

Submission to the Senate Legal and Constitutional Affairs Committee

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Introduction

Single event sports betting in North America is a common economic activity that occupies a very unique position in that it is legal only in the U.S. State of Nevada, yet it is relatively common in all jurisdictions despite it being illegal.¹ Notwithstanding its illegal status, sports betting also enjoys high levels of social acceptance in many communities.² It is widely acknowledged that most sports wagering occurs through illegal channels. The FBI estimates that \$2.5 billion is illegally wagered on the U.S. NCAA Basketball Tournament each year and that more illegal wagers are placed on the Super Bowl than any single sporting event, including March Madness.

While it is clear that the prevalence of illegal single sports betting is relatively high, evidence suggests that it is not a primary focus of law enforcement efforts. In his 2010 article for the *Villanova Sports and Entertainment Law Journal*, Tony Cabot describes law enforcement efforts as follows:

“Despite the enormous amount wagered illegally every year, the United States has lapsed into a general approach of non-enforcement of illegal sports wagering laws, both at the state and federal level. Law enforcement efforts to deal with illegal sports wagering have declined dramatically in the past twenty years. In 1960, almost 123,000 arrests were made for illegal gambling. FBI arrest statistics

¹ The National Gambling Impact Study Commission estimated the gross gaming revenue from illegal bookmakers in the U.S. to be between \$80 and \$380 billion. This would exceed the revenues generated by Nevada’s legal bookmakers by a factor of almost 100.

² For example, a July 2012 Field Poll found that 58% of California voters support legalization of betting in the state on Lakers, Dodgers and Chargers games, while 35% oppose the move. An August 2012 Fairleigh Dickinson University Public Mind poll in New Jersey shows 45 percent of respondents favor allowing sports betting at casinos and horse tracks even if the federal government forbids it. The poll found 38 percent opposed to that approach. When the question of a federal ban was eliminated, 58 percent of respondents said New Jersey should allow sports betting. That's up from the 53 percent who felt that way a year ago. A March 2012 Ontario poll found 35% in support of wagering on single sports events while 35% opposed and 25% had no position. In a July 2012 Angus Reid online survey of a representative national sample of 1,017 American adults, three-in-five respondents (59%) support allowing people in any U.S. state to bet on sports. Support for this change is highest among men (68%) and respondents aged 18-to-34 (64%).

reveal that all gambling arrests in the United States have steadily declined since 1994 and totaled less than 10,000 in 2008. In contrast, the number of illegally wagered dollars has increased dramatically. In 1983, only \$8 billion were wagered on sports in the United States compared to an estimated \$380 billion in 2009.”³

Thus, while Nevada remains the only North American jurisdiction where single sports betting is legal and regulated; estimates indicate that it represents less than one percent of all sports wagers placed in the U.S.⁴ Meanwhile, the illegal, underground, untaxed sports wagering market continues to grow and thrive. As a result, the question of whether sports betting should be legalized and regulated remains a compelling issue in Canada and other North American countries.

I represent Gaming Laboratories International (GLI), the world’s largest independent testing laboratory. GLI works for more than 455 different gaming regulatory agencies worldwide and has extensive experience in evaluating for compliance the technology used to regulate and control sports wagering systems. GLI has worked for every Canadian regulatory agency and has offices in Vancouver, British Columbia and Moncton, New Brunswick. During the course of this work, GLI has assisted regulators in the creation of technical standards and internal control standards to ensure the integrity, fairness and security of sports wagering systems. Furthermore, GLI has directly observed the licensing, audit and investigatory capabilities of regulators charged with monitoring sports wagering activity.

As a representative of an independent testing laboratory, the social and political considerations regarding the advisability of legalizing and regulating sports betting are outside the parameters of the lab’s responsibilities. However, the lab is highly qualified to comment on whether adequate controls exist to meet the public policy objectives of jurisdictions that are considering the legalization of sports wagering.

Much has been said and written about the potential impact of single-event sports betting on the land-based casino gaming industry in Canada. However, what has been missing from the discussion is the potential impact this pending legislation might have on online gaming. Current legislation banning single-event sports wagering makes no distinction between live and online betting, and the new proposals to change the law would impact both live and online single-event betting. Therefore, it is important to understand the impact on the online gaming industry as well.

The consequence of this restriction is that today, with the exception of horse racing, sports betting in Canada can only include “parlay” bets, where a bet must incorporate an element of two different

³ Anthony Cabot, *The Absence of a Comprehensive Federal Policy Toward Internet Sports Wagering and a Proposal for Change*, Villanova Sports and Entertainment Law Journal (2010) Vol. 17, p. 273.

⁴ American Gaming Association Sports Wagering Fact Sheet.

sporting events in a single wager. That restriction may explain why Canadians are willing to gamble four to six times more money on foreign agencies that offer straight bets, because many consider the current sport betting options to be limited and, frankly, not overly exciting.

To begin, a recent study by the Canadian Gaming Association estimated that the value of total illegal sports wagering in Canada is likely to range from \$2.0 billion to \$4.0 billion, compared to about \$450 million for legal products currently available. In other words, the number of illegal bets in sports wagering is estimated to be as high as four to six times that of legal betting.

In traditional single-event sports betting operations, such as those offered in Nevada, the return to the player is approximately 95 percent, whereas the return to player from parlay betting is more in the order of 40-60 percent, because of the difficulty of correctly determining two or more outcomes. The combination of more available bet types and better returns has driven Canadian gamblers into the arms of iGaming sites outside of Canada.

Can Sports Betting be Adequately Regulated?

Sports betting has been legal in Nevada since 1949. While the quality of regulation has evolved over time, it has been clear that since the 1980's Nevada has succeeded in establishing a thorough, robust system of regulation for ensuring the integrity of sports wagering. During that tenure the Nevada Gaming Control Board has compiled a sterling record as a strict and effective regulator of sports and race books and it continues to refine and improve its oversight as new technology tools and audit techniques become available that provide more efficient and effective oversight.

Nevada's sports book licensees are subject to the same rigorous background investigations and continuing oversight and audits as are their casino operator counterparts in Ontario and other Canadian provinces. These regulatory requirements ensure that the owners and staff responsible for operating the sports wagering enterprise have appropriate financial responsibility and have been found suitable to perform their duties under the regulatory framework. It is important to note that similar licensing standards are already in place in each Canadian Province, so the regulatory tools in this regard currently exist.

Technical Standards

An important part of any regulatory scheme for single event sports betting is to create a set of robust technical standards that wagering systems manufacturers must meet before their system is deployed. This involves a review of every requirement in the jurisdiction's statutes, rules, policies and procedures to determine those that relate to an issue of technological implementation. The lab then creates a "test case" or a procedure by which the technology can be measured to demonstrate compliance with each requirement. This process allows for the independent verification that each technology provider meets or exceeds the jurisdictional requirements.

The testing lab must also create a process and provide tools that can verify the version of software tested by the lab is the same that is deployed in the field. Because sports wagering systems require frequent upgrades and modifications (much like the operating system or application software on your personal computer), the lab must develop an efficient process to facilitate these modifications. This is done by breaking the system down into modules and obtaining a unique “signature” for each module.⁵

Minimum Internal Control Standards

One set of Canada’s regulatory tools that would need to be further developed should it choose to legalize single event sports wagering, are the Minimum Internal Control Standards (MICS). While many of the controls used to regulate the existing parlay style sports wagering are transferable to single event sports wagers, some additional controls and reporting requirements are necessary.

The MICS set forth the operational requirements and cover virtually every aspect of wagering. They are designed to protect the integrity of the operation by establishing minimum guidelines for money handling, documentation, game integrity, security and surveillance. MICS set forth equipment standards, procedures for taking wagers, payout procedures, voucher redemption procedures and reporting requirements. They govern how audits are conducted, how to establish proper segregation of duties, how to control wagering accounts and IT standards such as password controls and network security. In addition, the MICS set forth how promotions and contests are conducted.

The MICS fulfill the crucial regulatory objective of ensuring that there are minimum uniform procedures for every part of the wagering transaction and that the actions are properly documented. These requirements are only a part of the detailed regulatory scrutiny that governs every aspect of the wagering operation. The oversight is as intensive, if not more so, than that of financial institutions or high risk industries such as utilities plants or transportation providers. Any enterprise, regardless of how highly regulated, can be the victim of criminal activity.⁶ However, the intensity of the regulatory oversight of legal sports wagering operations

⁵ Signatures are obtained by using a hashing algorithm to extract unique signatures from program storage media. The “signature”, sometimes referred to in lay terms as an “electronic fingerprint” of the code. is the unique result returned by a hashing algorithm. A hashing function would employ an algorithm such as the secure hashing algorithm 1 (SHA-1) to read a file or program, then run the contents of that file or program through the hashing function; returning a unique signature. This signature provides for a unique identifier which can be used by either computer systems or regulators to authenticate that a file or program has not been corrupted or changed in any way.

⁶ Dynegy Inc. is an electric utility company based in Houston, Texas. The company nearly collapsed in 2002. Several Dynegy executives were later convicted or indicted for their roles in Dynegy's near-collapse. In June 2003, Jamie Olis (former Senior Director of Tax Planning), Gene Foster (former Vice President for Taxation), and Helen Sharkey (a former employee in Dynegy's risk control and deal structure groups), were indicted on numerous counts of mail fraud and wire fraud.

clearly indicates that attempts of criminal activity have a very high likelihood of being discovered and prosecuted.

Social Issues

Some of the principle concerns that emerge when discussion the possibility of single event sports wagering include the ability to prohibit underage gambling, verify the location of the gambler and dealing with problem gamblers. Of course, these are issues that typically arise when discussing most forms of gambling, especially iGaming.

Based on experiences in regulated iGaming in other markets and in regulated sports books in Nevada and Europe, there are adequate tools that provide adequate control for each of these concerns. It is important to understand that one of the most important controls is that under all regulatory schemes, it is a crime for an underage person or a person located in an unauthorized geographic location to place a wager. Moreover, an online environment actually provides us with a much more robust set of regulatory controls than a live environment. While most seem more comfortable in having the ability to see and observe a person during live wagering, the real-life practicality is that it is easier for the shrewd gambler to get “lost in the crowd” or to gamble relatively anonymously.

In an online environment, it is not possible to gamble anonymously. All regulated markets have strict rules for identity and location verification using robust and ever-improving technology to ensure the gambler is of legal age and in an authorized location. In addition, the online environment provides us with an array of data analysis tools to help the gamblers track their

Rajat K. Gupta, the retired head of the consulting firm McKinsey & Company and a former Goldman Sachs board member, was found guilty in June 2012 of conspiracy and securities fraud for leaking boardroom secrets to a billionaire hedge fund manager.

Lindsey Manufacturing Company, an Azusa, Calif., company, two of its executives and a Mexican intermediary were convicted in May 2011 by a federal jury on all counts for their alleged roles in a scheme to pay bribes to Mexican government officials at the Comisión Federal de Electricidad (CFE), a state-owned utility company. The jury reached its verdict after one day of deliberations, following a five-week trial.

In August 2012, Antonio Macli, the owner of Biscayne Milieu Health Center Inc., a mental health care corporation, his son Jorge Macli, Biscayne Milieu’s CEO, and Antonio Macli’s daughter Sandra Huarte, an executive at the company, were each found guilty in U.S. District Court for the Southern District of Florida of one count of conspiracy to commit health care fraud, and one or more substantive counts of health care fraud, conspiracy to commit a health care kickback scheme and conspiracy to commit money laundering and substantive counts of money laundering. Antonio Macli and Jorge Macli were also convicted of substantive kickback counts.

Canadian impresario Garth H. Drabinsky and his former business partner, Myron I. Gottlieb, who founded and controlled the now-defunct production company Livent and brought shows like “Ragtime” and a revival of “Showboat” to Broadway, were convicted in 2009 of defrauding investors of about 500 million Canadian dollars (\$501.2 million) through a complex system of kickbacks and by routinely altering the company’s financial statements.

activity and detect patterns suggesting unhealthy gambling. The online environment also gives the gambler total control over their activity. They can set daily, weekly or monthly wagering or time limits, restrict or prohibit the use of certain credit cards or other forms of credit, control marketing preferences and otherwise customize the gaming experience to suit their individual needs.

The changes to sports betting resulting from this legislation will require greater vigilance by the provincial regulators to ensure that these activities are put in place in a secure, responsible and auditable manner.

GLI has been involved in the testing of sports betting sites for many years, having tested numerous online sportsbooks including British Columbia Lottery Corporation, Ladbrokes, Paddy Power, Oneworks (formerly SunPlus), Kambi Sports, Sportingbet and William Hill. It has been proven time and again that proper testing and certification can ensure requirements of geolocation, age and identity verification, and security are successfully addressed.

Conclusion

Single sports wagering is being conducted in many diverse, successful economies around the world. It has become clear that regulatory efforts can successfully keep criminal elements from infiltrating sports wagering operations and that they can protect the rights of players to allow for a fair and transparent wagering environment. Furthermore, regulating single sports wagering will provide more control over underage and problem gambling and provide gamblers with greater ability to exercise control over their gambling experience.

Certainly, with the continued expansion of the provincial lottery corporations into the online gaming space, we should see a repatriation of gambling funds from offshore jurisdictions back to the Province where the Canadian sports better resides. Should Canadian Code changes be enacted, offshore sites will no longer be able to enjoy captive sports betting audiences as the international playing field will have been levelled.

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