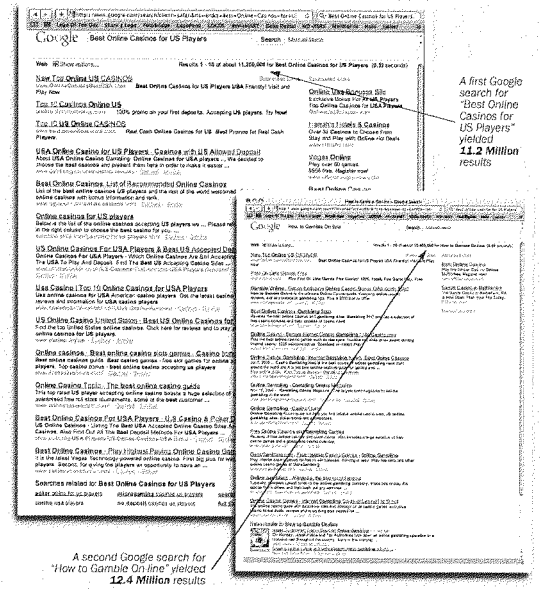
Thus Internet casinos will need to set up bet-level accounting to be able to comply with varying state tax requirements. Each bet made at an Internet casino should be treated as a separate event for potential tax purposes.

©2009 Walker Digital Gaming. 90088_V8


2,048 Global Internet Casino Sites
Top 5 Sites:
1. Malta 314
2. Netherlands Antilles 266
3. Canada 255
4. Costa Rica 216
5. Gibraltar 201
255 Canada
266 Netherlands Antilles
15 Ireland
101 United Kingdom
64 Alderney
201 Gibraltar
314 Malta
14 Isle of Man
4 Aland Islands
6 Liechtenstein
9 Austria
2 Latvia
3 Ukraine
1 Switzerland
1 Hungary
Cyprus
Kalmykia
4 Russian Federation
3 Dominican Republic
3 Jamaica
43 Panama
1 Venezuela
216 Costa Rica
29 Belize
1 India
4 Seychelles
2 Comoros
3 Swaziland
3 Hong Kong
1 Macao
13 Philippines
48 Australia
2 New Zealand
2 Tasmania

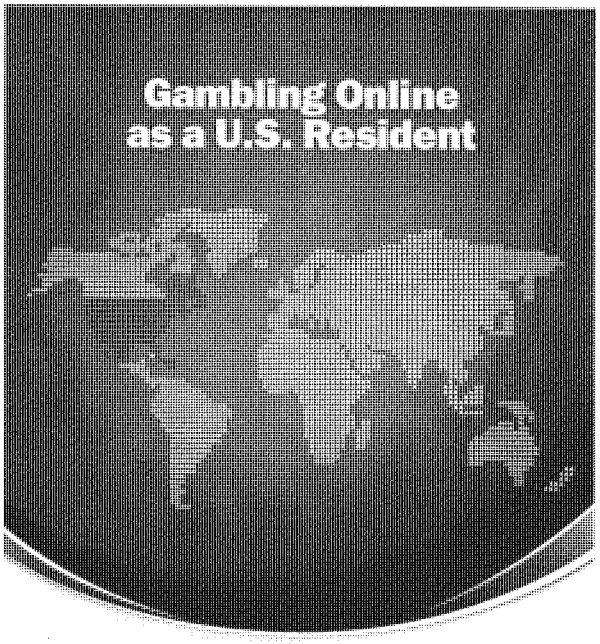
Internet Gaming is Readily Available to U.S. Consumers

A Google search for **"Best Online Casinos for USA Players"** yielded **11,200,000 results;** an abundance of links and references promoting gambling to American players.



A first Google search for "Best Online Casinos for US Players" yielded ***11.2 Million*** *results*

A second Google search for "How to Gamble On-line" yielded ***12.4 Million*** *results*



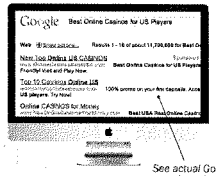
Internet gambling is illegal in the United States. This document is neither designed to encourage individuals to gamble nor to educate them on how to gamble.

The purpose of this document is instead to demonstrate to public officials that internet gaming is readily available for U.S. consumers without adequate consumer protections or restrictions in place.

90165_U6

Select, Register, Deposit & Play

Gambling Online as a U.S. Resident



See actual Google search on the back page (enlarged).

❶ Select

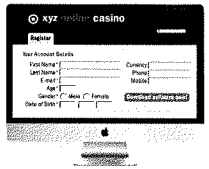
Identify and select a casino that accepts US players

A simple Google search for "Best Online Casinos for USA Players" yields a plethora of links to helpful references, such as:

- Rankings for Casinos Available to U.S. Players
- Blogs and Websites with Advice and Step by Step How-to's for Online Gamblers
- Actual Online Casino Websites

Quoted text from one exemplary online casino site:

"All the casinos we introduce above accept US players. Moreover, they have the best credit card deposit acceptance rates so you should have no problems making deposits or withdrawals."



❷ Register

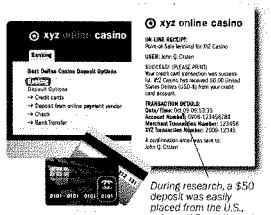
Register with the selected online casino

Once an online casino is selected, the player:

- Downloads casino application software (if necessary)
- Registers an account with the casino – Name, Age, Contact Info, etc.

Note:

Some casinos are experienced through a desktop application, and others can be played directly through an internet browser. Desktop applications require the player to download their software in order to register and play.



During research, a $50 deposit was easily placed from the U.S., using a U.S. credit card.

❸ Deposit

Place a deposit with the casino

Placing a deposit is as easy as making any online purchase:

- Many online casinos accept credit cards
- Many online casinos also accept deposits from online payment vendors
- Many online casinos will accept a check or bank transfer

Note:

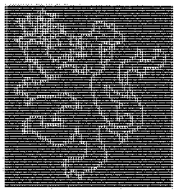
Players can circumvent declined transactions by using one of numerous 3rd party payment vendors (usually foreign). These vendors accept credit card or bank transactions and can be used to transfer money to many online casinos.

❹ Play

Select a game and begin playing

Once the player has a balance on their account, he or she can select a game to play and start placing bets.

©2009 Walker Digital, LLC. All rights reserved. Confidential and proprietary. Not for distribution.



ALDERNEY GAMBLING CONTROL COMMISSION
CHANNEL ISLANDS

Representation
to
The Committee of Congress in the United States of America
Established to address the Question

Can Internet Gambling be Effectively Regulated to Protect Consumers?

1. Introduction

The Alderney Gambling Control Commission ("the Commission") has been invited by a Committee of Congress, established under Chairmanship of Congressman Barney Frank, which is currently hearing evidence regarding the question of "Can internet gambling be effectively regulated to protect consumers?" to make written representation on this question.

The position of the Commission is simply this: After having regulated the eGambling industry for the past ten years, there is no doubt that the industry can be effectively regulated. This opinion is supported by other jurisdictions elsewhere in the world where internet gambling is already regulated (e.g. the United Kingdom, Italy, Isle of Man, Gibraltar, Malta). In fact, the Commission is of the view that to permit internet gambling on a regulated basis is the only viable way of ensuring consumer protection. Any other option, i.e. prohibition, self-regulation or no regulation, is not in the interest of the consumer.

This paper sets out to explain how the Alderney Gambling Control Commission has regulated the eGambling industry over the last 7 years, by providing:

- A brief background on Alderney as a jurisdiction; the regulatory framework for licensing and regulating eGambling; and the values underpinning the regulation of eGambling;
- An introduction to the Commission;
- A brief synopsis of the licensing regime available in Alderney;
- A short description of the approach followed by the Commission in ensuring the following:
    - Keeping the industry free from crime;
    - Ensuring fairness;
    - Protecting the young and vulnerable.

2. Background to regulating eGambling in Alderney

- **Constitutional position of Alderney**

Alderney is a self-governing, democratic territory and one of the principal islands of the Bailiwick of Guernsey, which is a Crown Dependency of the United Kingdom. Alderney is outside the EU and is part of the Bailiwick's internationally recognised financial services centre.

The Crown, acting through the Government of the United Kingdom, has responsibility for Alderney (along with the other Channel Islands) in the fields of foreign affairs and defense. The island's relationships with the EU and other countries are primarily through appropriate UK Government departments. Domestically, Alderney's "constitutional" measure is the Government of Alderney Law, 2004. The island is governed by the States of Alderney (the Legislature), which consists of a President and ten states members, all elected by universal suffrage.

Routine matters of government are performed by three committees: Policy & Finance, General Services and Building & Development Control. Between them, they deal with all aspects of the island's finances and day-to-day administration. Certain matters of government and services are dealt with by the States of Guernsey under arrangements in place since 1948. The Policy & Finance Committee, consisting of all ten States Members, has responsibility for eGambling.

As a consequence of the 1948 arrangements for some key services to be provided in Alderney by the States of Guernsey, Guernsey provisions on taxation apply in Alderney and the States of Alderney has no authority to raise revenue itself through such taxes. Because of the relationship with Guernsey, two members of the States of Alderney are chosen to be full members of

Guernsey's States of Deliberation and participate in that legislature/government accordingly.

- **Background to the legalisation of eGambling**

In 1994, the States of Alderney resolved as a matter of policy to introduce legislation permitting *inter alia* land-based casino gaming in the island. Although this resolution has not resulted in the legislation intended, the underlying reason for it was to provide an incentive for further development within the tourist sector. By 1996, a property development company, intending to re-develop one of the island's premier hotel sites, suggested to the States that the fledgling online gambling industry provided a potential revenue stream that would enable it to proceed with the proposed development. Only electronic betting, being an extension of well-established telephone betting, was mentioned. The opportunity and scope for such an industry to operate successfully out of Alderney was quickly recognised and the States of Alderney enacted the Gambling (Betting) (Alderney) Ordinance, 1997, made under powers contained in the Gambling (Alderney) Law, 1975, as amended, part of which enabled the Policy & Finance Committee to license and regulate what were termed "electronic betting centres". The first licences were granted by the Committee in 1998 and operations commenced later that year.

The 1997 Ordinance was substantially amended in 1999 and 2000 in order to introduce additional regulatory safeguards, drawn principally from the various legislative regimes by then enacted in the Australian States and territories. These more industry-specific principles better reflected the online activity being conducted by the Alderney licensees at the time, namely, Sportingbet and SkyBet. Many of the core features introduced into the Alderney regime at that stage have been carried forward into the current legislative framework.

- **Regulatory framework and arrangement**

Primary legislation, the Gambling (Alderney) Law, 1999, as amended, (hereafter referred to as 'the Law') provides that all forms of gambling are unlawful, unless authorised under an Ordinance of the States of Alderney (a form of subordinate legislation, albeit an act of the entire legislative assembly) made under powers contained therein. (The Law repealed and replaced the 1975 Law.) The Law also established an independent body, known as the Alderney Gambling Control Commission to license and regulate those forms of gambling that are made lawful by way of an Ordinance. The Commission's duties also include "to keep under review the extent and character of gambling" in Alderney.

All forms of eGambling, are, subject to compliance with specified conditions, made lawful by virtue of the Alderney eGambling Ordinance, 2006, (hereafter referred to as 'the Ordinance'), made by the States of Alderney in June, 2006. It came into force on 11th July, 2006 and replaces and combines two earlier Ordinances, (the Gambling (Interactive Gaming) (Alderney) Ordinance, 2001 and the Gambling (Electronic Betting) (Alderney) Ordinance, 2002, both as amended), which had provided separately for gaming and betting respectively. The 2002 Ordinance had, in turn, repealed and replaced the original Ordinance of 1997, as amended, which had dealt in part with electronic betting centres.

Apart from establishing the basic framework for lawful eGambling, the Ordinance contains a series of obligations and powers for the Commission to make Regulations. On 11th July, 2006, the Alderney eGambling Regulations, 2006, (hereafter referred to as 'the Regulations'), were made by the Commission. These Regulations, since amended twice in minor ways, contain very detailed provisions which supplement the Ordinance's basic framework. Therefore, when taken together, the Ordinance and the Regulations constitute

a complete framework for the licensing and regulation of all forms of eGambling operations conducted under an Alderney eGambling licence.

The Ordinance provides for the Commission to issue such written guidance as it considers appropriate for the purpose of providing information about compliance with the Ordinance and the Regulations made there under. To assist eGambling licensees with preparation of applications for approval of internal control systems, as required under the Ordinance and the Regulations, and regarded by the Commission as the most important post-licensing matter before a licensee can "go live", the Commission has issued Guidelines for the Preparation of an Internal Control System (hereafter referred to as 'the Guidelines').

It should be mentioned that significant changes to the licensing scheme are currently being introduced with a view to keeping pace with structural changes occurring within the internet gambling industry. To do this, the States of Alderney has in October 2009 approved a new eGambling Ordinance, 2009, which will come into force on the 1st of January 2010. The new legislation is aimed at "unbundling" the component parts of the gambling transaction in recognition of the fact that the industry has developed in an unforeseen way and will be supported by the Alderney eGambling Regulations, 2009. Recent years have seen the emergence of companies whose sole aim is to produce the games and effect the transaction as well as others who, in their route to market, are operating a turn-key solution. By splitting out the customer facing side of the business from the effecting of the gambling transaction newcomers to Alderney can choose what kind of licence they need.

- **Values underpinning the regulation of eGambling**

The values underpinning the regulation of eGambling are:

- all electronic gambling on Alderney is conducted honestly and fairly;
- the funding, management and operation of electronic gambling on Alderney remains free from criminal influence;
- electronic gambling is regulated and monitored so as to protect the interests of the public, specifically, the young and vulnerable.

These values are summarised in the mission statement set out in recent annual reports of the Commission which is available at www.gamblingcontrol.org .

3. Introduction to the Commission

Within the first year or so of granting electronic betting centre licences through its own Policy & Finance Committee, the States realised the importance of establishing an independent non-political Commission to perform duties associated with regulation and conferring on it all the powers essential to its licensing and regulatory functions.

Three of the Commissioners who have been appointed come from outside Alderney and have experience of gambling, regulation and licensing. The fourth Commissioner is a local resident who, in addition to her particular experience in fraud detection and licensing, brings an Alderney perspective to the deliberations of the Commissioners.

The legislation gives the Commission the necessary powers to conduct wide ranging investigations, to obtain such information necessary to conduct its investigations, to gain access to licensed premises and to ensure compliance by monitoring and investigating the software, systems and business processes of its licensees.

The Commission has a staff of eighteen people with appropriate experience in management, finance, legal, IT and regulation of the gambling industry. The staff has access to outside experts in the field of eGambling and works closely with other

gambling regulatory authorities around the world, international testing houses and financial and legal consultants.

4. Licensing arrangements

The licensing regime in Alderney has been developed to address the following:

- The need to prevent crime;
- The need to have legal jurisdiction over the licensed operator;
- The international nature of eGambling systems;
- The cross-border nature of the gambling transactions;
- The need to ensure that the management and other persons concerned with a licensed eGambling business are appropriate in terms of both skill and integrity.

Accordingly, the Ordinance empowers the Commission to issue the following types of licences and certificates:

- A Full eGambling licence to an Alderney company which wishes, probably as part of a larger group of companies, to operate an eGambling business from Alderney;
- A Restricted use eGambling licence to a non-Alderney operator enabling it to make occasional and temporary use of servers located in Alderney or Guernsey for the purpose of effecting gambling transactions under the stringent conditions attached to its exercise, designed primarily as part of the operator's disaster recovery package;
- An Associate certificate by which the Commission approves a person during the currency of the certificate as being a fit and proper person to be associated with the operations of any eGambling licensee;
- A Hosting certificate to a person enabling it to accommodate at its approved premises gambling equipment utilised by an eGambling licensee for its operations;

- A Key individual certificate to a person who occupies or acts in a position designated as a key position or is an associate, or occupies or acts in a managerial position.

The licensing process seeks to satisfy the Commissioners that the applicant is a fit and proper person to hold a licence or certificate and, where applicable, that any associate of the applicant is a fit and proper person to be associated with the operations proposed by the applicant. Each type of licence has a particular purpose and the range of them is designed to ensure that the Commission has a direct regulatory relationship with all the core elements of an eGambling operation.

As indicated before, the above licensing scheme will change with effect from the 1st of January 2010 and will in instead of the current full eGambling licence provide for a Category 1 licence, which allows the licensee to contract with and prepare the customer for gambling before transferring the customer to effect the gambling transaction and a Category 2 licence, which allows the licensee to effect the gambling transaction on behalf of the Category 1 licensee. In recognition of the cross-border nature of the industry, the new legislation also provides for a Foreign Gambling Associate Certificate, which has the same objective as a Category 2 licence, with the difference being that the entity effecting the gambling transaction in this case is based in a foreign jurisdiction.

5. Keeping out crime

One of the primary objectives of regulating gambling in Alderney has been, and will continue to be, to prevent crime and the influence of crime within its eGambling industry. This objective has been met over the ten years that eGambling has been permitted.

One reason why the Commission has been successful in keeping crime out of the industry is that, rather than attempting to reap the fiscal benefits of larger numbers

of operators, Alderney has set out to attract operators who seek a comprehensive and tightly controlled regulatory regime. These are for the most part established, gambling operators with brands they wish to protect. They are also the types of company most likely to conduct their businesses in a way that is consistent with the standing of Alderney and Guernsey as highly reputable financial services centres.

The primary defense against criminal involvement is to establish sufficiently high barriers to entry. Alderney's legislative framework, as operated by the Commission, has developed a reputation as one of the strictest in terms of licensing. This is mainly due to the Commission's thorough process of investigation into the backgrounds of operators, shareholders, beneficiaries, sources of funding, business associates, third party providers, key individuals and hosting providers.

Investigations are conducted by the staff of the Commission, with outside assistance where necessary. Comprehensive reports compiled following these investigations enable the Commissioners to determine whether or not an applicant is 'fit and proper' to hold a licence. Investigations can include interviews with the key individuals and the Commissioners may also require their own meeting with representatives of the applicant before deciding whether or not to grant a licence.

The Commission has from its inception recognised the difficulty of regulating an international industry without the cooperation of other law enforcement bodies. The Commission has therefore sought to establish working relationships with other regulators and with domestic law enforcement agencies such as the Police, their Financial Intelligence Service which is part of the Egmont Group, the Law Officers of the Crown and the Guernsey Financial Services Commission which has its own gateways to financial and criminal intelligence.

It adds particular comfort to the Commission to know that an applicant has good standing in another jurisdiction and it has been most helpful to enter into informal reciprocal arrangements for sharing information with other regulators.

Applications for licences are restricted to Alderney registered companies. This is to ensure that the licensee has a legal presence in Alderney, but it also enables the Guernsey Financial Services Commission to look into the suitability of shareholders, beneficiaries, associates and key individuals associated with a potential licensee as part of the incorporation process. This provides a valuable additional level of scrutiny and helps to inform the Commission's own investigations.

The granting of a licence, although very important, is only a finding of the general suitability of the operator. It does not imply permission to commence operations. Before licence holders can commence operations, they are required to obtain approval for both a detailed internal control system and for all gambling equipment. An advantage of this phased approach is that it provides a further opportunity for the Commission to ensure that the licensee has the experience, ability and resources to conduct eGambling successfully and in such a way as to keep crime out of its operations.

Documentation of an approved internal control system contains a comprehensive account of the licensee's entire operation and may run to several hundred pages. Of particular significance in any internal control system is a requirement to confirm how a licensee will handle key issues such as anti money laundering/countering the funding of terrorism provisions and the protection of minors. The approval process enables the licensee's detailed operating plans to be reviewed and, if necessary, changed through dialogue with the Commission. Similarly, a detailed review of gambling equipment ensures the fair conduct of games.

After a licensee has commenced operations under its eGambling licence, the Commission monitors its operation and regularly checks compliance with the approved internal control system. This ongoing regulation is designed to ensure

that any potential criminal activity or influence continues to be kept out of all parts of the Alderney licensed operation.

6. Ensuring that gambling is conducted in a fair and open way

The States of Alderney believes that customers of operators licensed in Alderney should be able to gamble secure in the knowledge that the games and other gambling transactions offered are fair, that their money is safe and that the licensees (and, if applicable, their associates involved in the delivery of the services) are reliable.

The legislation therefore contains powers which enable the Commission to protect the interests of the customer with regard to game fairness, clear and transparent terms of the contract with the operator, protection of customer funds, a clear statement of the rules of the games and, most importantly, provisions enabling the customer to address complaints and disputes to an independent body. These are matters that licensees must cover in their approved internal control systems and which play a prominent part in the Commission's monitoring and inspection processes.

In addition, Alderney has addressed the inevitable inequality of bargaining power within gambling transactions by seeking to ensure that the customers of its eGambling licensees will not be subjected to disadvantageous trading practices and that the monies held on their behalf are secure and available for return upon legitimate demand. The legislative framework in Alderney is intended to strike a suitable balance: ensuring player protection whilst encouraging genuine entrepreneurial flair and competition between licensees. In doing so, the States of Alderney has sought to guard against the artificial imposition of unnecessarily burdensome regulation whilst creating a sufficiently robust set of absolute requirements and other "fairness choices" to ensure a more than adequate level of customer comfort.

In short, the regulatory framework established in Alderney ensures that:

- Terms under which customers gamble are clear;
- There is comfort in the financial probity and reliability of operators;
- The funds of customers are protected;
- Clear procedures for the transfer of monies and payouts to customers are in place;
- Rules of gambling are clear and easily accessible;
- Credit may be extended to customers only when appropriate;
- Procedures for dealing with customer complaints and disputes are provided;
- Approval of the licensee's gambling equipment and games is an essential requirement;
- Approval of the licensee's internal control system provides a basis for the regulatory regime;
- Hosting premises are approved;
- Appropriate registers are maintained;
- Customer privacy and data protection principles are observed;
- There is maximum flexibility in the regulatory framework so that it can evolve swiftly to encompass technological and other changes.

7. Protection of children and the vulnerable

The States of Alderney requires gambling operators to conduct their businesses in a socially responsible manner. It is recognised that although gambling forms part of the leisure and entertainment industry in most parts of the world today, it presents certain special risks, particularly with regard to children and vulnerable persons, including the risk of addiction.

One of the fundamental conditions for a gambling transaction under an eGambling licence to be lawful is that it "is not effected by, with or through a young person", i.e. someone under 18. Furthermore, the Commission is obliged by the Ordinance

to make regulations, which it has, enabling a customer to impose limitations on his gambling activity with a licensee.

Within these basic premises, the Commission believes that the measures required for protecting children and the vulnerable are different. Measures aimed at preventing children from gambling typically focus on registration and/or participation as a customer (i.e. barriers to entry that are put in place by the licensee), whilst measures aimed at protecting the vulnerable tend to involve a combination of warnings to customers about the dangers of gambling, reports available to customers which set out the details of their gambling, systems that enable customers to restrict their gambling in various ways and readily available information as to where to obtain help if needed.

The Commission's experience has been that gambling addiction amongst adults seems to be more of a risk than children wishing to access gambling sites. During the ten years that the Commission has been regulating the industry, it has not had any complaints from parents about a young person who has managed to gain access to an eGambling licensee's site. During several mystery shopping exercises, where the prospective customer, posing as a minor, tried to gain access to the sites of eGambling licensees based in Alderney, it was found to be very difficult. The main reason for Alderney licensees' success in keeping minors out is the use of third party verification software. Although it is not an absolute requirement to do so, the Commission encourages its licensees to make use of such third party verification systems because they have been shown to be very effective, particularly in relation to prospective customers from the UK, where these third party verification providers have access to reliable demographic data.

Despite this encouraging success, the Commission still regards the possibility of children gaining access to gambling sites as a major risk and continues to monitor systems that will provide additional protection.

As regards the protection of potentially compulsive customers, the Commission's experience indicates that the customer's ability to make informed choices, to have information readily available regarding spending patterns and to have access to an independent body if aggrieved, are all significant measures towards reducing the risk of compulsive gambling.

Common to the twin concerns to protect minors and compulsive gamblers is the prohibition of inappropriate advertising. Accordingly, licensees are required to comply with the Commission's guidelines on advertising, which are intended to make sure that advertising by licensees or their agents is not aimed at minors and does not create false expectations.

8. Conclusion

Having regulated eGambling for the past ten years in the manner described above, the Commission has no doubt that

- The eGambling industry can indeed be regulated with success;
- Due to its online nature where there is a clear audit trail for every transaction, it can be argued that it is easier to regulate eGambling than it is to regulate the terrestrial gambling industry;
- The regulation of the industry is the only way of effectively protecting the consumer. Neither the prohibition of the industry nor the introduction thereof on a self-regulatory basis is in the interest of the consumer. History has shown that people gamble irrespective of whatever form of prohibition is introduced. Similarly, operators that are not subject to strict regulation by an independent regulatory body may not always act in the best interest of the player.

The Commission is most willing to provide further evidence to the Committee in support of the points made in this representation.

Prepared by:

André Wilsenach, Chief Executive Officer
Alderney Gambling Control Commission
QEII Street
Alderney
GY9 3TB

E-mail: andre.wilsenach@agcc.gg
Telephone: +44 (0)1481 825500
Web: www.gamblingcontrol.org

November 26th 2009

Testimony to the House Committee on Financial Services

By Marie Alexander
President and CEO, Quova
December 1, 2009

Honorable Barney Frank, Chairman
House Financial Services Committee
2129 Rayburn House Office Building
Washington, DC 20515

Mr. Chairman and Members of the Financial Services Committee

Thank you for the opportunity to present written testimony. My name is Marie Alexander and I am the President and CEO of Quova, the global leader in providing IP Geolocation and Intelligence Services.

Since our founding in 1999, Quova's focus has been to help our customers determine the physical location of a website visitor. While our initial market focused on the application of regional marketing programs – advertising, search, promotions – our current customer base uses the data for applications ranging from fraud and identity theft prevention, to geo-containment of licensed content, to regulatory compliance, to cyber forensic activity. The use of IP geolocation and IP intelligence data has been accepted by corporations, governments, privacy experts and consumers as a means to approximate the location of a visitor.

A brief explanation of the technology may be useful. When a computer or device connects to the internet, it is assigned an IP address. This address is used to route information between computers on the internet. The assignment of IP addresses on the internet was not designed to provide location information, but that does not preclude technology and research from mapping and physically locating the placement of these addresses.

There are a number of companies who provide databases that provide the results of these research efforts. There are no less than 8 patents issued relating to the processes used to collect this data as well as trade secrets. The technology has evolved into a science in which terabytes of data are evaluated weekly to ensure quality in the results provided.

The determination of the location of a user is not based on the location of the IP address alone. Rather, in a compliance application (such as online gambling) business decisions are based upon a combination of several factors. For example, a Compliance Application should start with the assumption that the user's location is not known and that access to the system will only be given if the location can be

determined with high confidence (this is similar to the real-world situation of requiring someone to be able to prove their age if they want to gamble in a casino). The Compliance Application then attempts to determine the location of the online user by using a combination of information gathered from the user, IP Intelligenve databases, other real time techniques and past behavior. If the system is unable to determine the location of a user with sufficient confidence the user will be denied access to the gambling application. Hence, if there is any ambiguity or uncertainty the system will err on denying access to a valid user while protecting against allowing an illegal bet to be placed.

Some Misconceptions surrounding IP Intelligence:

IP Intelligence Databases provide only the geographic location of an IP address.

A common misconception is that the IP intelligence databases contain only geographic information and that geographic information by itself is insufficient to make a reliable compliance decision. Rather, high quality IP Intelligence Databases provide a wide range of geographic and non-geographic information that can be used to create a highly reliable compliance system. An overview of IP intelligence is helpful to illustrate this point. In the process of determining the location of an IP address, a "confidence factor" is calculated based on the strength of the underlying information. This confidence factor is included in the IP Intelligence DB and can be used as part of the determination of the compliance decision as described above. In addition, information about the connection type and the organization that is responsible for the IP address and network connectivity is also included in the IP Intelligence DB. This information can also be used to determine the certainty that the user is in a particular location. For example, if the user is connected to the internet through a DSL connection in Toronto, one can assume that individual is indeed in Toronto as the user must be within 1.6 miles from the DSLAM to which the IP address is assigned or the DSL connection will not work

A typical IP Intelligence Database will provide the following information:

Geographic Data Provided

- Continent
- Country
- Region
- State
- City
- Postal Code

Confidence Factors Provided

- Country Confidence
- State Confidence
- City Confidence

Network Characteristics Provided

- Connection Type
- IP Routing Type
- Second Level Domain
- First Level Domain

- Carrier/ISP
- ASN
- Anonymizer Identification

A combination of these fields are used in the business rules to determine a users location – not just the location of an IP address.

Dynamic assignment of IP Addresses precludes the use to determine location.

These IP address are assigned for static and dynamic use. Detractors claim that the dynamic assignment of these IP address precludes the use in determining location. In fact, the IP address does not move, it remains on the same device and in the same location, what is dynamic is the assignment of that stationary assignment to a specific connection. Each of the dynamic user is connecting into the internet at the same location.

IP Intelligence Usage determines Internet Routing.

The internet is the aggregation of literally millions of disparate networks. It can be compared to the construction of the Interstate Highway System and the manner in which it connects the many disparate Intrastate Road Systems. Individuals can take numerous paths through our interconnected transportation infrastructure, yet that individual's path always has an origin and destination. To determine someone's location when accessing the internet, it is not the path that is critical but rather the origin. The IP addresses are assigned out at the access points to the internet and these IP addresses are assigned when someone connects. While the IP address may be assigned to different individuals, the location from which it is assigned remains the same.

The use of proxies prevents the usage of IP Intelligence technology.

Those who argue against the use of IP intelligence often cite the increasing use of proxies intended to hide the location of an individual. While it is possible for someone to hide their originating location from the gambling site, there are technologies available to determine the use of a proxy. Keep in mind, a gambling site will only allow a bet if the location has been determined. If a visitor's location has been obscured (i.e., the compliance application detects the use of a proxy) the site will block access until location has been determined.

If location cannot be determined using the IP address information, other real-time techniques can be deployed. These techniques require user permission, but can provide very specific and granular results. These techniques include wi-fi, cell tower, and GPS location techniques.

Acceptance in other Compliance Uses.

IP Intelligence data has been an accepted method to locate website visitors in other compliance scenarios. For decades companies have purchased the rights to distribute broadcast content based on geographic licensing. These organizations have accepted the use of IP Intelligence to ensure compliance to the requirements of these licenses. Major League Baseball, Olympic Content, and NCAA basketball are just a few examples ot the geo-contained content.

The FFIEC issued guidance in 2006, requiring financial institutions to have a multilayer authentication system in place on all US bank accounts. One of the suggested and most implemented methods of authentication is the use of IP Intelligence data.

Other companies have used the data to ensure compliance of OFAC regulations ensuring that products are not being sold and eventually shipped to countries on the denied parties' lists.

Most importantly, IP Intelligence data is currently used by legitimate jurisdictions to block US citizens as well as visitors from other countries who prohibit on-line gambling.

General acceptance in use of IP Geolocation.

IP Geolocation is utilized in hundreds of thousands of companies on a daily basis. Billions of web visitors are geolocated on a monthly basis. The uses of this data range from marketing and advertising, to fraud prevention, to forensics, licensing compliance and regulatory compliance. Implementation and access to the databases can be accomplished in as little as 15-30 minutes. The price ranges for the data subscriptions range from $100 per year up to over $1.5M per year. This would imply not only is it affordable and accessible for companies of all sizes without creating a burden to implement, but also is found to be of high value to organizations in it predictive capabilities.

Audits and Forensics are possible to check compliance.

Complete audits and forensics after the fact can be accomplished. Data services are created in a manner that will allow historic research as well as providing access to the evidence that was gathered to determine location.

Conclusion

In conclusion, it is my belief that technology exists and can be used to Geo-contain and to create the virtual borders required for effective execution and implementation of H.R. 2267, the Internet Gambling Regulation, Consumer Protection, and Enforcement Act as demonstrated by the use of IP geolocation and IP intelligence data by corporations, governments, privacy experts and consumers to identify the location of a visitor.

Please do not hesitate to have staff contact me if the Committee would like any further information or clarification. Thank you for this opportunity to submit testimony.

Yours Sincerely
Marie Alexander
President and CEO, Quova

Antigua Online Gaming Association www.aoga.ag

Statement of Jay Cohen
President, Antiguan Online Gaming Association

Testimony Submitted for the House Committee on Financial Services Hearing to Consider the Internet Gambling Regulation, Consumer Protection, and Enforcement Act (H.R. 2267)

2 December 2009

As President of the Antiguan Online Gaming Association (AOGA), I respectfully submit this statement for the consideration of the House Committee on Financial Services as it deliberates regarding the proposed legislation known as the Internet Gambling Regulation, Consumer Protection, and Enforcement Act (Internet Gambling Regulation Act), H.R. 2267. The key purpose of this statement is to respectfully request the Committee, as it develops and hones the Internet Gambling Regulation Act, to recognize the existing treaty commitments of the United States under the General Agreement on Trade in Services (GATS) to allow Antiguan remote gaming operators access to the United States gambling market.

The World Trade Organization (WTO) has ruled that the United States is and remains out of compliance with its GATS commitments to permit Antiguan remote gaming operators access to the United States gambling market. The WTO ruling in the *US-Gambling* case is still in full force and effect. The United States has never complied with the ruling. While the United States has indicated a desire to withdraw its gambling commitment under the GATS, it has never done so.

The Internet Gambling Regulation Act, as proposed, does not bring the United States into compliance with its GATS commitments. Nevertheless, the bill as proposed presents an opportunity for Congress to realign United States gambling policy with the realities of the 21st century, and at the same time, demonstrate to its international trading partners that the United States supports and adheres to the dispute resolution process of the WTO.

A. The AOGA

The Antigua Online Gaming Association (AOGA) is a nonprofit and nonpartisan trade organization consisting of select remote gambling operators who are licensed and regulated by the Government of Antigua and Barbuda. The AOGA was established with the goals of creating a better global understanding of the remote gaming industry and promoting the interests of remote gaming operators and their global customers.

B. Introductory Comments on H.R. 2267

For several years now, Rep. Barney Frank has been a voice of reason on the issue of online gambling in the United States. When his colleagues in the House of Representatives moved to restrict the freedom of adult Americans to place wagers online from the comfort of their own home, Rep. Frank stood up as an advocate for the rights of consenting adults to engage in recreational gambling in a responsible setting. Rep. Frank has commented that Americans love to gamble and will gamble online whether there are laws against such an activity. When Congress enacted the Unlawful Internet Gaming Enforcement Act (UIGEA) in 2006, a new tool for law enforcement to prosecute online gambling operations that access the American market, Rep. Frank rightfully called it one of the stupidest laws ever enacted. He and other members of Congress have subsequently moved to delay implementation of the regulations called for under the UIGEA.

On May 6, 2009, Rep. Frank introduced the latest version of his comprehensive bill to regulate online gambling – the Internet Gambling Regulation Act. This bill envisions a federal framework to license and regulate certain types of online gambling. One of several positive aspects of the bill as written is that it presents Congress with a true opportunity to deliberate and enact a thoughtful, realistic and non-discriminatory system for online gambling in the United States.

However, there is a significant flaw in the manner the Internet Gambling Regulation Act treats Antiguan remote gambling operators. In simple terms, H.R. 2267 as drafted improperly discriminates against Antiguan remote gaming operators, to the advantage of domestic gambling companies. The Internet Gambling Regulation Act provides a framework for American gambling companies to offer remote gambling services by means of the Internet, telephone and other wireless devices. This same framework shuts out Antiguan operators from offering the exact same services.

The AOGA is confident that the drafters and proponents of H.R. 2267 do not intend for the bill to discriminate against Antiguan and other foreign operators, or create a domestic-only industry. The AOGA is proposing a number of changes in

this statement in the hope of assisting Rep. Frank and the Committee to fulfill this intent

In addition, the AOGA wishes to note for the record that the trade discrimination built into this legislation, if left intact, would constitute additional violations of United States international trade commitments made in the GATS and, undermine the important dispute resolution system of the WTO.

C. The *US-Gambling* Dispute Pending Before the WTO

By way of background information, the AOGA wishes to point out to the Committee that the United States' legislative and law enforcement actions over the past several years seeking to prohibit foreign operators from offering "remote gambling" has been deemed to violate the commitments made by the United States under the GATS to allow other countries to access the domestic remote betting market.

For more than six years, from 2003 to the present, the Government of Antigua and Barbuda has patiently, respectfully, and persistently requested that the United States honor its commitments under the GATS so that Antiguan providers can offer remote gambling services of a nature which already exists in the United States. The Antiguan government is requesting that its operators be afforded the opportunity to access the United States gambling market without the forms of harassment and intimidation currently directed at Antiguan operators. The Antiguan government and its operators have made it clear to federal officials that they welcome an online gambling system that ensures customer fairness, protects customers from problem gambling, prohibits underage gambling and any other social problems associated with recreational gambling.

In March 2003, after the United States refused to negotiate over this matter, Antigua initiated the dispute resolution process of the WTO to squarely challenge the United States' prohibition of cross-border gambling services offered by Antiguan operators to consumers in the United States.

Antigua, one of the tiniest members of the WTO and a small developing nation, has prevailed at every stage of the WTO dispute. On April 7, 2005, the WTO issued the Appellate Body Report in this dispute ruling that the United States had made a commitment to free trade in cross-border betting and gambling services in its schedule of commitments to the GATS. The WTO further ruled that the United States had adopted "measures," or federal laws, that interfered with its obligation to provide free trade in betting and gambling services with Antigua. The WTO further found that the United States could not invoke a "moral defense" to its violation of the GATS. Under Article XIV of the GATS, a country can

violate the terms of the free trade treaty if the violation is necessary to protect "public morals" or maintain the "public order." The WTO concluded its ruling that the United States could not justify why it permitted American-based companies such as horserace betting companies or Las Vegas sportsbooks to offer remote gambling in the form of telephone and Internet account deposit wagering while the United States prohibited Antiguan companies from offering remote gambling services. The United States was given until April 2006 to comply with the WTO ruling, but has never taken any action to do so.

On March 30, 2007, the WTO released a Compliance Panel Report in the *US-Gambling* dispute. In the Compliance Panel Report, the WTO concluded that that the United States is and remains out of compliance with the earlier adverse WTO decision. The WTO also signaled that the UIGEA would be found to violate the GATS and the United States continues to engage in unacceptable protectionist activities favoring the domestic gaming industry over the foreign competition. As a result of this latest WTO ruling, Antigua is free to impose trade sanctions against the United States, if Antigua affirmatively decides to do so, directed at "encouraging" the United States to meet its international trade obligations to Antigua. Antigua has subsequently sought to negotiate with the United States to resolve this matter without resorting to sanctions.

In response to the 2007 WTO ruling, the United States commenced the process to possibly withdraw its GATS commitment to free trade in gambling services, even if to do so completely undermines the WTO dispute resolution system and opens the United States to trade sanctions by Antigua and other WTO member nations. The United States has not yet actually withdrawn this commitment, as to do so would be in dire conflict with longstanding United States free trade policy, not to mention that the withdrawal of the commitment will permit Antigua and potentially other trading partners to obtain significant trade sanctions against the United States. To the extent the Committee is informed by other parties that the proposed withdrawal of the GATS commitment minimizes the meaning of WTO case, we would strongly disagree.

Against this backdrop, and even though federal officials have shown little willingness to respect Antigua's favorable rulings at the WTO, the Antiguan government and AOGA nevertheless remain hopeful that the United States will negotiate a fair resolution to the *US-Gambling* case in a way that is mutually beneficial to both countries.

D. H.R. 2267 – As Drafted – Violates United States GATS Commitments

This statement is offered to assist the Committee in crafting online gambling legislation that complies with the United States GATS commitments and the

ruling in the *US-Gambling* case. This is necessary because the Internet Gambling Regulation Act, as it is presently drafted, would violate United States GATS' commitments in several ways, to include:

- The federal remote gaming system envisioned in the Internet Gambling Regulation Act gives a number of preferences to existing domestic gaming operators over foreign gaming operators. By way of one illustration, under H.R. 2267 only the federal government, States and Native American Tribes may be certified to assess the suitability of applicants for an internet gambling license. Antiguan regulators would have no such right. ***Above all, to comply with American GATS obligations, the Internet Gambling Regulation Act must ensure that Antiguan operators who are licensed and regulated in Antigua (and are therefore suitable under Antigua's regulatory scheme) have the right to offer the full array of remote gaming services to American customers.***

- The Internet Gambling Regulation Act permits States and Tribes to "opt out" from allowing wagering on a state-by-state and tribe-by-tribe basis. ***Under the GATS, Antigua is entitled to remotely offer the full array of remote wagering services to all states, not under a patchwork of different state allowances as contemplated by H.R. 2267. Under the GATS, the United States is viewed as a single country; the state-by-state patchwork of different levels of remote gambling access is not permitted.***

- The Internet Gambling Regulation Act suggests that wagering on professional and amateur sporting events is not permitted except in the few states authorized by federal law (i.e., unlimited sports betting in Nevada, and limited sports betting in three other states). This favors domestic sportsbooks, who are further shielded from competition by Antiguan operators. ***The Internet Gambling Regulation Act must be amended to permit licensed and regulated Antiguan sportsbooks to offer wagering on sports leagues' games and contests in all states. Under the GATS, Antiguan operators are entitled to remotely offer all forms of cross-border wagering, including betting on professional and amateur sports, throughout the entire United States.***

- The Internet Gambling Regulation Act contemplates regulations that will be drafted and enforced by a federal administrative agency. ***The Internet Gambling Regulation Act must include protections to ensure that Antiguan operators are not faced with unjustified or inappropriate regulatory obligations or responsibilities that create undue or unique barriers to Antiguan operators who desire access the American gambling market, either on a remote or physical presence basis.***

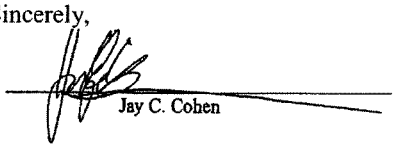
- The Unlawful Internet Gaming Enforcement Act of 2006 (UIGEA), enacted in October 2006, provides additional tools to assist American law enforcement agencies in targeting, harassing, and in certain cases, destroying, foreign remote gaming operators that are licensed and regulated in Antigua and other responsible jurisdictions. ***To comply with GATS, H.R. 2267 should be used to amend or repeal the UIGEA so as to exempt Antiguan gambling operators from the reach of the UIGEA and any other existing federal or state laws that have or can be used to prohibit or limit the access of Antiguan operators to the United States market. This can be done so by amending the definition of unlawful gambling to exclude services provided by licensed Antiguan operators.***

- The provision of Internet Gambling Regulation Act that bars existing Antiguan operators with criminal histories, particularly gaming-related convictions, from obtaining a license under its terms, does not comply with the GATS. This provision would preclude certain Antiguan operators, who established a reputable and highly-qualified remote gambling business, from getting an online federal gaming license. ***To the extent individuals with past criminal histories are precluded from obtaining a federal license, the Internet Gambling Regulation Act must provide an exemption for Antiguan operators from any the provision, where the operators' sole convictions were related to the cross-border provision of gambling services in accordance with the United States' GATS commitments.***

E. Conclusion

We appreciate your consideration of the vital trade issues discussed in this statement. The AOGA is certainly willing to provide further information or documentation to policymakers and legislators on how to make the Internet Gambling Regulation Act compliant with the WTO ruling in the *US-Gambling* case, and to ensure that remote gambling fair and safe for all adults who enjoy recreational gambling.

Sincerely,



Jay C. Cohen

President
Antigua Online Gaming Association

Testimony to the House Committee on Financial Services
United States House of Representatives

By Rt Hon David Blunkett MP
Former Home Secretary and Cabinet Member in the United Kingdom

Mr. Chairman and Members of the Committee:

I am honoured to have the opportunity to provide testimony before your Committee about the regulation of Internet gambling and to share with you our experiences in the United Kingdom.

For your background, in addition to being a Member of Parliament since 1987, I was Home Secretary between 2001 through 2004 where I had responsibility for overseeing the development of UK laws governing the regulation of online gambling, although after 2002, authority for its implementation was transferred to a different ministry. My testimony draws on that experience and is intended to provide this Committee assistance as it assesses whether the U.S. should adopt a model similar to that we have used in the UK.

Based on our experience, we remain convinced that prohibition does not work, that regulation is necessary, and that the regulatory process for online gambling must be updated on an ongoing basis in light of experience and new technologies to continue to enhance consumer protections and to create more stringent barriers against bad behaviour by offshore operators who do not comply with our rules. These can best be achieved through cooperation between legitimate online operators and the governments involved.

The Evolution of UK Law on Internet Gambling

With the widespread adoption of the Internet by UK consumers, the British government determined that the existing approach to the regulation of land-based gambling facilities, in place since the adoption of the Gaming Act of 1968, needed to be adapted to ensure adequate protection of consumers who were now choosing to gamble online.

Accordingly, the UK adopted a new overarching legislative framework with the Gambling Act 2005, which came into force in September 2007. Under the 1968 Act, which obviously pre-dated the development of the internet, online gambling from a website hosted in Great Britain was deemed illegal, because the Act prescribed that the punter had to be physically present in the room in which the gaming took place (section 12). However, British gambling law applied only to websites whose servers are based in Great Britain.[1] There was therefore no way in which the British Government could prevent British citizens from accessing websites based overseas. It was not illegal for British residents to gamble online with overseas operators. Nor was it illegal for overseas operators to offer online gambling to British residents (although there were restrictions on advertising).

There are three clear objectives of the new Act:

- Keeping gambling crime free;
- Making sure that gambling is fair and open; and
- Protecting children and vulnerable adults.

The Budd Report

---

[1] Much of the law referred to in this Note has application in Great Britain only. Northern Ireland has its own gambling laws.

On 8 December 1999, the Government announced the appointment of an independent body to conduct a 12-month review of the laws goveming gambling. The report of the independent Gambling Review Body, chaired by Sir Alan Budd, appeared in July 2001 and contained 176 recommendations for changes to gambling law and regulations. The Budd Review was also a public consultation exercise. One significant chapter of the report[2] concerned online gambling, about which a number of recommendations were put forward:

> "**137.** We recommend that an on-line gambling operator seeking a licence from the Gambling Commission should, at the minimum:
> - be registered as a British company
> - locate its server in Great Britain and
> - use a UK web address for its gambling site. (30.20)
>
> **138.** We recommend that on-line betting (including pools and lotteries) should be permitted on "real-time events" taking place off-line. (30.27)
>
> **139.** We recommend that on-line gaming should be permitted. (30.28)
>
> **140.** We recommend that on-line gaming software systems are tested and inspected by the Gambling Commission and that the software should operate on a random basis. (30.29)
>
> **141.** We recommend that the Gambling Commission should set the parameters for the development online games. (30.30)
>
> **142.** We recommend that punters are made aware of the game rules and terms and conditions of play on on-line gaming sites before play commences. (30.31)
>
> **143.** We recommend that all punters who register to play on-line should be properly identified before they are permitted to play. The Gambling Commission should issue guidelines to ensure that identification standards are comparable with those of off-line casinos. (30.32)
>
> **144.** We recommend that on-line operators should make any payments only to the debit or credit card used to make deposits into the punter's account, or by cheque to the punter. (30.33)
>
> **145.** We recommend that any prizes won by minors should be forfeited. (30.34)
>
> **146.** We recommend that on-line operators should be required to set up facilities that enable players to set maximum stakes and limits, and to self-ban. (30.35)
>
> **147.** We recommend that on-line operators set up clocks and counting systems that are displayed on the screen at regular intervals. (30.36)
>
> **148.** We recommend that on-line gambling sites provide information about problem gambling treatment and services, and links direct to those services. (30.37)
>
> **149.** We recommend that the Gambling Commission establishes a portal on its website, listing licensed online gambling providers. In addition, regulated sites

[2] Chapter 30 (pp165-70)

should display the Gambling Commission's kitemark. It should be an offence for an operator to claim falsely that a site is licensed by the Gambling Commission, or to make unauthorised use of the kitemark. (30.40)

150. We recommend that only on-line gambling sites that are licensed by the Gambling Commission should be permitted to advertise in Great Britain. (30.41)

151. We recommend that the Gambling Commission should have the power to take action in relation to premises, not licensed as gambling premises, in which terminals or other facilities are supplied primarily for accessing on-line gaming or on-line betting services. (30.43)"

I was Home Secretary when the Budd Report was published. Although the responsibility for implementation (a policy White Paper was published in March 2002) was transferred to the Department for Culture, Media and Sport, my own interest in this matter continued – not least because of our overarching concern in the protection of the public (for which I was responsible), and in particular, that of minors. Child protection and developments relating to online gambling were therefore critical to ensuring that we protected those who (as minors) were in a vulnerable position. I also held responsibility for counter terrorism and therefore for money laundering and related issues of organised criminality and fraud.

The 2002 White Paper expressed dissatisfaction with the present law and called for an overhaul:

"2.2 The legislation is also extremely inflexible and has not enabled regulation to keep pace with either technological advances, or customer expectations and the ability and desire of the gambling industry to meet them. In the Government's view it makes no sense to perpetuate a situation in which even quite minor adjustments can require amendments to primary legislation. Parliament itself has described the current statutes as a mess, and in a recent report the Commons Deregulation and Regulatory Reform Committee noted as follows:

"...repeated piecemeal amendment of the law relating to gambling has been an unwelcome feature of the deregulation procedure. Now that the report of the Gambling Review Body has been published, we look forward to the early introduction of a Bill which will obviate the need for any further such amendment".

These sentiments were universally echoed during our consultations."

In all, the Government accepted 157 of the Review Body's recommendations.

A further paper, published in April 2003, set out the Government's proposals for regulating a legalised onshore remote gambling industry, including such issues as the role of the Gambling Commission, licensing, player protection, safeguards for the young and vulnerable, player identification and verification standards, money laundering and payment methods, systems and software, territoriality, taxation, advertising and remote gambling in non-licensed public premises.[3]

---

[3] Dept for Culture, Media and Sport, *The future regulation of remote gambling: a DCMS position paper*, April 2003

The Draft Bill

If one goes back to the Budd Review of the gaming industry which began the process leading to the Gambling Act 2005, a consistent line of policy in respect of online gambling is discernible. Briefly summarised, it goes like this: gambling is not something that can be regulated out of existence, whatever its dangers; traditionally, gambling regulation was based on the physical premises in which the gambling took place; by eroding international boundaries, the Internet has made such regulation impractical; in the face of such hard facts, the best course of action for Britain is to permit online gambling from GB-based websites, in the knowledge that such gambling can be subject to British regulation and will offer a security to British punters that will discourage them from trusting their luck (and money) to overseas operators.

In the words of the Budd Report:

> "Total control and regulation of on-line services around the world is not likely to be achieved. It would need to rely on co-operation from other countries and the online gambling industry, including internet service providers. The UK government has worked with the internet industry on issues such as child pornography, where there is a common interest in banning criminal activity across national boundaries. Such concerted action in relation to gambling could not be justified and we know from the developments in other countries that it would be hard to reach agreement on a common approach."

Draft legislation appeared in a series of stages beginning in July 2003.[4] In a broad policy document published to accompany the draft clauses, the Government stated that it had now decided in favour of regulated online (or "remote") gambling by UK operators for these reasons:

- It sat well with the intention to modernise our gambling laws, particularly since some sectors of the gambling industry are able already to exploit the Internet and other remote technologies.
- Prohibition would merely continue the present unsatisfactory situation where British citizens can access foreign-based Internet casinos that may or may not be regulated properly, but cannot choose a well-regulated British site.
- Remote gambling can be regulated effectively and without excessive cost, to standards that will provide strong protections for consumers and vulnerable players.[5]

A joint Committee of both Houses was established in July 2003 to submit the draft Bill to pre-legislative scrutiny. The Committee's report appeared in April 2004.[6] The Government's response to the Joint Scrutiny Committee's report followed in June 2004.[7] In it the Government signalled its acceptance of 121 out of the 139 recommendations made by the Committee, including all those relating to remote gambling, several of them requiring minor

---

4 For a detailed history of the pre-legislative scrutiny phases see the Commons Library Research Paper, *The Gambling Bill*, RP 04/79, sections II.B and II.C

5 DCMS, *Draft Gambling Bill: the policy*, Cm 6014-IV, November 2003, p37

6 Joint Committee on the Draft Gambling Bill, Report, 3 vols, HL 63/HC 139, 7 April 2004

7 Cm 6253.

drafting amendments. Prompted by evidence it received from the Alderney Gambling Control Commission, the Scrutiny Committee recommended a clarification that relevant software providers would require a licence under the new regime, and the Government agreed to this.

The Gambling Act 2005

The Gambling Act received Royal Assent on 7 April 2005. Sections 67 and 89 of the 2005 Act create a new class of "remote operating licence", allowing the website (or any "remote gambling equipment") to be based in Great Britain and licensed by the Gambling Commission. The term "remote gambling" is defined with obvious latitude to allow for present and future communications developments (section 4). Effective regulation is seen as fundamental to securing confidence in this change to the law, as the DCMS position paper of 2003 had stressed:

> "39. For various reasons more questions may be asked of the new online gaming sector than any other part of the gambling industry. It is untested, it lacks many of the physical controls available to premises based gambling, it facilitates unsupervised gambling, and it will be more widely available than any other gambling product. This underlines why the Government attaches so much importance to regulating it effectively.
>
> 40. Detailed measures will be for the Gambling Commission to finalise in co-ordination with operators and experts in the field, but this aspect of online gambling is one on which the public and Parliament will want some reassurance that the risks can be properly managed. While there can be no absolute guarantees, it will be essential to put in place a package of viable measures that will minimise the downside of any reforms".[8]

There are two types of licence required by remote operators:[9]

- Operating licences are required by those that provide facilities for gambling in Britain.
- Personal licences are required by individuals in certain management positions except for those organisations categorised as small-scale operators.

Child protection

The Scrutiny Committee which examined the Draft Bill recommended that the new Commission adopt codes of practice requiring remote operators to "take all possible steps to prevent under-age access".[10] The Government proposed various means to achieve this, among them compulsory age checks and "mystery shopper surveys". Legislatively, the Act effects this by two routes. Section 89 allows the Commission to set standards (rather than guidance) concerning remote gambling processes and systems, and these standards can be the subject of independent testing. However, the condition-making powers in sections 76 and 77 can also be deployed to attach conditions to licences which require on-line operators to provide facilities in accordance with Commission requirements. The Commission is able to

---

[8] DCMS, *The future regulation of remote gambling: a DCMS position paper*, April 2003

[9] Details available on Gambling Commission website

[10] Joint Committee on the Draft Gambling Bill, Report, vol I, HL 63-I/HC 139-I, 7 April 2004, p150 (recommendation 121)

review licences, and carry out its own inspections and checks, to ensure that conditions are being complied with. Prior to the Act's implementation, the Government stated the Act's intended benefits for children:

> "Under the Gambling Act it will be an offence for a licensed on-line operator to invite or permit a child or young person to participate in on-line gambling, including all casino gambling. Some very limited exceptions allow 16 to 18-year-olds to take part in on-line football pools or purchase a lottery ticket. It will also be an offence for anyone in the UK to bring gambling advertising to the attention of a person under the age of 18 years. Furthermore the Act will prevent any on-line operator based in a territory outside the European Economic Area from advertising in the UK, unless that territory has been specified by the Secretary of State in regulation. The Government believe that this will prevent UK citizens from being exposed to a large number of operators based in territories which do not offer the same protections to children and young people.
>
> The Act also introduces several new provisions designed to prevent children and young people from gambling, including providing that a young person of 16–17 years old will him/herself commit an offence if he/she gambles. In addition, a licensed gambling operator who, for whatever reason, permits a person under the age of 18 to gamble will have to return the stake gambled to that child or young person. Operators, however, will have no rights to reclaim any winnings awarded. While we expect that the British licensed industry will readily maintain the very highest standards, we believe that this will act as a further incentive to operators to ensure that their age verification systems are robust".[11]

Further clarification indicated that:

> "Operators of internet gambling sites which are licensed by the Gambling Commission must comply with tough social responsibility measures to prevent underage gambling. These measures include procedures requiring customers to affirm they are of legal age, warning customers that underage gambling is an offence and requiring gambling websites to permit filtering software so that parents can restrict access to those sites.
>
> All remote operators are required to complete age verification checks for customers that register to gamble using a debit card or other means of electronic payment other than a credit card, which are not generally available to under 18s. In addition, customers are not permitted to withdraw winnings until satisfactory age verification checks have been completed.
>
> For credit card users, there are separate provisions which require operators to carry out a programme of random checks to ensure compliance with age restrictions.

[11] HC Deb 10 November 2005 c698W

If operators fail to comply with these requirements they are subject to regulatory action from the Gambling Commission.

For websites in other jurisdictions that are not licensed by the Gambling Commission, operators will be subject to the age verification measures required by the relevant jurisdiction."[12]

Advertising

Under the Gambling Act 2005, new powers became available under part 16 to control advertising. Sections 328, 331 and 333 appear most relevant to the online environment:

Section 328 gives the Secretary of State power to make regulations controlling the form, content, timing and location of advertisements for gambling, including requirements for specified words to be included in advertisements. It is an offence under this section to contravene a requirement of the regulations and any person guilty of an offence shall be liable on summary conviction to imprisonment for a term not exceeding 51 weeks (6 months for Scotland), a fine not exceeding level 5 on the standard scale, or both.

Section 331 makes it an offence to advertise non-EEA (or "foreign") gambling. Foreign gambling is gambling which either physically takes place in a non-EEA state (e.g. a casino in Australia), or gambling by remote means which is not regulated by the gambling law of any EEA state (the interpretation section in Part 18 defines "EEA state"). The offence covers advertising of gambling whether the advertising takes place by remote or non-remote means. It is open to the Secretary of State, however, to make regulations specifying countries or places which are to be treated as though they were EEA states for the purposes of this section. This is the so-called "white list" of approved countries. The effect of this will be to put any advertising of gambling taking place in that country or place outside the scope of the offence. The maximum penalty upon conviction for an offence under this section is a term of imprisonment of 51 weeks in England and Wales (6 months in Scotland and Northern Ireland), together with a fine up to level 5 on the standard scale. Countries currently on the "white list" (which permits operators based in those countries to advertise) include the Isle of Man, Alderney and Tasmania.[13]

Section 333 is a complicated provision governing the territorial application of remote advertising.

Update: Developments Since July 2007

Estimates of Current Online Gambling Activity and Potential Federal Revenue

As the Committee will know, in November 2008 a joint study carried out by *The Washington Post* and "60 Minutes" estimated that the worldwide Internet gaming market is worth about £12.5 billion per annum - of which about 11 per cent, or £1.4 billion, per annum comes from UK players. There are estimated to be about 6,500 Internet gambling sites worldwide, approximately 5,500 of which are not regulated.[14]

---

[12] HC Deb 4 March 2008 c2332W

[13] HC Deb 21 May 2008 cc299-300W

[14] Figures quoted by Don Foster, Lib Dem spokesman on culture, media and sport, Third Delegated Legislation Committee, 4 February 2009. c3

The Committee will, of course, have already perused the up to date evidence in relation to the situation in the United States. The PricewaterhouseCoopers' estimates will have been scrutinised (including by the relevant Congressional process), but it is clear that this is a major growing area for government to consider, and the revenue implications for the public purse are considerable.

UK Government Review, April 2009

In April 2009 the Government announced a consultation on overseas-based gambling operators who advertise in the UK, with the implication that they may be subject to new requirements:

> "In response to rapid technological advances in online gambling, as well as the changing international regulatory landscape, the Government is to explore ways to make the system fairer to ensure a more level playing field between British businesses and their overseas counterparts.
>
> The Department for Culture, Media and Sport, working with the Gambling Commission, will look at a number of issues, including securing fair contributions from overseas licensed operators towards the costs of regulation, the treatment of problem gambling and the Horserace Betting Levy. The Department will also look at the existing controls that apply to operators licensed overseas to ensure the rigorous consumer protections introduced by the Gambling Act continue to be upheld".[15]

Implications for the United Kingdom

The UK government's decision to undertake a review was welcomed as it was important to assess whether the Gambling Commission was working as intended, whether the UK Government should adapt its taxation policy to maximise revenue and minimise external evasion, and to take further steps to protect the most vulnerable, and to enhance existing approaches to prevent and treat problem gambling.

There is much still to be done, a great deal to be learnt and further gains to be made to protect consumers, to combat the risks of fraud and illegality, and to raise revenues in the UK relating to online gambling from sources which, were they not 'online', would be seen as a valuable contributor to the Exchequer – not least at this time of great global economic and fiscal pressure.

In short, we believe our existing regulatory process to be sound, but that enhancements in light of experience will be ongoing, and accordingly have hopes that future reviews will take us to the next level in improving our ability to regulate and tax online gambling to meet all of our public policy goals.

Implications for the United States

---

[15] DCMS press notice 066/09), *A fair deal for British gambling operators – creating a more level playing field to compete with overseas rivals*, 30 April 2009

The existing system in the U.S., which relies on prohibition to address Internet gambling, reflects a fundamentally different approach to the issue from that which the UK has adopted. Based on my experience in dealing with the enforcement of UK laws, I am convinced that prohibition does not work unless there is consensus among most countries to enforce the prohibition. That obviously is not the case when it comes to gambling online.

The question then becomes what steps need to be undertaken to address the current public policy challenges. As we have reviewed, we consider these solutions to include strict consumer protection while ensuring revenues due are collected, in addition to the other principles specified in the Budd Report. These include the need for customer identification, the need for controls to address underage gambling, and the need for protections to assist problem gamblers.

Bit by bit, we have moved forward with these policies in the UK. Accordingly, we are pleased to see that these same principles are included in Chairman Frank's proposed legislation, H.R. 2267. Indeed, the structure of that legislation would seem to systematically address all of the social policy issues that the UK has found involved in online gambling, through adopting a series of safeguards to protect privacy, ensure the integrity of the games, protect consumers, and collect revenues when they are due. This type of approach also makes it easier to enforce national laws, by creating appropriate systems for record-keeping that are likely to facilitate the ability of law enforcement agencies and regulators to do their work to protect the public.

In short, based on my experience, the Frank legislation reflects a sensible approach to Internet gambling that is in line with evolving international standards as well as UK experience.

I hope this testimony is helpful to the Committee as it considers a new regulatory approach to Internet gambling. I am grateful for the opportunity to share my experiences and would be pleased to provide any additional information that may be helpful.

The Rt Hon David Blunkett MP
Former Home Secretary and Honorary Chairman of the ISSA-UK Advisory Committee
Note: I have in the Parliamentary Register of Members' Interests my non-executive Directorship of UC Group Ltd

CATANIA EHRLICH& SUAREZ, P.C.
LAW OFFICES

Email: info@catanialaw.com

909 Belmont Avenue
North Haledon, New Jersey 07508
Tel. (973) 427-2500
Fax (973) 423-2003

19 Summit Walk Trail
Henderson, Nevada 89052
Tel. (702) 260-7911
Fax (702)260-7911, call notice req'd

Frank Catania*
Frank Catania, Jr.*
Gary A. Ehrlich**
Esther Suarez**
Toni Cowan***

Joseph M. Kelly**
of Counsel
*** Admitted in NJ*
****Also Admitted in NY*
******* Admitted in IL, NV, WI*
********* Admitted NJ, PA, NV*

November 25, 2009

Honorable Barney Frank, Chairman
House Committee on Financial Services
2129 Rayburn House Office Building
Washington, D.C.

Dear Mr. Chairman:

As a former New Jersey gaming regulator, a private consultant to numerous gaming companies, and a person who has testified before various Congressional Committees in connection with proposed Internet gambling legislation, I write to your Committee to express my support for H.R. 2267, the Internet Gambling Regulation Consumer Protection and Enforcement Act of 2009.

As recognized by most governments worldwide, Internet gambling is a multi-billion dollar business, which continues to grow worldwide. Despite the official hostility of the previous administration of the United States Government and its enforcement agencies, Americans continue to engage in Internet gambling, wagering billions of dollars on casino games, including poker. Online gambling businesses operate from outside the United States, under successful regulatory frameworks however, there are some that have little or no effective regulation.

This state of affairs invites inevitable comparison to this nation's experience under Prohibition, which should have taught us that where public demand for a product is great and public acceptance widespread, supply of the product is ample and the financial rewards for delivery of the product are substantial, enforcement of a legal ban will be ineffective if not counterproductive. This lesson notwithstanding, United States public policy with regard to Internet gambling suffers from many of the identical flaws, including the following:

- Despite the purported illegality of Internet gambling, millions of Americans continue to gamble online, but without a uniform regulatory structure in the United States that could assist in protecting our citizens against possible fraud, underage gambling, problem gambling and money laundering or other financial crimes;

- The disconnect between the purported illegality of Internet gambling and its widespread availability and acceptance breed public disrespect for other laws;

- Money paid by Americans to foreign Internet gambling operators creates no jobs in the United States and generates no tax revenues;

- The purported illegality of Internet gambling in the United States effectively disables legitimate American gaming companies from engaging in a profitable activity which has found widespread acceptance in the rest of the world.

By establishing a system for the licensing and regulation of Internet gambling in the United States, H.R. 2267 would reverse the public policy deficiencies of the existing Internet gambling prohibition. As a result of my familiarity with online gambling companies, the technology exists to regulate a United States Internet gambling industry more effectively than we now regulate our land-based casinos. Inasmuch as almost every State already has some form of legalized gambling, the immorality of gambling can no longer be considered a serious objection. To the extent any State or Tribe disagrees, the opt-out provisions of H.R. 2267 provide sufficient protection.

If I can be of any further assistance to this Committee in its consideration of this Bill, please feel free to have Staff contact me.

Very Truly Yours

Frank Catania

CUNA
Credit Union National Association
cuna.org

DANIEL A. MICA
PRESIDENT & CEO

601 Pennsylvania Ave., NW | South Building, Suite 600 | Washington, DC 20004-2601 | PHONE: 202-638-5777 | FAX: 202-638-7734

December 3, 2009

The Honorable Barney Frank
Chairman
Committee on Financial Services
United States House of Representatives
Washington, DC 20515

The Honorable Spencer Bachus
Ranking Member
Committee on Financial Services
United States House of Representatives
Washington, DC 20515

Dear Chairman Frank and Ranking Member Bachus,

On behalf of the Credit Union National Association (CUNA), I am writing to support H.R. 2266, which would place a one year moratorium on the implementation of regulation with respect to the Unlawful Internet Gambling Enforcement Act (UIGEA). CUNA is the nation's largest credit union advocacy organization, representing 90% of our nation's approximately 8,000 state and federal credit unions, their state credit union leagues, and their 92 million members.

The UIGEA regulations would impose a set of unreasonable policing requirements which will prove difficult, if not impossible, for credit unions to meet. In previous testimony before your committee, we outlined several concerns, including technological limitations and statutory ambiguity. In short, these new burdens would without question divert credit unions from their intended purpose of providing financial services to their members.

We appreciate the announcement by the Department of Treasury and the Federal Reserve that the compliance date for the UIGEA regulations has been moved to June 1, 2010. Nevertheless, we believe that additional action is required to insure that these unworkable UIGEA regulations are enforced.

Credit unions applaud the introduction of H.R. 2266, which would prohibit the Secretary of the Treasury and the Board of Governors of the Federal Reserve System from proposing, prescribing, or implementing any regulation with respect to UIGEA. We do not condone illegal Internet gambling nor do we want to see it continue or grow; however, the statute and implementing proposal represent an inappropriate and overly burdensome regulatory compliance issue which causes us great concern. We encourage Congress to enact H.R. 2266 quickly.

Sincerely,

Daniel A. Mica
President and CEO

AMERICA'S CREDIT UNIONS

PO Box 431 | Madison, WI 53701-0431 | 5710 Mineral Point Road | Madison, WI 53705-4454 | PHONE: 608-231-4000

December 2, 2009

Honorable Barney Frank, Chairman
House Committee on Financial Services
2129 Rayburn House Office Building
Washington, D.C.

Dear Mr. Chairman:

As Secretary General of the European Sports Security Association (ESSA), I write to your Committee to express my support for H.R. 2267, the Internet Gambling Regulation Consumer Protection and Enforcement Act of 2009 and in particular for the inclusion of sports betting.

Online sports betting operators have a common goal with sport federations regarding their firm ambition to prevent fraud and match-fixing. Match fixing impacts both sport federations and sports betting operators that suffer negative economic and reputational consequences from corruption in sport.

The medium of the Internet provides much greater transparency than traditional offline betting. The fact that each individual action taken by an online customer can be tracked and then analysed from a security perspective creates numerous new technological opportunities for regulators to be able to identify suspicious betting patterns that may indicate sport-related fraud. Sophisticated real time alerting engines based on 'expert systems' assure the detection of any irregular betting pattern. Techniques such as advanced technical fingerprinting and pattern-matching technologies can provide regulators with the ability to trace connected fraudulent individuals – something that previously has been almost impossible to achieve.

Strict but transparent regulatory frameworks can be highly-effective instruments for mitigating fraud-related risks in sport. However, such regulatory frameworks need to ensure that they are designed to attract operators and players alike otherwise both will be driven to continue their practices out of view and reach from regulatory bodies. Prohibition as an alternative is however also counterproductive in addressing corruption in sport. Instead, in order to circumvent the rules, it fosters fraud, manipulation and forces the creation of a black market in sports betting, one that is driven by a desire to place wagers on sport – a pastime that is as old as sport itself.

In 2005 the leading European online sports betting operators formed the European Sports Security Association (ESSA) with a mandate to keep sport clean and free from game

11 Rond Point Schumann ◊ B-1040 Brussels ◊ Belgium

RPM 899.815.846

manipulation. To achieve this goal, ESSA created and then implemented an early warning system between its members that highlights any irregular betting patterns or possible insider betting from within each sport.

On the first layer of the ESSA security network, online providers operate their own in-house security expert systems, which as a rule are based on a combination of statistical formulas and empirical data based on thousands of tracked matches and sporting events. Any irregularities detected are thoroughly analysed and evaluated by in-house security experts who are available 24/7. In a case where a detected irregular betting pattern cannot fully be resolved by an operator, it is escalated to the 2nd layer, whereby an ESSA alert is created. ESSA gathers and compares related information across each of its members. Should evidence suggest that match-fixing is the underlying reason for the irregularity, the stakes are instantly frozen and the affected federation is informed immediately.

To facilitate a channel of communication, ESSA has signed a series of Memorandums of Understanding (MoU) with numerous reputable sports federations including the likes of FIFA, UEFA, the ATP, and the IOC (please find enclosed the accompanying references from UEFA and the IOC). In 2009, ESSA signed MoUs with two North American sport federations; the National Hockey League (NHL) and Major League Soccer (MLS). ESSA is keen to add more US sporting bodies and will be approaching the NFL; MLB; NBA and the NCAA in 2010.

Far from exacerbating the problem of match-fixing, through its advanced technology, online gaming provides sports federations and law enforcement agencies with a much greater visibility on consumer behaviour *via* access to a perfect 'audit trail' of detailed information that can prove vital in establishing whether or not match-fixing has been taking place. As betting volume through regulated online channels increases, so the avenues for those that seek to corrupt sporting events for their own financial gain, become more difficult to find. In 2008 ESSA investigated 34 matches across a number of sporting disciplines of which four were found to be highly suspicious. If you consider that the average online betting company offers bets on around 10,000 sporting events in a week then the actual percentage of game manipulation is very low. However, keeping criminals out of sport and out of sports betting is essential to preserving the integrity, trust and reputation for both sectors.

If I can be of any further assistance to this Committee in its consideration of this Bill, please feel free to contact me.

Yours Sincerely

Khalid Ali

11 Rond Point Schumann ◊ B-1040 Brussels ◊ Belgium

RPM 899.815.846

Isle of Man
Government
Reiltys Ellan Vannin

House Financial Services Committee Hearing

"H.R. 2266, Reasonable Prudence in Regulation Act, and H.R. 2267, the Internet Gambling Regulation, Consumer Protection, and Enforcement Act"

December 3, 2009

Statement for the Hearing Record
Submitted by Mary Williams, Chief Secretary, Isle of Man Government

---

Introduction

Chairman Frank, Ranking Member Bachus and Members of the Financial Services Committee, the Isle of Man Government is pleased to submit its views on H.R. 2267, the "Internet Gambling Regulation, Consumer Protection, and Enforcement Act" and would be pleased to share with the Committee the expertise it has gained through its experience in licensing and regulating internet gambling operations in the Isle of Man.

Summary

The Isle of Man supports the effective regulation of a legal internet gambling market in the United States, as set forth in the "Internet Gambling Regulation, Consumer Protection, and Enforcement Act" sponsored by Chairman Frank. The Isle of Man believes that a country's legalization of a licensed and regulated internet gambling market is the most effective means of protecting its citizens and consumers against exploitation, unfairness, or criminal influence with respect to internet gambling. The Isle of Man believes that a country's licensing and regulation of internet gambling enterprises should conform to international standards.

The Isle of Man also respectfully suggests that fair and effective regulation of the internet gambling market in the United States can be, and should be, extended to enterprises that are operated outside the United States, provided that such enterprises also meet U.S. licensing requirements and are effectively subject to U.S. regulation. In this regard, the Isle of Man is already in dialogue with a number of European states to regulate cross-border internet gambling

activities. If the United States moves to legalize regulated internet gambling in the United States, the Isle of Man would welcome entering into discussions with the United States regarding a bilateral agreement of cooperation to enforce U.S. internet gambling regulations with respect to enterprises licensed and operated in the Isle of Man.

Isle of Man Tenets of Internet Gambling Regulation

The Isle of Man firmly believes that comprehensive regulation and vigorous enforcement is the only way to protect internet gambling players against exploitation, unfairness and criminal influence.

The Isle of Man Gambling Supervision Commission ("GSC") ensures that operators have processes in place to prevent minors and compulsive gamblers from accessing their products and activities. The GSC ensures that all games are subject to independent expert scrutiny to verify their fairness and reliability, and vets all vendor applications to make sure it knows who the ultimate beneficial owners of gambling companies are and to ensure that they are people of integrity. If unable to establish the beneficial ownership of a company involved in gambling, the GSC rejects the application.

The Isle of Man ensures that applicant companies understand their obligations under anti-money-laundering and anti-terrorist-financing laws. Company compliance handbooks, employees and money-laundering-reporting-officers are all vetted to ensure they are meaningfully integrated into the applicants' businesses. The Isle of Man issues periodic notifications to all businesses advising of accounts which have been frozen because of their connections to terrorism and crime, such as Al Qaeda or the Taliban. While the Isle of Man has become a difficult jurisdiction for terrorists and other criminals to exploit, United Nations Sanctions Committee notifications are always shared with the regulated community to further safeguard against criminal influence.

The Isle of Man believes that good regulation is the bedrock upon which legitimate businesses can thrive. The Isle of Man regularly examines its company registry for evidence of unregulated gambling operators on the Isle of Man. It sweeps the internet regularly for operators that falsely claim they are licensed and/or regulated by the Isle of Man. Operators on the Isle of Man that are not licensed are ordered to immediately comply with GSC regulations or shut down. This activity gives legitimately licensed operators the surety that their compliance with the licensing and regulatory regime of the Isle of Man is a worthwhile investment.

Hallmarks of Effective Regulation

- Good regulation should seek to block minors and the vulnerable (such as compulsive gamblers) from access to internet gambling, exclude crime and criminal influence, and ensure the fairness of all gaming activities accessed on line. On a quarterly basis, the GSC conducts a range of layered, in-depth checks that measure the compliance of all licensees with selected regulatory requirements. The GSC also conducts on-site inspections of its licensees on a periodic basis, or as circumstances require, and conducts weekly spot-checks of random licensees to ensure compliance. In addition, each

licensee's accounts are scrutinised on a quarterly basis with a view to ensuring no money laundering or other subversion of monies is occurring.

- A competent regulator of internet gambling must be able to impose effective sanctions against unregulated or non-conforming operators. The key officers and employees of the licensee must be located in the Isle of Man so that they can be made available at short notice to address regulatory requirements or concerns. The Isle of Man requires that a licensee's directors be located in the Isle of Man, and that an operations manager or designated official is always available in the Isle of Man.

- The licensee's data servers also must be located in the jurisdiction so a non-compliant operator's servers can be seized and their data inspected for player information in order to repatriate player funds. The Isle of Man requires that a licensee's data servers and game servers be hosted in the Isle of Man.

- The licensing jurisdiction's regulatory regime is subject to independent, preferably international scrutiny (*e.g.* the International Monetary Fund ("IMF"), Financial Action Task Force ("FATF"), *etc.*) to ensure best practice is maintained. The Isle of Man is audited by the IMF every five years and keeps abreast of best regulatory practices in Europe by attending the Gambling Regulators' European Forum ("GREF") and by attending the International Association of Gambling Regulators ("IAGR") annual conference.

- Regulatory authorities must not engage in any marketing activities beyond explaining clearly how its regulatory regime operates. The GSC undertakes no marketing activities regarding internet gambling operations in the Isle of Man, which is handled exclusively by the Isle of Man's department of trade and industry.

- Player funds must be protected by law against theft by non-compliant operators. Player funds deposited with Isle of Man licensed operators are protected in law by bank guarantees or trusts which operators must set up and service. If an operator folds, the player's deposits and winnings are protected and repatriated.

- The licensing jurisdiction must have a track record of ethical practice and cooperation in the international arena in other areas such as taxation and trade. The jurisdiction must be accountable for its conduct and can be consistently identified on the various listings (both favourable and not) issued by G20, FATF, the Organisation for Economic Co-operation and Development ("OECD"), *etc.* The Isle of Man is a pace-setter for international cooperation amongst the offshore international finance centres and in addition to its recent inclusion on the G20 list of jurisdictions that conform to international standards of financial cooperation, it always appears in league tables as an independent and accountable jurisdiction.

Conclusion

The Isle of Man supports the objectives of the "Internet Gambling Regulation, Consumer Protection, and Enforcement Act" sponsored by Chairman Frank to provide a legal and effectively regulated internet gambling market in the United States. The Isle of Man would be pleased to share its expertise with the Committee regarding the regulation of internet gambling operations. Moreover, if the United States licenses and regulates an internet gambling market in the United States, the Isle of Man stands willing to enter into bilateral or multilateral agreements with the United States and other nations to ensure enforcement of international protocols regarding the licensing and regulation of internet gambling operations.

November 30, 2009

Honorable Barney Frank, Chairman
House Financial Services Committee
2129 Rayburn House Office Building
Washington, DC 20515

Mr. Chairman and Members of the Financial Services Committee

Subject: Hearing on H.R.2267, the Internet Gambling Regulation and Enforcement Act of 2009

I am Francesco Rodano, Head of Remote Gaming, Autonomous Administration of State Monopolies ("AAMS"). I write to your Committee to express my support for H.R. 2267, the Internet Gambling Regulation Consumer Protection and Enforcement Act of 2009.

AAMS is part of the Ministry of Finance, and is Italy's Gaming Regulatory Body. All the games that involve cash winning, with the exception of the four land based casinos, are regulated by AAMS (slot machines, bingo, sports betting, betting on horse races, lotteries and scratch cards etc.). All those games are managed by private operators on behalf of the State. Only licensed operators can legally offer games in Italy. Licenses ("concessions") are usually granted with international tenders. The estimated total turnover for 2009 is 52 billion euro (generating about 8 billion euro of tax money).

Some of the games can be offered on-line (sports betting, betting on horse races, scratch cards, bingo and games of skill, including poker tournaments). In the first quarter of 2010 also on-line cash poker and casino games will be regulated and legally offered by the licensed operators. There is a single remote gaming license. It can be requested by gaming operators that meet some given requirements and allows them to offer all the regulated on-line games. Currently, about 60 companies have this license, including over 20 foreign gaming operators.

How the online gaming should be regulated?

There are a few points I'd like to highlight about an ideal online gaming regulation. First, I think that all kind of games should be regulated. On the internet, strict prohibition doesn't work well. If something is freely available on the net, people will always try to get it, no matter how hard we try to block them. Italy initially attempted to prohibit online gaming before changing its position and introducing a regulatory framework. So, at the end of the day, it's much better to let them play in a safe and controlled environment, in which we can avoid frauds and manage the players' complains, rather than closing the eyes while they get "squeezed" by some unknown off shore operator.

Second, it's up to each government whether managing the gaming on their own or giving licences or concessions to private operators. This latter case has the advantage to avoid the "competition" with the large foreign operators, that could decide, if the conditions are right, to apply for a licence in the country, instead of trying to attract people from abroad.

Third, taxation should be "fair" and not burdensome. Online gaming could be a source of considerable tax money for a country, but only if the tax level is correctly set. Otherwise deciding to invest in a country could be not cost-effective for the operators and, again, the competition with the unlicensed (tax free) operators would be unbearable.

What could be a good regulatory model for online gaming?

It may seem obvious, but I think that the Italian model, even if it is far from being "perfect", is a good one. We represent a sort of balanced third way between strict monopolies and completely open systems. Let's say that we are in a "regulated liberalization" scenario. Our strong principle is: if you want to collect money from the Italian citizens you must have an Italian license and operate under our rules. But any gaming operator, Italian or foreign, which complies with the requirements we set, can apply for a license, and the number of available licenses is unlimited. The current licensing conditions have been approved by the European Commission (making us fully "EU-compliant"), that's why we are confident that ours could be a model also for other European countries currently in the Commission's sights. This opinion is reinforced by the fact that several delegations from European governments have visited us (or will do it in the near future) to study and better understand our system, with a view to the forthcoming confrontation with the Commission itself. Also, after those visits, countries like France or Denmark have decided to work on a regulatory model really similar to the Italian one. Thus I believe we are on the right track, and the results both in terms of turnover (for instance, 2.4 billion euros for online poker in the first year) and in terms of number of foreign operators that applied for an Italian licence (9 out of the 12 top international poker operators), are quite comforting and demonstrate the effectiveness of our system.

Can the regulation of online gaming be settled on in an international level?

Yes, definitely, at least at the EU level. Probably that is a sort of utopia, right now. There are too many different, if not opposite, views within the governments about the role of gaming regulation (and of gaming in general). But harmonised regulation would bring enormous advantages. The operator's gaming platform could be located everywhere in the EU, and the European players would be also allowed to play against each other (for instance on an online poker table). The operators would pay the (harmonised) taxes to each country, based on the revenues obtained by that country's players. In this scenario, one regulator could cooperate with another not only in the authorization process, sharing his knowledge about the operators based in his country, but hey could also work together against frauds and players collusion, or on money laundering investigation, or, again, in better understanding the betting markets that are based on sports and events that take place in their respective countries. This model could apply to a U.S. regulatory model with operators able to locate anywhere in the U.S. and states able to participate if they so desire.

How to protect both the players and the legitimate interests of the operators?

The "bet" is exactly this: finding a model that reconciles all those interests, that seem diverging but I don't think actually are. A market is like a puzzle. It develops and grows well if all the "pieces" fit perfectly together. In our case, if one component (player, operator, state) was unsatisfied with the gaming model (for instance the players feel defrauded, the operators loose money, the state notices too much compulsive gambling), all of the sector would quickly collapse. So I believe that it is mandatory, before approaching the regulation, to thoroughly understand the characteristics and the needs of every component, talking to everyone and studying all the best practices around. Then, and only then, it is possible to set the rules.

What could be the future of online gaming?

Given both the speed of the technological development and the evolving dynamics of consumer tastes, it is really hard to say. Also, due to the "stickiness" of the administrative and legislation processes, the regulation is never quick enough to adapt to these changes, when instead it should anticipate them. Anyway, I think that the meaning of "online" will really broaden in the future. It will possible for the player to seamlessly access their favourite games from virtually anywhere (television, mobile phones, wi-fi appliances and so on). "Seamlessly" is the crucial word, as, for instance, still today, placing a bet during a live match via a tv set is painfully complicated. And, with the introduction of new kind of games (like the "games of skill"), I believe that the online gaming will gradually become a "pure entertainment" activity, involving always more people traditionally distrustful, and finally loosing the negative connotation of "gambling".

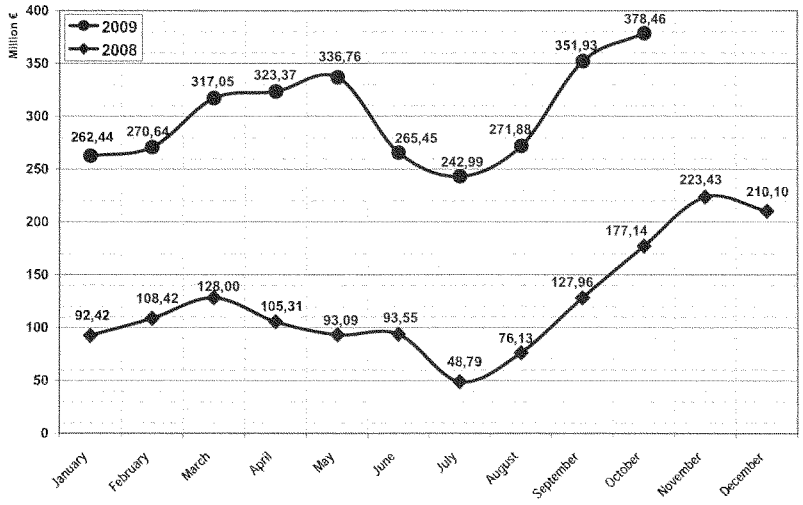
Conclusion

In conclusion, it is my belief that Internet gambling can be effectively regulated to protect consumers, ensure the fairness of games being offered, protect the integrity of the financial transactions and collect government revenue that is generated in a regulated environment. Attempts to prohibit do not work and only act to drive an industry underground. If the Committee would like any clarification or further information, or if I can assist in any other way, please feel free to have Staff contact me.

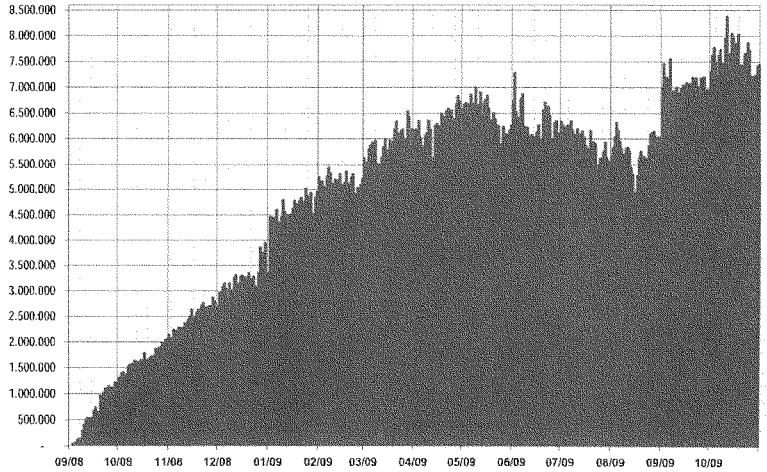
Yours Sincerely
Francesco Rodano
Head of Remote Gaming
AAMS – Autonomous Administration of State Monopolies
(Italy's Gaming Regulatory Body)

ADDENDUM

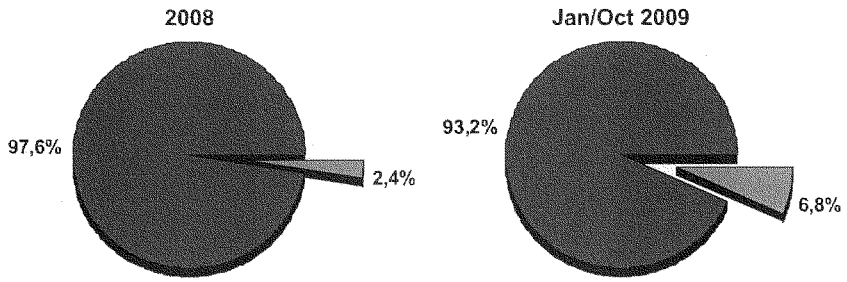
1. On-line gaming in Italy – Monthly turnover



2. On-line poker in Italy – Daily turnover



3. On-line gaming turnover vs. total gaming turnover in Italy



October 2009: 8,2%

Testimony of Keith Marsden
Managing Director
192business.com
(A division of i-CD Publishing (UK) Ltd)

Submitted for the record concerning Legislative Hearing on HR 2267 the Internet Gambling Regulation, Consumer Protection, and Enforcement Act

Phone: +44 (0)207 909 2184
Mobile: +44 (0)7900 987 778
Email: keith.marsden@192.com

192.com Business Services

CONTENTS

1. Summary

2. Technologies *to* *"verify the identity and age of each customer"*

- The basics of customer identity verification
- Data used for identity & age verification
- Alternative methods of identity and age verification
- Cost of age and identity verification
- Effectiveness of identity verification
- How European regulators have mandated identity verification filters

3. Potential approaches to geolocating customers as part of the customer identity verification procedure

4. About 192business

Appendix I The 192business service for online gaming operators

1. Summary

Chairman Frank and members of the Committee, this document aims to set out our views on how the necessary social responsibility and law enforcement aspects of Internet gambling can be practically and realistically enforced.

My name is Keith Marsden and I am the Managing Director at 192business, the European market leader in ID and Age verification solutions. Our experience and expertise in identity verification is based on providing customer verification services to some of the largest global online retailers in Europe and in the US including Dell, Google, Expedia and Amazon.

192business also serves many of the leading European online gambling companies such as 888.com, Betfair, PKR, and PartyGaming.

We have based this testimony on the text of Section 5384 of HR 2267 and in this testimony we will examine the technology that can be used to meet the player protection and law enforcement requirements as required by HR 2267.

Our experience in the European market shows that it is possible to verify customer age and identity to a very high level of confidence. The UK authorities in particular have been a successfully established a well regulated industry that is obliged by law to prioritise social responsibility such as age verification.

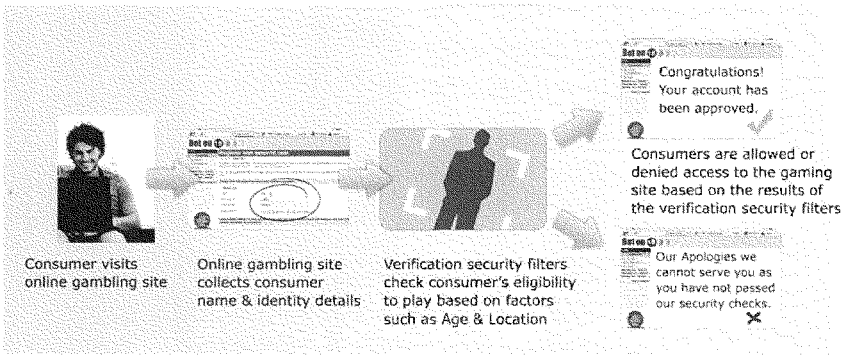
2. Technologies *to "verify the identity and age of each customer"*

The verification technologies that I am about to describe are best summarised as filters that sit within the customer registration process of a gambling website.

These filters are designed to allow legitimate customers into a site whilst blocking illegitimate customers. Illegitimate customers are minors, fraudsters or money launderers. Of course 99%+ of prospective customers are legitimate.

These filters can be tightened or loosened according to the gaming operator's approach to risk or as laid down in local laws and regulations.

The basics of customer identity verification



What follows is a description of the ID and age verification process:

1. **Customers are asked to provide personal information** whilst registering on a gambling website. They provide information such as name, address, date of birth, phone number and partial social security number.

2. Before accepting the user's registration, the **online gambling website instantly checks customer ID** by querying a set of online databases to establish whether the individual concerned exists and whether the identity information they have submitted is correct.

3. Results are returned to the website **with an electronic report** to show whether the consumer has provided the correct details.

4. **Legitimate customers are quickly identified** and accepted, whilst suspected fraudsters, underage customers or money launderers who provide incorrect personal data are weeded out and rejected.

When properly integrated into an online gambling website, this process takes less than a second and is invisible to the customer so that the customer experience is not adversely impacted.

Data used for identity and age verification

A successful identity verification system relies upon access to multiple databases to ensure relatively comprehensive population coverage of a given market. The databases available for use in this process will vary from market to market depending on the local regulations. Databases that are typically used to check age and identity are databases of voters; consumer credit files; telephone subscribers; driving licence numbers; social security numbers; and death registers.

The best, most reliable results in identity verification are achieved through the use of as many databases as possible. Not only does this ensure the greatest population coverage, it also makes it harder for illegitimate customers to "beat" the system by registering bogus details on a single database.

So, if an individual's personal details are successfully corroborated against multiple databases, a higher confidence "score" can be attributed than if only those details are only corroborated against a single database. Moreover, if any part of the personal details are found not to match the details on a particular database even if those details do match another database, then the individual can be flagged as worthy of deeper investigation.

This approach makes life more difficult for minors, fraudsters and money launderers. Enterprising criminals may well of course misappropriate or procure some from of bogus ID to use in the verification process. Entering themselves onto multiple identity databases is a far more difficult and time consuming task.

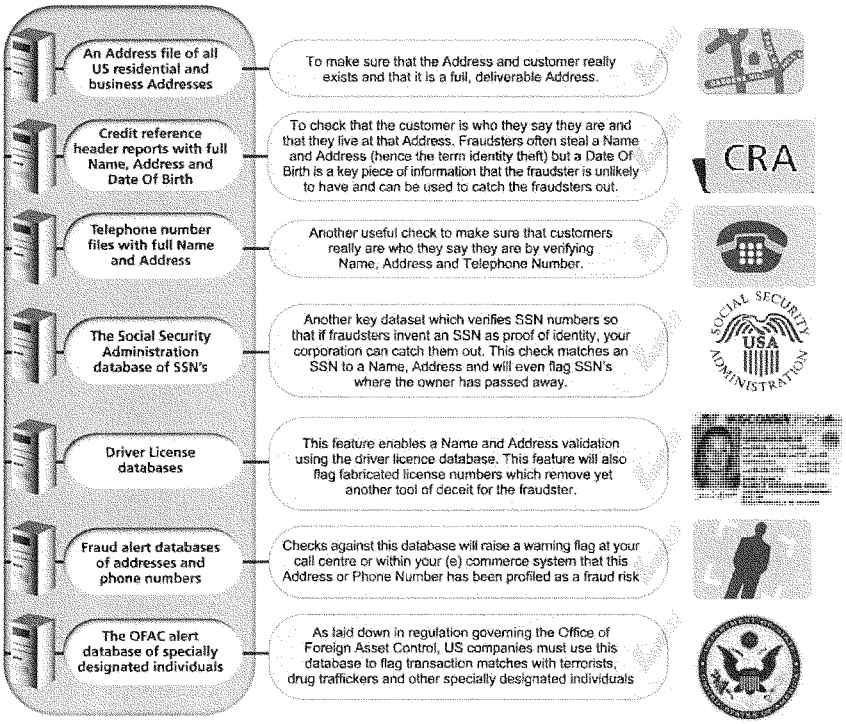
This approach is also beneficial to gambling site operators who will enjoy greater match rates (less customer rejection) by hitting more databases.

The United States is well placed to enforce such a regime because it has the widest availability of suitable databases of any country in the world. As you will see from the below illustration, there are numerous and varied databases that can be aggregated into an identity verification solution for use by responsible and regulated US online gambling businesses.

Some of these data sources are publicly available government databases whilst others are commercial databases. In summary there are two types of database: positive and negative.

Positive databases are used to prove that a customer really exists and that they are likely to be who they say they are. Negative databases list people and organisations that companies should think twice about before accepting them as a customer.

List of the customer characteristics, databases and database owners that can be used as part of the age and identity verification process:



Credit Reference databases are particularly valuable for age and ID verification. These databases are collated from information provided by financial institutions such as banks, mortgage companies etc. Each time an individual applies for a bank account, loan, mortgage or the like, they will provide personal details. This means that the credit reference databases contain multiple, separately collected personal data sets for most individuals which can be cross compared.

Alternative methods of identity and age verification

No matter how many databases are available to check against it is a fact of life that not every individual can be found in a database. For example, women who have just assumed a married name; foreign nationals that are temporarily resident in the country; migrant workers; and new immigrants. These are all sections of the population that are potentially legitimate consumers.

Therefore other methods of identity and age are sometimes required. The main ones are:

Real time identity document checking:

In the land-based gambling industry, identity and age is commonly confirmed by physically checking identity documents. In the online industry this is more difficult but not impossible. By checking the data contained in identity documents such as passports, travel visas and identity cards, an online business can still attain a high degree of confidence over an individual's identity and age.

The identity data in passports and travel visas conforms to the ICAO (International Civil Aviation Organisation) standards. The name, date of birth, gender and nationality data recorded in these documents are used in creating the long (16 digit) identification number that is unique to that ID document. It is extremely difficult to forge this number and yet the validity of the number can be easily checked by an ID check provider using the proper mathematical algorithm.

Manual identity document checking:

In Europe, a number of vendors offer a manual document checking service if all methods of verifying a customer's identity fail. A prospective customer can fax, email, or post a copy of appropriate ID documents which are then manually inspected by document experts who assess the authenticity of each document.

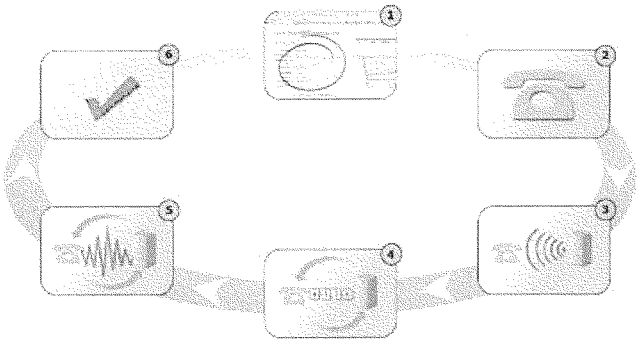
The ID documents received can be compared against official ID document libraries helping to spot forgeries from fraudsters and underage customers. This service can at the same time enable access to gambling sites for legitimate customers who have failed other methods of ID verification.

Voice Challenge:

European regulators have tended towards a risk based approach to ID and Age verification. They require gambling companies to take "reasonable" measures to verify their customers. This allows operators some flexibility in the methods they use especially where the customer cannot be found on a database. One such alternative method is Voice Challenge.

Once the "customer" has given their identity details to create their gaming account and their identity details have been checked (perhaps unsuccessfully), an automated telephone call can be made to the customer's given phone number.

Here's how the voice verification process works:



1. During the account creation process, identity characteristics are gathered and tested by the gambling site's verification filters.

2. The customer is also asked for their telephone number and is told to expect a call from that gambling site to complete the verification process.

3. An automated call is made to the customer's number.

4. The customer answers this automated phone call and is given a four-digit PIN over the phone, which they are asked to enter into an input field within the gambling site's registration process. This ensures that the telephone number given by the customer is valid.

5. An automated voice then asks the customer to state their name and to confirm their date of birth. Their responses are recorded and the recording saved in case it is required for later audit.

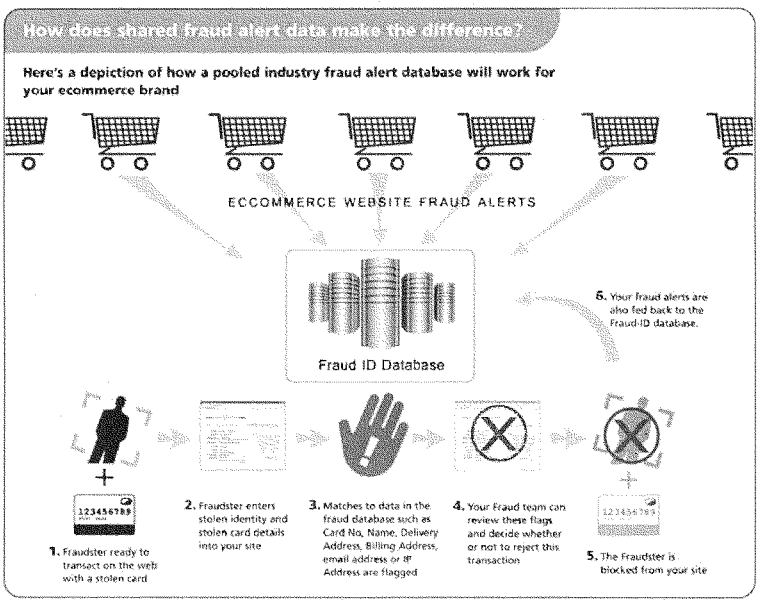
This technology is called OOBA "Out of Band Authentication" and I understand that it is already used within the US banking industry to verify customer identity. It lends itself to the online gambling industry in several ways:

- The technology deters fraudsters and money launderers who would no more allow themselves to be tracked to a phone number or to leave a voice print any more than a burglar would leave their fingerprints at the scene of a crime
- The technology retains the voice print as an audit trail in case of the customer later refutes the transaction
- The technology deters minors who are unlikely to leave a voice print for fear of being caught out
- The voice prints can be later be reviewed for or with the regulator
- The technology can be employed not just at account creation but at the point of subsequent account use so that at every nth time the user logs in the gambling site can be sure that it is still serving the same customer with the same phone number

Fraud alert data sharing in the fight against fraud

Another technique for preventing illegitimate customers transacting is called fraud alert data sharing. It works on the premise that if Company A identities a suspicious identity, they then share that information with all the other companies in the data sharing network so that those companies can look out for the same identity

Here's an illustration to show how shared fraud alert data can stop fraud:



Since 2006 we have been facilitating fraud data in Europe. As a result, we now have nearly 300 online retailers, online gaming operators, payment processors, and telecommunications firms sharing fraud alert data with each other as part of their identity verification processes.

Cost of age and identity verification

The cost of conducting ID verification checks needs to be seen in the context of the average lifetime value of a gambling customer. We understand that across the industry the average initial deposit value is c. $150 and that average lifetime values of a customer, depending on the gaming product being accessed can be c. $1000.

Prices charged to gambling site operators will vary between around $1.50 to $3 per identity check. The cost is therefore not prohibitive in the context of the value of each customer.

What's more, gambling operators have to incorporate ID verification techniques in order to prevent credit card fraud being committed. Failure to do so would expose the business to unacceptable financial risk. The cost of age verification should therefore not be seen as a separate cost but rather a shared cost with an existing commercial objective.

Effectiveness of identity verification

Our understanding of the data available in the US to deliver identity verification tools of the sort outlined above can successfully corroborate the identity of 90% of all prospective customers coming into an online gambling site. The remaining 10% would fall into one of the following categories:

- The individual is found on databases but the information provided does not sufficiently match those databases and therefore may be illegitimate; or
- The individual cannot be found on any databases and can therefore not be verified.

In both these cases the customer would be denied access to the gambling site until they are able to provide some acceptable form of corroboration.

How European regulators have mandated identity verification filters

Using identity verification filters is an accepted part of the regulated online gambling culture in the UK and regulated gaming jurisdictions around the world have mandated identity and age verification albeit to different levels of strictness.

Alderney, for example, is seen as one of the most responsible and rigorous offshore jurisdictions. The Alderney gambling authorities mandate that their licensees must run an age and identity check on every new customer as they make their first deposit.

Other offshore jurisdictions such as Gibraltar and Malta recommend that gambling operators employ identity and age verification but do not specify when and how identity verification filters should be applied.

The UK regulatory authorities mandate that age and identity verification filters must be applied when new customers make their first deposit via bank cards from their checking account but not when making deposits via credit card. This is because you must be over 18 years old to obtain a credit card in the UK.

3. Potential approaches to geolocating customers as part of the customer identity verification procedure

I turn now to the issue of geolocating customers of gaming sites and how geo-location can help with the requirements of HR 2267.

The basics of customer geo-location

Verification of customer location is about using technology to prove the physical location in which the customer is based. Location verification filters employ technology that can "see through" the internet and physically locate the computer that the customer is using to connect to an online gambling site.

At 192business our expertise lies helping businesses verify the age and the identity of their customers at point of transaction in the ecommerce process. We do have some experience of building geo-location verification filters into our identity verification solutions. However, we do not feel sufficiently qualified to provide testimony to the committee on the detail of how geo-location technology might meet the "state border" challenge of HR 2267.

We therefore merely refer in brief to possible geo location technologies and provide the committee with suggestions as to companies that are experts in those fields

IP Geolocation

This technology is where the computer or device being used is located by identifying the computer's IP address. An Internet Protocol (IP) address is a numerical, logical and geographical identifier that is assigned to devices participating in a computer network such as the internet.

It is possible to identify the physical location of an individual's internet connection (to greater or lesser degrees of accuracy depending on the territory in question) and to cross reference that with the customers stated billing address, Mobile Telephone location and Device Location to ensure all are in reasonable proximity of each other, providing confidence that person is where they say they are. Best of breed providers of this type service are Net Acuity/Digital Resolve and Quova.

SMS Geolocation

Is the geographical locating of the applicants mobile telephone at point of application. It is possible to triangulate using the mobile telephone network masts where a mobile phone is physically located via SMS message. The mobile location can be cross reference with the customers stated billing address, IP Address location and Device Location to ensure all are in reasonable proximity of each other, providing confidence that person is where they say they are. Best of breed providers of this type service are FindUS and Spriv.

Device Reputation

It is possible to uniquely identify a device (Computer, Laptop, WAP mobile etc) on the internet and subsequently geographically locate that device using a similar process to IP verification. Some providers are capable of finding where the device is connected to the internet (which telephone exchange) even if proxy servers are being used. This allows merchants to cross reference the Device location with the customers stated billing address, Mobile Telephone location and IP address location to ensure all are in reasonable proximity

of each other, providing confidence that person is where they say they are. Best of breed providers of this type service are Kount and Iovation.

192.com Business Services

4. About 192business

192business is the leading European provider of customer identity verification solutions for businesses to defend themselves against fraud, to verify customer age and to ensure compliance with money laundering regulations.

192business ID check solutions are used by the leading online gaming operators to check customer age and identity in real transaction time so that the customer ID check process is invisible and does not interfere with the customer experience.

Nearly 1000 companies including global brands such as Panasonic, RBS Worldpay, 888.com, Betfair, PartyGaming and Sony use 192business' ID checking solutions to verify customer age and identity.

For more information on the 192business service for online gaming operators please view Appendix I.

We don't think that you should take our word for it! Here are some comments from a couple of relevant industry stakeholders.

UK gaming industry representative body, the Remote Gaming Association

"By working together, gaming operators and gaming regulators can ensure that the industry defines and implements proportionate, necessary and justified checks and balances in the form of identity verification tools from specialist providers such as 192business"

Clive Hawkswood
CEO
Remote Gambling Association

US online commerce risk and fraud association, the Merchant Risk Council

"The MRC is the US industry association for online commerce helping online businesses identify and manage the risks faced by both businesses and consumers in the rapidly growing online marketplace. Our members have successfully adopted and invested in numerous fraud and risk technologies including those from leading vendors such as 192business"

Tom Donlea
Executive Director
Merchant Risk Council

Appendix I

The 192business service for online gaming operators

(Please click on the image below to launch the PDF)

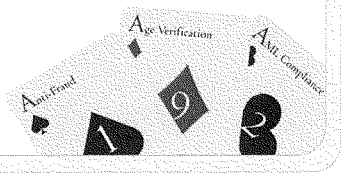
Global ID Check Technology
for online gaming operators

1 9 2 .com™
Business Services

A winning hand...

192business.com are a trusted provider of ID check solutions to global gaming operators such as PKR, Betfair & Bet 365.

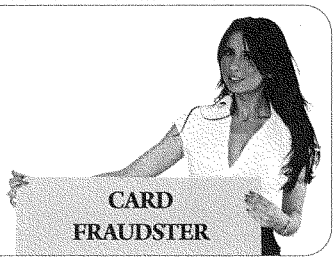
When the gaming industry needs to check customer identity to meet the demands of player age verification, fraud prevention and money laundering compliance, our global solutions lead the market.



Fraud Prevention

Gaming sites continue to be a prime target for fraudsters playing with stolen and cloned cards or online wallets resulting in painful chargebacks for unwary operators. Our customer ID verification tools are at the forefront of the operators' defences to ensure that fraudsters are exposed and legitimate customers are validated and speedily acquired.

Our global verification tools check a range of customer details seamlessly and invisibly during the account creation process and maximise player acquisition rates.

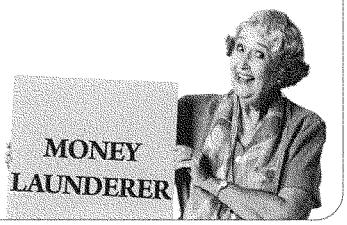


Money Laundering Compliance

Recent legislation such as the EU Third Money Laundering Directive and the UK Money Laundering Regulations have brought gaming operators into the AML compliance environment. In short, the regulations mean that operators have to verify customer identity to keep crime out of gambling.

Our ID technology allows operators to quickly and easily check customer identity against a range of both positive and negative data sources to meet their Customer Due Diligence requirements as part of the Gambling Commission's money laundering guidance notes.

GAMBLING COMMISSION JMLSG

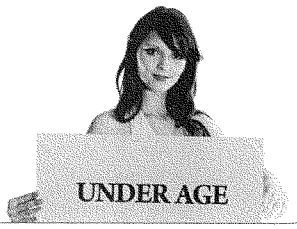


Age verification

The licensing authorities in the online gaming industry have ensured that operators are focussed on player age verification to prevent children from being able to gamble online.

Our global databases and ID technologies allow operators to be socially responsible and take all reasonable steps to be sure of customer age during the account creation process.

GAMBLING COMMISSION GAMCARE RGA Remote Gambling Association



192.com Business Services

ID verification in less than a second...

Online gaming operators gather customer details during the account creation process

Fraud prevention check:
By testing customer characteristics real customers can be identified and acquired and fraudsters spotted and kept off your site

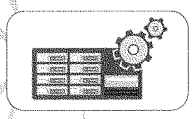
Money Laundering check:
Operators can use our compliant, Know Your Customer ID check solutions to check positive and negative databases to comply with the Money Laundering Regulations 2007 and relevant industry money laundering guidance

Age Verification check:
Our ID check solutions are also used by many operators to ensure they remain socially responsible and can age verify customers

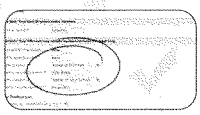
Voice verification check:
When traditional ID check solutions fail, customers can be verified through voice print capture during the transaction to welcome as many valid customers as possible and deter fraudsters, money launderers and underage gamblers

192.com Business Services

Operators pass customer Name, Address, Date of Birth, IP Address etc to 192 to run a Fraud Prevention Check, an Age Check or an Anti-Money Laundering Check



The ID check results are presented to the operators ecommerce rule-set or decisioning engine



Legitimate customers are accepted and fraudsters, money launderers and underage customers rejected

192 is a global customer ID check tool

	Address validation	Name & Address check	Home phone number check	Date of Birth database check	Date of Birth Passport check	Date of Birth ID Card & Travel Visa check	IP address check	Fraud Sanctions & AML alert check
United Kingdom	✓	✓	✓	✓	✓	✓	✓	✓
Europe	✓	✓	✓		✓	✓	✓	✓
Canada	✓	✓	✓		✓	✓	✓	✓
Rest of World	✓				✓	✓	✓	✓

Global egaming operators serve global customer bases so we have built a truly global identity verification solution to meet your global fraud prevention, money laundering compliance and age verification requirements.

We have collated and built global identity databases but our approach is also to ensure that we have verification technologies available where traditional database checks fail or there is no local database to check against.

In this instance, we recommend using our voice verification, IP address validation or global Passport, Driving Licence, and ID card check technologies.

192.com Business Services

We researched other options, but we found 192business.com to be most suitable for our needs given the reliability, accuracy and quality of service we receive. In fact, 192business.com is the only third party service we use. With such robust checks in place we feel we're doing the utmost to ensure responsible gambling on our site.

To find out more

Call the gaming team on 0207 999 2192
Request a call back at www.192business.com/callback
Learn more at www.192business.com/gaming
E-mail us your questions at gaming@192.com

192.com™
Business Services

National Association of Federal Credit Unions
3138 10th Street North • Arlington, Virginia • 22201-2149
(703) 522-4770 • (800) 336-4644 • Fax (703) 522-2734

Fred R. Becker, Jr.
President and CEO

December 2, 2009

The Honorable Barney Frank
Chairman
Committee on Financial Services
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Spencer Bachus
Ranking Member
Committee on Financial Services
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Frank and Ranking Member Bachus: Chairman Frank

On behalf of the National Association of Federal Credit Unions (NAFCU), the only trade association that exclusively represents the interests of our nation's federal credit unions (FCUs), I write you in conjunction with tomorrow's hearing on H.R. 2266, the *Reasonable Prudence in Regulation Act*, and H.R. 2267, the *Internet Gambling Regulation, Consumer Protection, and Enforcement Act*.

While the temporary delay of six months in the implementation of the Unlawful Internet Gambling Enforcement Act (UIGEA) regulations is a positive step, we believe that H.R. 2266 should be enacted to further extend that to one year.

NAFCU maintains concerns with the way in which UIGEA effectively deputizes credit unions and other financial institutions to guard against financial crimes. Our concerns regarding the UIGEA regulations are exacerbated by the current economic situation and the amount of time that both regulators and financial institutions must devote towards a number of other pressing matters. It is with this in mind that we also support the efforts of H.R. 2267 to make needed changes to UIGEA.

NAFCU appreciates this opportunity to share its concerns. Should you have any questions or require additional information please feel free to call me or Brad Thaler, NAFCU's Director of Legislative Affairs, at (703) 842-2204.

Sincerely,

Fred R. Becker, Jr.
President/CEO

Chairman Frank -
Thanks for your consideration of our concerns!

cc: Members of the House Financial Services Committee

E-mail: fbecker@nafcu.org • **Web site:** www.nafcu.org

BARNEY FRANK, MA, CHAIRMAN

United States House of Representatives
Committee on Financial Services
Washington, D.C. 20515

SPENCER BACHUS, AL, RANKING MEMBER

December 3, 2009

Dear Financial Services Colleague:

Attached is an article from the June 28th edition of the *New York Times* that I found particularly moving. This first-person account details one mother's agony as she tries to help her son overcome his addiction to illegal Internet gambling. It reveals how devastating Internet gambling can be, as a promising young man grows increasingly isolated and resorts to deception to hide his addiction. I encourage all Members to read the story and consider how damaging online gaming can be for individuals, families, and communities.

Sincerely,

SPENCER BACHUS
Ranking Member

Attachment.

New York Times Magazine
June 28, 2009

My Son's Gamble

By LUCY FERRISS

Just past dawn one morning last August, I pulled myself from bed, bleary from ragged sleep. I headed downstairs to make coffee and settle at my computer. There, I booted up Firefox and accessed an online card room, Full Tilt Poker, from which I downloaded a program to play Texas Hold 'Em and other games. Once the program was open, I tried to log on with the screen name my 18-year-old son, Dan, had shown me on a different site called PokerStars. Full Tilt Poker, unsurprisingly, rejected the name.

Following the plan I outlined as I lay awake in the wee hours, I opened up Dan's college e-mail account. Weeks before, he read his e-mail via my computer and asked Firefox to save the password. I clicked "Enter." There before me were all the e-mail messages from university officials, from his tennis coach, from teachers. Most prevalent were e-mail messages from Full Tilt Poker, addressed to a screen name I did not recognize. Grimly satisfied, I read none of these. I simply returned to Full Tilt, entered the screen name from the e-mail and clicked "Forgot my password." I expected the program to ask me the name of my favorite rock band, at which point my foray into the role of Internet spy would cease. To my surprise, the window on the screen read, "We have sent your new password to the e-mail address on record." I re-entered Dan's e-mail account, fetched the new password and entered it into the Full Tilt log-in window.

By now, my fingers were trembling. I had never invaded someone's virtual space like this before, never stolen a password, never found myself on such forbidden ground. But driven by the urgency of the moment, I pressed on.

We were having a terrible summer. Anticipating Dan's return from college, I set up "house rules" that I hoped would improve on the previous summer, when the fragile family life I had pieced together since my divorce four years before was on the verge of breaking apart. The new house rules called on all those who lived in the house to have some sort of activity or employment in the world; they set quiet hours for weeknights; they prescribed consequences for abusive behavior. Fairly quickly, Dan incurred the loss of car privileges, the loss of Internet privileges and the loss of the privilege of living in my home. From my point of view, my son's recalcitrance lay at the heart of the problem. He stayed up nearly all night, sometimes heading for bed just as the rest of the family was rising. He rarely ate with us, and he didn't relate to his older brother or to my partner, Donald, who had been living with us for two years, or participate in any way with the family. The stench of his room, with its unwashed clothes spilled out from his suitcase onto the floor, filled the upstairs even when the door was shut, which was most of the time. Dan spent some of his time with a shrinking number of his former high-school friends. Mostly, he logged onto his computer. He refused counseling, either for himself or with the family.

From Dan's point of view, the problem was my futile and suffocating attempt to control him — insisting that he get a job, that he conform to my idea of a sleep schedule, that he feign a family bond he did not feel. When I booted him out, he went at first to his father, who had disparaged my concerns over Dan's Internet poker playing. Thirty-six hours after Dan arrived, his dad called me. "My God, he is out of control," he said. He cut off Internet access at his home.

Dan spent part of a night on a park bench before he agreed at last to my putting a gambling block on his computer. I had researched such programs, which apparently no one could remove for the duration of the contract. On this understanding, Dan came back home. Five days after I installed the block, he had somehow managed to rid himself of it.

Thus we limped into August. Dan had not had the most successful freshman year at college, where he played Division 1 tennis and attended classes only when he had incentive to do so. Given his new lifestyle, which did not seem to include daylight, I could not see how he would make it as a scholar-athlete in the fall. I informed him that if he wanted to return to college, he would have to ice the poker playing or else pay for his own tuition from his winnings. To my shock, he insisted that, all this time, he had not been playing poker. He had been watching poker videos and movies.

"All night?" I asked. "Every night?" He nodded. He looked me in the eye. Though thin and pale, he was a lean, handsome young man, his gaze blue and intense. "Prove it to me," I said. "Show me all your accounts. PokerStars, European bank, American bank."

He fetched his laptop. He showed me the account on PokerStars, where I thought he had been playing. There was no balance. He showed me the European account — an option for players in the U.S., where banks are not allowed to process money for online gambling — and the American one, where he kept his regular checking account. He had $242 in his checking account. I was flummoxed. "Well, I can't ask you to pay tuition if you have no money," I said. "I can't ask you to stop gambling if you haven't been playing. But I'm still concerned. I can't see how you'll study or attend class or show up for practice."

"You need to have more faith in me," he said.

That evening he went over to a friend's house. Near midnight, I called him. "This isn't adding up," I said. "You're up past dawn. You've been spending money on restaurants. Other parents tell me you do nothing but gamble at their houses."

He had shown me everything, he insisted. I reiterated my concern and my determination to get to the truth. We hung up. I lay awake. Around 4 a.m., I remembered hearing Dan and a friend debate the merits of PokerStars versus Full Tilt Poker. He could be playing, I realized, on another site. Somewhere, perhaps in his e-mail, I could find a Full Tilt account; I could call his bluff.

So there I was, the sun just rising, logging onto Full Tilt Poker in the guise of my son. I clicked the tab for "My Account." The balance read $12,000. I clicked "Recent Activity." He had been playing hundreds of games and tournaments, all summer long. I went to "Contact information" and changed the password and the e-mail address. I logged off, returned to Dan's e-mail account, deleted the messages from Full Tilt and emptied the Deleted Items folder. My entire body shaking at this point, I went upstairs to tell Donald what I had done.

From the moment he could move puzzle pieces into place, Dan loved games. In preschool, entranced by Mario Bros. on Nintendo, he invented and acted out competitions with Mario and Luigi, whom he called "the Widgie." When he couldn't settle down for nap time in kindergarten, the computer teacher led him to the lab, where he spent the hour racking up magic coins. At home he discovered Monopoly; when everyone else was sick of the game, he played against his own imaginary opponent. At 6, when basketball grabbed his attention, he hung around the court across the street from our house and hustled free-throw competitions with older kids; if none showed up, he pretended to be Michael Jordan and Dennis Rodman and played one on one against himself. By fourth grade, he spoke in terms of "winning the test" at school.

By then, too, Dan had shown himself a gifted athlete and switched from basketball to tennis, where he could fight it out all by himself and take home the prize. Eventually he would garner a national ranking and player-of-the-year trophies. Although tennis distracted him from college preparation, the physical fitness and confidence it gave him assuaged — just barely — a mother's worries.

Between tennis matches and on nontennis weekends, Dan and his friends played cards. They were part of a national craze set off by the televised World Series of Poker and its sudden elevation of poker players to media stars. Some parents worried about the $5 buy-in games of Texas Hold 'Em that were held in various basements, including mine. I countered that I was glad the boys were talking to one another rather than staring at a video screen; that those who lost would play Ping-Pong or foosball. I actually taught Dan his first casino game, blackjack. When he was learning arithmetic, we had a jar of pennies on the kitchen counter, and one day I asked Dan and his brother if they'd like to learn a game in which they counted to 21 — and if they won, they got to keep the other players' pennies. In short order, Dan owned the whole jar.

The college Dan chose to attend, Old Dominion University in Virginia, wasn't his first choice. While many schools wanted his tennis prowess and high SAT scores, they balked at his grades. Old Dominion, a commuter school in Norfolk with a crack tennis team, was willing to take him. To me, Dan seemed to be going to college for all the wrong reasons. There was nothing he wanted to learn. He wanted only to get away from home and to follow the same path that his tennis competitors were on. But when Dan would not consider a "gap year," even at a prestigious tennis academy, I stipulated that he take out a private student loan in the amount of the scholarship that he could have received from Old Dominion had his grades been better. If he finished the year in good standing, I would repay the loan.

By April, following a rough first semester, Dan had been suspended from the tennis team for missing study halls. He was unhappy at the school. Though he brought his grades up to the point where I would repay his loan, he spoke of wanting to transfer to a college where he might thrive. But when he came home in May, it was soon clear that he had no time to research and prepare any transfer applications. He was too busy with the activity that had replaced tennis: Internet poker.

After accessing Dan's online account, I spent the day in a welter of guilt. I reminded myself that someone had to confront my son, and I was the only one who cared enough to do so. Yet through the warm afternoon, I listened nervously for any sign that he was waking, was trying to log on, was discovering that he had been frozen out. Finally, around 5 p.m., three of my friends gathered in my driveway to drive to a dance performance in the Berkshires. As we packed picnic supplies into my trunk, Dan came barreling out of the house. "Give it back!" he shouted. "Give me back my money!"

"I don't have your money," I told him.

He called me names. I told him we would talk later. I invited my friends to get into the car. As I managed to get into the driver's seat and start the engine, Dan ripped the windshield-wiper arm from the back window; he banged on the roof, on the windshield. Finally he planted himself behind the car as I began to back out, shouting: "Go ahead! Kill your son!"

Gradually, using a 12-point turn, I managed to maneuver the car away from Dan and out of the driveway. My friends were white-faced. One, a psychologist, said as calmly as she could manage, "Is your son by any chance an addict?"

The question of addiction has moved through my responses to Dan's poker playing ever since it became a noticeable habit. His is a laserlike personality. When he was very small, his grandfather called him Mr.

Focus. Years later, when I expressed relief that at least my son wasn't snorting or popping pills, one family counselor suggested that tennis was Dan's "drug."

After the explosion that followed my amateur computer hacking, Dan and I did negotiate, albeit uncomfortably. He had persuaded Full Tilt Poker to restore the account to him. We resolved the issue of his return to college by agreeing that he would use some of his poker earnings to help pay his tuition until he had proved himself capable of balancing poker, tennis and school. Then he went to Virginia, and I went looking for answers.

I started with gambling help lines and support groups like Gam-Anon. At first the addiction model they used made sense; the notion that a gambling win caused a brain-stimulus pattern like that of a cocaine high explained Dan's wild-eyed attack on the car when I locked up his account.

But when I consulted the much-used South Oaks Gambling Screen (SOGS), I felt less clarity than confusion. I imagined Dan's answers to, say, SOGS question No. 11, "Have you ever hidden betting slips, lottery tickets, gambling money, i.o.u.'s or other signs of betting or gambling from . . . important people in your life?" ("Yes, because she equates poker betting with problem gambling"); or to SOGS No. 15, "Have you ever lost time from work (or school) due to betting money or gambling?" ("I've lost time from school because this is the wrong school for me"). He might score as a "probable pathological gambler," but the questions, it seemed to me, centered on others' — on my — idea of a problematic life, not on Dan's. Other questions ("Have you ever borrowed from someone and not paid them back as a result of your gambling?") didn't apply to the player who was consistently in the money.

Dan's second year of college saw him losing out on things other than profits. His grades took another nose dive. Reinstated on the tennis team, he quit after a few months. Yet he was winning, consistently, at poker, amassing a big enough bankroll by December to fly himself and a friend to Aruba and have plenty left over to buy a car, support himself and start planning a life of international travel. Since he no longer valued being a scholar-athlete, the loss of grades and sports prowess were, from Dan's point of view, insignificant. In February, having paid spring tuition himself, he made the belated but rational decision to drop out of school. Were these the actions and decisions of a gambling addict or, as he now saw himself, of a poker professional?

The question was emotional for me. Confronted head-on by the gambling-addict camp, I felt desperate either to justify my son's course of action or to mount an all-out rescue attempt. So I did what any self-respecting, psychically torn professor would do. I went to the library. And I learned many things.

I learned, for instance, that what I thought of as the addict-versus-pro argument (what other people might call the chance-versus-skill argument) is working itself out now in our legislatures and courts, in particular around a 2006 federal law, the Unlawful Internet Gambling Enforcement Act. The U.I.G.E.A. prohibits Internet gambling businesses from accepting money for "unlawful" gambling. But this term turns out to be clear as mud; the definition of unlawful gambling varies according to state laws. An important concern for many opponents of the U.I.G.E.A. — which means most poker players — are those states that use the "dominant-factor test," wherein chance, rather than skill, must dominate for a game to be considered gambling. As one article I read put it, if "poker is a game of skill and thus not a game subject to chance," online poker sites would be free to do business with U.S. customers.

Thus went my rationalizing: If poker is a game in which skill predominates — like chess or Scrabble — then it isn't "just gambling." Perhaps it really does sharpen the mind, as Charles R. Nesson, a Harvard law professor, has argued in promoting the game as "an environment for experiencing the dynamics of strategy." My son is not being sucked into a zero-sum addictive game of luck that gives nothing back to

society; he is benefiting from a challenging form of entertainment for which other rational adults are willing to pay.

Countering this nifty argument were the studies correlating compulsive poker playing with mood disorders, with substance abuse, with other risky or criminal behaviors. Even Charles Humphrey, a poker-law expert who has advised the Poker Players Alliance in its efforts to repeal the act, acknowledges the luck involved in poker when he observes that no one has ever repeated as Poker Player of the Year from one year to the next. "Indeed," he writes, "few repeat in the Top 10 of those lists."

I contacted Keith Whyte, executive director of the National Council on Problem Gambling. I wanted an answer, I told him — and at first, he gave me one. "Poker is gambling," he said flatly. "It involves the same three things all gambling involves — prize, chance and consideration." What's more, I learned as I perused The Journal of Gambling Studies, most of us tend to risk more on the outcome of a task involving chance when it also requires just a dollop of skill — a not-inaccurate description of poker.

For many nights after Dan withdrew from school, I lay awake considering the life he was choosing — a life in which he is reduced from a toned athlete to a pale ectomorph, in which his social life is sporadic and mostly virtual, in which the possibility of a liberal education may be forever lost, in which steady romantic relationships (not to mention family) will be extremely difficult to maintain, in which he lives mostly apart from a society based on employment, wages and the rest of the social compact. I prayed that he would win enough to stop, or lose enough to stop, or grow bored and stop.

Slowly I began to realize how my original disapproval was truly anxiety writ large. Dan's poker playing frightened me not because I condemned the game but because of where I feared it might lead. I was not going to be able to argue myself out of such fears. I remembered Keith Whyte's response when I told him I was educating myself about state and national laws regarding poker. "The legal lens is the least helpful way to view this issue," he advised me. "How and why you gamble — those are the important questions." How was clear, at least for the moment: daily, nightly, online, alone and with some success. The key to acceptance came to me in considering why.

"He needs to separate," a counselor once said of Dan — to separate, that is, from me, the person who had been there for him as an emotional and practical resource throughout his adolescence. This bond, for parents of college-age children, often takes the form of money. We are able to say to a son or daughter, "Yes, you are an adult now, but I pay your bills and so you must" — fill in the blank — "or I will reduce my support." The bills we pay are our last measure of control over young people who may not yet be ready to take control of their own lives, and our wielding of the power of the purse is a measure of our love.

Now Dan has taken that power unto himself. He was no longer a college student or my dependent. He was, for the moment at least, not only self-supporting but looking at six months' earnings that were more than my annual salary. Yes, he was playing poker because he loved the competition, because it had a bad-boy appeal, because his peers looked up to his success. (From The Journal of Gambling Studies: 92 percent of college students agree that gambling makes a person look smart.) But he was also playing poker because the financial independence it could yield allowed him to separate. Here, then, was something I could seize on: a small benefit, a morsel of sanity in what had seemed a feast of madness.

Nightmare outcomes still stalk my waking dreams:

Dan loses all his money; cannot quit playing; comes to me for funds; I tell him no; he borrows from the Mob and loses his kneecaps.

Dan makes millions; lives in a world of casinos, cocaine and one-night stands; wakes up one morning in middle age to discover his life is empty.

Dan is reduced to grinding online until it sets his teeth on edge; cannot bring himself to return to school or take a low-wage job; withdraws from human relationships.

I had these awful visions. Then, one by one, with boulder-heaving effort, I let them go. They will return, and I will push them away again. I feel I have no other power in the situation right now. Any railing against the evils of poker will only drive him into hiding and out of contact. Whatever my worries for my son, all I can do is love him.

As Dan has sensed the melting of my disapproval, the frozen sea that was our medium of communication has begun to melt as well. "Am I allowed to say I told you so?" I said when Dan called to say he had withdrawn from all his classes.

"It was a mistake to think I could play poker at this level and still study," he admitted. "But you know, it's not like I'm leaving college for poker. It's more that poker's allowed me to leave a situation that wasn't good for me."

On this, Dan and I wholeheartedly agree. Would he have been happier at a smaller school, on a team where he was a better fit, closer to home? Dan says he doesn't know. He talks of returning to college while he's still part of the traditional age cohort; he's convinced that he could put poker aside to write a research paper if he wanted to. But Mr. Focus has a good deal more poker to focus on before any such possibility becomes realistic.

Like anyone who has been through a personal cataclysm, Dan and I cling to shreds of normalcy in our relations, aware always that his fierce assertion of autonomy and my concern over his lifestyle are land mines. Two weeks after withdrawing from school, Dan took off with a group of poker buddies for the European Poker Tournament in Germany, a face-to-face poker round leading up to the World Series of Poker. Some players at these tournaments have sponsors, their fees paid by companies or individuals in exchange for a percentage of their winnings; but like most of the 667 competitors — 31 of them from the United States — Dan paid the 5,300-euro buy-in himself, along with all the expenses of the trip.

On the second day of the tournament, I found a report online. A third of the entrants remained in the draw, only six from the U.S., and Dan was among them. I couldn't help feeling a flash of joy, knowing how happy he must be, how confident and eager for the next round. Twelve hours later, he had lost. "But my friend Jake won the $2K event," he said over the phone the day he flew back.

"You mean he won $2,000?"

"No, Mom. That's the buy-in. He won like $140,000."

The idea of such a sum — $140,000! — dropping into the lap of a 19-year-old gave me the fantods. What's the relation between work and wage here? I wanted to ask my son — but this time I held back. He wasn't thinking of work or wages but of freedom.

These days I don't ask if Dan has won or lost. I do ask how he feels. He admits to loneliness. Rising from his computer after eight hours of playing between four and six tables of Texas Hold 'Em while I.M.-ing his friends and checking his opponents' stats, he feels drained. But he also finds life lessons in his new vocation. "I have learned more about people," he tells me, "sitting at my computer playing poker than doing anything else."

This insight is hard for me to fathom. By now, Dan has moved back to our Connecticut town, subletting a chic furnished studio. I've watched him play poker — the little icons sitting around the bright green "felt" on the screen, the numbers blinking, the cards flipping at lightning speed. "But you don't see any people," I say.

"And in life, I don't wonder if I have two aces," he agrees. "But the deeper processes apply. Like, what do I want this person to do, or what am I going to do because they're thinking this or that? When I'm dealing in real life with something I want to accomplish, I focus on what the other person's thinking and try to react positively to get what I want. Plus my whole outlook has matured. I keep better control of my emotions. I know how to combine factors to make the most levelheaded decision. That's what life is, isn't it? Using pros and cons to make the best decision you can?"

Well, no, I think. That isn't life. Life is more than winning, more than manipulating others. I remember another opinion Dan has ventured — that young men find poker more exciting and successful than young women because women think, Do I have cards that can win? whereas men think, How can I get this person to think I have the best cards? Not knowing anything about my cards, I step onto land-mined turf. What about relationships? I ask Dan. What about people you care about, people you don't want to beat?

He thinks a minute. Then he says: "Playing poker does help you focus more on what other people might need from you. You might not be right all the time, but that's where your thought process goes. If you care about someone else's goal, then you can help them."

As a parent accustomed to the narcissism of young men, this statement takes my breath away. I'm not yet ready to promote online poker as a straight path toward the compassionate life. Caring about someone else's goal is not the same as caring about that person. Still, in my eagerness for positive signs, I manage to glimpse a thin, frail line linking strategy and empathy.

We don't talk much about last summer. It's understood between us that if Dan returns to school and needs renewed parental support, he'll have to offer some evidence of a change in outlook. And it is understood, I think, that I can love him without accepting everything he does. When I ask Dan what he wants now, from his parents, he'll say only, "What I don't want is negativity."

Neither, I realize, do I. On the rare occasion when another adult learns that my son is a poker shark and says, "Good for him!" I feel a twinge of orphaned hope. Maybe his path is good; maybe it's foolish to second-guess all my decisions going back to that first day I pulled out the penny jar and explained blackjack, not just because nothing I could have done would have changed Dan's trajectory but also because Dan's trajectory may bend toward a free and happy future. Now and then I still consider trying to influence that trajectory. In the end I find the best I can manage is to hold steady. Even if, years hence, I can name and pinpoint the moment when I might have changed my son's course and did not, surely self-recrimination carries no purpose unless a way opens for positive action. I worry daily about the path my son has chosen. Daily, I remind myself that I can neither remove its rocks nor predict its forks.

Recently Dan stopped by my house. He was on his way to a tournament at Turning Stone casino in New York. "But my cellphone's not working," he complained. He's on my family plan, a last vestige of dependence, and would have been eligible for an upgrade, but he didn't have time to stop by the store.

"Why don't you just take my phone?" I said. "I'm not going on any trips. I don't really need it."

While I worked my SIM card out of my phone and slid his in, I asked casually if he was paying his own way into this tournament. "I'm in the first couple rounds on my own," he said. "After that, I'm backed."

"Sounds good," I said. I focused on replacing the battery, snapping the back of the phone on. "How's the money holding up?"

"I've still got some."

I didn't ask more. I waved him off from the driveway. I was glad to know that, whether he ran into trouble on the road or with the cards, he'd have a way to get in touch.

Lucy Ferriss is a writer in residence at Trinity College and the author of the memoir "Unveiling the Prophet."

TESTIMONY OF

CRAIG POUNCEY, PARTNER,

HERBERT SMITH LLP (BRUSSELS)

ON

H.R. 2266, REASONABLE PRUDENCE IN REGULATION ACT, AND H.R. 2267, THE INTERNET GAMBLING REGULATION, CONSUMER PROTECTION, AND ENFORCEMENT ACT

BEFORE

U.S. HOUSE OF REPRESENTATIVES

COMMITTEE ON FINANCIAL SERVICES

THURSDAY DECEMBER 3, 2009

10:00 a.m.

2128 RAYBURN HOUSE OFFICE BUILDING

Mr. Chairman and Distinguished Members of the Committee

I am Craig Pouncey, a partner in the Brussels office of UK law firm Herbert Smith, and head of my Firm's international trade law practice. In that capacity, I have had the opportunity to work on the case between Antigua and the United States, in which the World Trade Organization ("WTO") found that a number of U.S. laws violate the General Agreement on Trade in Services ("GATS") because they prohibit the supply of Internet gaming services from jurisdictions outside the U.S.

I do not currently represent Antigua but act for the Remote Gambling Association, a London based trade association of EU companies operating in the internet gaming sector.

In this testimony, I will explain the difficulties that the U.S. currently has in the WTO in relation to Internet gambling and the way in which Chairman Frank's Bills can help to solve these difficulties.

Since 2003, the U.S. has lost every phase of the WTO dispute settlement case that Antigua brought against it in relation to Internet gambling. Having been unsuccessful in the litigation, the U.S. Administration changed its approach. On May 4, 2007, the U.S. invoked a little used procedure of WTO law that would allow it to amend its WTO obligations regarding gambling. This procedure requires agreement from other WTO member countries and, to date, the U.S. has been unable to secure such agreement. In particular, the U.S. has been unable to reach agreement on how the U.S. can compensate Antigua for the removal of WTO obligations (namely those concerning gambling) that are of particular interest to Antigua and that cannot be easily replaced with obligations in other sectors. As a result, the procedure of amendment is currently suspended.

In December 2007, the Remote Gambling Association filed a complaint with the Directorate General Trade of the European Commission. The complaint concerns the enforcement of U.S. gaming laws against EU companies that provided services to U.S. residents prior to the adoption of the Unlawful Internet Gambling Act of October 2006 (when these companies withdrew from the US market). The complaint was filed pursuant to the EU's Trade Barriers Regulation, which allows EU industry to complain about

violations of WTO law by other countries and trigger EU action against that country, which may include WTO dispute settlement and, ultimately, trade sanctions. Following an extensive investigation, the European Commission published a 90 page report in June 2009. In its report, the European Commission concludes that the U.S. violates WTO law by enforcing certain U.S. gambling laws against EU companies that withdrew from the U.S. market in October 2006 (and by doing so in a discriminatory way). The EU report further concludes that WTO litigation against the U.S. is justified but that, before commencing such litigation, the EU would approach the U.S. authorities with the aim of negotiating a compromise. These negotiations are confidential but my understanding is that they are ongoing.

The WTO debate is complex but there is no doubt that the legislation proposed by Chairman Frank could make a significant contribution to the resolution of the WTO problems created by the existing U.S. legislation. WTO law requires the U.S. to allow other countries to access its gambling market. However, WTO law does not prohibit the U.S. from regulating and taxing that market access (provided this regulation and taxation does not unfairly disadvantage foreign companies). By introducing a fair regulatory regime and by clarifying the situation of foreign companies that operated in the U.S. market prior to October 2006, new legislation could make an invaluable contribution to the resolution of the complex WTO issues currently confronting the U.S. in relation to Internet gaming.

The U.S. often calls upon other nations, and China in particular, to respect their WTO obligations and ensure that international trade is conducted fairly and openly (a matter that is of great importance to the U.S and global economy). By adopting Chairman Frank's Bills, the U.S. would be leading by example.

Thank you, Mr. Chairman and Distinguished Member of this Committee for considering this testimony and I would be happy to answer any questions that you may have.

Testimony of Chris Thom
Chairman, Secure Trading Inc.
Submitted For The Record Concerning
Legislative Hearing on HR2267
"Internet Gambling Regulation, Consumer Protection and Enforcement Act 2009"

Held Before The Financial Services Committee
United States House Of Representatives
10 a.m., December 3, 2009
2128 Rayburn House Office Building

1.Introduction

Mr. Chairman and Members of the Financial Services Committee, I am Chris Thom. I have recently taken up the position of Chairman, Secure Trading Inc., an internet payment services provider incorporated in Delaware. Prior to this, I spent eleven years with MasterCard International, where I held several appointments, culminating as Chief Risk Officer.

Up until 1995, I was employed by Midland Bank plc and, following a merger, HSBC Bank plc for 27 years. My closing positions were as general manager for UK Banking and for Strategic Planning.

2.My Relevant Experience

Whereas I have never had any connection with any gambling or betting company, I have had experience in building and managing operations centers and having oversight for HSBC's cards payment business in the UK. I was responsible for designing and building six centers to centralize the back office processing of 2300 bank branches and for designing and building a Clearing Operations Center to facilitate check processing and exchange. This has provided me with an insight into developing customer service propositions that are cost effective, enhance productivity and ensure service quality is maintained.

At MasterCard I was project manager for building its global technology and operations center in St Louis. This is a state of the art complex that manages card authorizations and settlements worldwide and controls systems connectivity between MasterCard and its participating financial institutions and processors around the world. Its design attributes include fail safe, real time capabilities, secure data handling and storage, and outsourcing services for its customers.

During my time at MasterCard, I had responsibility globally for Franchise Management, which was the custodian for developing MasterCard's rules, for setting service quality standards and for licensing financial institutions to provide MasterCard services. A critical component was the management of the risk exposure of these financial institutions and the taking of collateral to mitigate such exposures, which typically arose from country risk, currency risk or from the failure of the financial institution itself.

I also had responsibility for security and fraud management. Fraud could be divided into two categories, that arising from the transaction and the use of the card or card number and, secondly, unauthorized access to stored data. Rules and standards were put in place to minimize the incidence of fraud.

3.Compliance with the Proposed Legislation

I am grateful to have this opportunity to express my reasoning that it is entirely feasible to build a cost effective processing capability to manage compliance with the regulations arising out of this Act. In giving this testimony, I am not representing MasterCard or HSBC.

a) Registration

As I have already mentioned, MasterCard licenses financial institutions and in turn those institutions are accountable for operating in compliance with MasterCard's rules and standards and also for ensuring that the merchants and processors, with whom they contract, comply with rules and standards applicable to them. Part of this requirement includes the financial institutions conducting regular on-site inspections.

MasterCard requires direct registration of payment service providers and, in certain circumstances, of higher risk merchants. Indeed MasterCard's rules are risk weighted so that additional requirements come into play where risks are perceived to be higher. Examples of these requirements are extra reporting and the provision of additional transaction data.

In my view, therefore, establishing registration requirements for merchants involved in internet gambling and for internet payment service providers is achievable. Various checks and controls can be introduced along the value chain to audit and guarantee quality control. In this way every party to the value chain can be satisfied that the transaction is handled by appropriately registered entities.

Under the Act the Secretary of the US Treasury, or his designee, will license the gambling operators. I would also recommend that the Secretary certify internet payment service providers. This will enable financial institutions and card companies to work with these entities to conduct internet gambling transactions. It will also materially reduce the risk of money laundering or terrorist activities.

b) Consumer Protection

Another facet of registration will be the sign-up process that a potential internet gambling player has to go through. This is an online questionnaire that goes into considerable detail to establish the true identity of the individual, and which is sometimes finalized in an offline mode. Third party specialists are involved to test the information provided against recognized databases and warning lists such as OFAC listings. This sign-up data and an assigned unique identifier for that individual then becomes the denominator for subsequent checks when the player makes deposits, bets or seeks withdrawals of winnings.

I would recommend that the payment mechanism for internet gambling transactions be based upon the use of payment cards. This leverages the sophisticated disciplines already in place for this payment type. Financial institutions do not issue credit cards to under age individuals, unless sponsored by parents or guardians and, in those circumstances, the cards are clearly differentiated. Credit limits are assigned to all credit cards. Financial institutions are themselves regulated and are well practiced in checking for and reporting any infringements associated with terrorist or money laundering activities. Winnings or refunds of deposits should only be paid to the player's credit card account that was used to make the original deposit.

Compared to other types of electronic commerce transactions the opportunity for money laundering or terrorist activities in a well regulated internet gambling regime is, I would suggest, greatly reduced because of the stringent player registration formalities. Indeed I do not recall one instance of money laundering or terrorist activities associated with an internet gambling transaction or merchant.

Part of the sign-up process seeks to set a profile for each player's subsequent internet gambling. Any divergence automatically triggers questions to the player to confirm that his actions really do match his intentions; "cool off" periods are offered; ways of getting help are suggested; and the player is given the opportunity to block his name from the internet gambling site by adding his name to a self exclusion list. The end to end audit trail associated with internet gambling and its related reliance upon technology provides gambling operators, and also other players in the value chain, with enhanced methodologies to spot instances of compulsive gambling and facilitates timely and effective action.

c) Fraud Control

In my experience electronic commerce transactions have around three times the level of fraud compared to physical credit card transactions. This is predominantly due to the fact that neither the cardholder nor the card are present for the merchant to validate. The fraud risks are likely to be lower for internet gambling transactions due to the prerequisite of licensing the gambling operator, the recommended certification of the internet payment service provider, and registering the player and his/her payment card/s. Where internet gambling fraud problems were incurred in Europe and Asia Pacific, it was at the individual merchant or service provider level, when some or all of these prerequisite requirements were absent. In these cases the entities were fined and or excluded from participating in the MasterCard system.

Denial by a cardholder that he/she was not the perpetrator of an electronic commerce transaction is often hard to disprove. However, for internet gambling, a registered player has to enter his/her user name and an unique password before being able to wager at the site. This is an effective proxy for being physically present and assists the card issuing financial institution in investigating the truth.

Merchant employee fraud does occur from time to time at any type of merchant. Where the risk of this is considered to be high or the financial standing of the merchant is not robust, it is common practice for the acquiring financial institution to maintain cash deposits to cover chargebacks. The Act requires the financial viability of a license applicant to be established as a precursor to being licensed, and a prudent approach, once licensed, would call for a rolling reserve fund to be established for each gambling operator to protect the players interests by ensuring that any unauthorized transaction is reversed on his/her account with the issuing financial institution. This is in essence a formalization of previous best practice.

The second category of fraud, to which I have already referred, is data compromise. The card payment companies initiated a global set of requirements to address this problem, namely "The Payment Card Industry Data Security Standards. All parties, who store personalized data relating to cardholders, are required to be certified PCI compliant and this would apply to gambling operators and internet payment service providers. PCI provisions include requiring all data to be encrypted and for their systems and controls to have firewalls that prevent hacking and unauthorized employee access. In my time at MasterCard I do not recall any data compromise incident involving a gambling merchant or a PCI compliant merchant.

The final point I wish to make on fraud control is that it is very well controlled by the payment card companies. Credit card fraud in the US only amounts to around 15 basis points. This is extremely low compared to credit risks that typically may be around 500 basis points in a well run financial institution.

4.Conclusion

From my background in financial services, I am cognizant of the difficulties financial institutions have in policing a ban in internet gambling. The result for credit card payments is that they have essentially declined any transaction with a 7995 merchant category code. This unfortunately prevents legal transactions, such as certain States', and Canadian provinces', lottery transactions from proceeding.

Conversely for the reasons I have articulated, I believe that complying with regulations arising out of this Act is very doable and cost effective. I also believe that the quality of the controls would be fit for purpose to maintain the integrity of the payment system and to protect the consumer, as well provide financial institutions with the confidence to open up their systems for internet gambling transactions.

I would be pleased to provide any further information you may require and I thank you for this opportunity to express my views.