



# WHO WILL FACE THE ISSUES?

The following questions and comments relate primarily to Internet gambling. While this may seem a trivial subject to many people, the issues have broader relevance. America's strength is in its innovation. If America is going to remain an economic power, the Government must work to protect its strengths. Innovation is evidenced by intellectual property rights, such as patents, trademarks and copyrights. Recent battles between the United States and the world community over Internet gambling demonstrate a failure by the Federal government to recognize or protect American businesses in this fight over the economic benefits of innovation.

## WHO WILL PROTECT AMERICAN INTELLECTUAL PROPERTY RIGHTS?

Opportunities for innovation and entrepreneurship along with market size and accessibility allow America to lead the world in intellectual property rights ownership, use and economic benefits. With the continuing loss of manufacturing and service jobs, securing intellectual property rights in the world economy is vitally important to America's future.

Antigua recently won a decision by the World Trade Organization concerning Internet gaming that allows American intellectual property interests to be penalized up to the amount of \$21 million per year. Antigua had argued that the Internet gambling industry based there should be able to access American players and that American government interpretation of its laws discriminated against the Antiguan industry in violation of trade treaties.

As a signatory to the World Trade Organization, Antigua agreed to respect American intellectual property rights. Nevertheless, the Antigua Internet gambling industry, in common with the countries that host most of the Internet gambling operators, offered the game Three Card Poker and other proprietary games to American players. This is despite the fact that these games have American patent protection. For example, in the case of Three Card Poker, the American patent holder never granted permission to any Internet gambling enterprise to offer the game to American players.

United States Trade Representatives, however, ignored the rights of American patent holders in defending the American position in the World Trade Organization dispute, instead making the argument that gambling was considered inconsistent with American morals. Likewise, the World Trade Organization did not consider the rights of patent holders when reaching the decision against America. So the Antigua Internet gambling industry, which ignored American intellectual property rights, and in doing so profited in the tens of millions per year at the expense of American businesses, instead persuaded the international community to impose sanctions against America. Ironically, these sanctions allow Antigua to lawfully ignore additional American intellectual property rights as sanctions for the discrimination against the Antiguan gambling industry.

As a result, other countries are considering similar challenges against the United States that could further decay the value of America's intellectual property rights ownership. For example, the Internet gambling industry has persuaded the European Union to consider taking action against the commercial interests of America, based on the World Trade Organization decision.

## WHO WILL PROTECT AMERICAN CONSUMERS?

As each new frontier has opened, regulation has always followed. This applied to rivers, rails, roads, airways, telecommunications and space. It also should apply to the Internet. Simply, commercial activity on the Internet should be regulated.

The Internet gambling industry has been mainly operated from countries that are thought of as offshore environments. They allow low tax rates and multiple company ownership chains. These chains create difficulties in establishing the identities of the true beneficial owners of the companies, making it harder for anyone wanting to take legal action against these companies to protect infringement of intellectual property rights.

The Internet gambling industry regulators in these countries typically have little or no regulation related to background checks, licensing fees and software checks. No requirements exist that the Internet gambling industry abides by the laws of the countries where they earn their revenues from players. These regulators ignore three unethical and deceptive business methods.

1. Unsuitable persons are permitted to permeate the industry at various levels. For example, regulators generally do not require any background check on, or licensing of, affiliates. Site operators can share revenue with affiliates. Affiliates are usually Internet sites that provide information on gambling and steer players towards sites that they have a commercial relationship with. These affiliates may share in up to 30% of the losses of steered players. The players usually are totally unaware of this practice.

2. No semblance of basic truth in advertising exists in the industry. For example, site operators offer sign-up bonuses without full disclosure. This practice allows a player to sign-up to play at an Internet gambling site in anticipation of a cash bonus for doing so. Regulators do not require that all the small print is available up-front, resulting in the bonus being difficult to attain.

3. Basic consumer protection related to financial transactions does not exist. For example, operators can use more stringent criteria for cash withdrawal than for cash deposit. A player could start playing by providing a credit card only. In order to get winnings paid, the player may need to provide extra items, such as a driver's license. This method hampers players from making withdrawals when they wish to do so. Customer verification standards should be uniform for deposits and withdrawals.



## SHOULD AMERICAN INTERNET GAMBLING BE LEGAL AND REGULATED?

America has embraced gambling at all levels including state-run lotteries, horse racing, and casinos. The time has come to adopt a sensible policy toward Internet gambling that recognizes and protects both states and consumer rights. Where a state, like Utah or Hawaii decides to prohibit gambling, regulation should assist those states in assuring that its citizens cannot simply evade the law by gambling online. At the same time, the Federal government should not ignore trade obligations or the reality that gambling is a permitted, regulated and accepted activity in most states. In these states, the primary goal of regulation should be to assure that the games are honest and the players get paid if they win. The regulations also can assist in assuring that basic measures to identify and treat problem gambling are implemented.

## SHOULD AMERICAN INTERNET GAMBLING BE FEDERALLY REGULATED?

Internet gambling can only be regulated at the Federal level as opposed to the state level. The Internet defies state and national borders. Effective regulation of the Internet can only occur if nation states work together to prevent specific abuses. This requires cooperative efforts to tackle problems from child pornography to fraud. This cooperation can only be achieved at the Federal level and between governments that have recognized a common goal. International movement toward regulation of Internet gambling will provide the unique opportunity for multilateral cooperation to assure that common regulatory goals are achieved.

## WHAT REGULATORY PRINCIPLES SHOULD APPLY TO AMERICAN INTERNET GAMBLING?

1. Parties that have profited from (or attempted to profit from) Internet gambling by accessing American players should be excluded from participating. This should apply to all sites, software providers and affiliates, all owners of such, all substantial investors in such and all executives in such.
2. Consumer protection should be the paramount objective. Strict limitations should be placed on solicitations and inducements to gamble. No affiliate relationships should be allowed. Bonuses or cash backs should be prohibited. Uniform player verification standards should be required.
3. Any player should be able to self-exclude from all Internet gambling sites. A request to exclude from one site should automatically apply to all sites.
4. Internet gambling debts should not be legally recoverable. The site operator should have the onus to ensure identity verification and provide adequate available advice regarding problem gambling. The site operator should ensure that the player can afford to gamble at the level played. A player not paying gambling debts would automatically be placed on the exclusion list from all Internet gambling sites.
5. Site operators should pay fees towards problem gambling treatment and research.

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