Legislative Initiatives and Issues in Internet Gaming

National Council of Legislators from Gaming States | January 4, 2013
GamblingCompliance provides government officials and gaming industry professionals with independent and timely regulatory, legal and policy analysis – in one, fully-customizable online subscription service.

- Comprehensive analysis of legal, legislative and regulatory changes
- Monitoring Internet gaming legislation
- Bespoke research on gaming issues
- Congressional hearings and conference reports
- Global market statistics via GamblingData
### 2012’s Failed Federal Internet Gaming Efforts

#### Internet Gambling, Prohibition, Poker, Consumer Protection and Strengthening UIGEA Act of 2012

<table>
<thead>
<tr>
<th><strong>Authorized Gambling</strong></th>
<th>Legislation sought to prohibit all Internet gambling, whether intrastate or interstate, except off-track horse race wagering, the sale of state and tribal lottery tickets (as long as they did not mimic casino games), and poker played pursuant to the federal regulatory framework.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Regulatory Structure</strong></td>
<td>The regulatory framework would have been divided between states, tribes and the federal government. A poker oversight office located in the Commerce Department would “qualify” state and tribal regulatory bodies based on certain minimum standards. State and tribal qualified bodies could then issue licenses to companies to operate Internet poker.</td>
</tr>
<tr>
<td><strong>Market Structure</strong></td>
<td>States and tribal jurisdictions would have been required to “opt-in” to the federal regime before licensed operators can accept wagers from poker players located in those jurisdictions.</td>
</tr>
<tr>
<td><strong>Taxation</strong></td>
<td>A 16% activity fee would have been assessed with 14% going to state and tribal governments. Of that 14%, 70% would be allocated based on player location and 30% to the state or tribe where the regulator is located.</td>
</tr>
</tbody>
</table>
Multiple politically powerful stakeholders at odds over the best way for Internet gaming to be regulated...

• Poker players (ring-fencing and forfeiture provisions?)

• Lottery operators and state governors (state limitations?)
  “Historically, it’s been the right of the states to determine gaming within their own borders, and whether a state chooses to do so is absolutely a matter of public policy within the state.” -- Arch Gleason, Kentucky Lottery

• Tribal gaming (is federal legislation harmful or helpful?)

• Commercial operators (favorable licensing provisions?)
  “We...believe that federal legislation—allowing for state-based online poker only—is necessary to establish minimum standards for consumer protection [and] avoid a patchwork of regulations across the borderless Internet....” -- Frank Fahrenkopf, American Gaming Association

• Off-Shore gaming and social gaming operators (licensing provisions?)

“There will be a window next year [2013], but I don’t see it going long.”

-- David Krone, Chief of Staff for U.S. Senate Majority Leader Harry Reid.
• 9 states considered Internet gambling enabling legislation. 2 states passed such legislation.

• 3 poker-only bills were considered. 0 were passed.

• Taxation rates ranged from 5% to 52%, with a median tax rate of 24%.

• 1 state passed a criminal ban on Internet gambling.

• 2 states started selling lottery tickets over the Internet.
Internet poker is poised to go live in Nevada, with Delaware also in the process of crafting Internet gaming regulations.

In the absence of federal legislation, multiple states will continue to consider Internet gaming legislation in 2013.

- Legislation in New Jersey, that authorizes casino gaming over the Internet, is waiting on gubernatorial approval.
- State officials in California, Illinois, Massachusetts, Mississippi and multiple other states have signified an intention to discuss Internet gaming in 2013.
- Organizations that have previously lobbied for federal iGaming are shifting some efforts to the state level.
- Lotteries are likely to continue forward momentum, particularly in the northeast and mid-Atlantic regions.
Social gaming is gaming that mimics real-money gambling but can be played for free.

**Definition of Gambling**: A person engages in gambling if he or she stakes or risks something of value upon the outcome of a contest of chance or a future contingent event not under his or her control or influence, upon an agreement or understanding that he or she will receive something of value in the event of a certain outcome.

While virtual casino games do not allow players to cash out winnings, their ubiquity means they may still fall under some kind of scrutiny as to whether they are implicated under state gambling laws. “I think the regulators, especially state-by-state, will look at this,” said Tom Mikulich, a senior vice-president at MGM Resorts, during a conference in mid-2012.
In the fall of 2012, Churchill Downs expanded into online social gaming, with the launch of Luckity.com.

The games on Luckity.com are associated with live horse races across the world, and winning numbers are based on the actual real-time results of those races. Players win when their selected numbers match the numbers of the winning horses.

“Luckity.com plays like a social game, but pays like a real-money game.” -- Bob Evans, Churchill Downs CEO

Luckity.com is licensed by the Oregon Racing Commission.
In the past few years, Internet cafés where patrons can play computer games that mimic casino-style games, have proliferated across the U.S.

• Estimates from 2011 suggest that in Florida alone there are between 600-1,000 cafés generating upwards of $1bn in annual revenues.

• In Ohio, 820 cafés filed paperwork with the Attorney General in June 2012, following a moratorium on the operation of new cafés.

On a state-by-state basis, various legislative approaches have developed to address the issues surrounding Internet sweepstakes cafés:

1. Moratorium (i.e. Ohio)
2. Regulatory/Prohibitory Legislation (i.e. Georgia and Pennsylvania)
3. No Legislative Action-Local Regulation/Prohibition (i.e. Florida)
Thank You!

For a copy of this presentation or an explanation of the underlying material please feel free to contact me on the details below.

Jennifer Webb, Esq.
Regulatory and Legislative Manager, Americas
T: (202) 261-3542
E: jennifer@gamblingcompliance.com