

**Statement
By
Congressman Robert C. “Bobby” Scott
Ranking Member, Judiciary Subcommittee
On Crime, Terrorism and Homeland Security
For The
Hearing on H.R. 4777, the “Internet Gambling Prohibition
Act of 2006”
April 5, 2006**

Thank you, Mr. Chairman. I am pleased to join you in convening this hearing regarding federal regulation of gambling over the Internet. I believe that all gambling should be tightly regulated. It has traditionally been, primarily, a state regulatory responsibility. It should continue to be so, in my judgment, although it is appropriate for the federal government to have a role to assist states in the total regulatory scheme.

The federal government undertook such a role in passing

the 1961 Wire Communications Act as a way to assist in the fight against gambling by organized crime syndicates. The Department of Justice contends that it can prosecute Internet gambling businesses under that law, but, clearly, that law was not designed with Internet gambling in mind. While I appreciate the desire of my colleague, the gentleman from Virginia, to update the ability of the Department to address illegal gambling in today's context, I do not believe that H.R. 4777 is likely to be effective in doing so.

Regulating anything on the Internet is problematic, even where desirable. Most law enforcement is jurisdiction dependent. The Internet has no jurisdiction and, as a result, I suspect that even if we are successful in closing down business sites in the United States or in countries that we can get to

cooperate, because of the nature of the Internet, and the ingenuity of persons using it, the approach in H.R. 4777 will be, ultimately, ineffective. As we will hear from our witness panel, this bill will create an enforcement nightmare for the financial institutions it requires to look for and stop illegal internet gambling transactions. Identifying Internet gambling activities will be very difficult if not impossible. While some companies may be able to identify some gaming transactions by the codes used, such enforcement efforts can be easily thwarted. A business may have one code for payment purposes but may engage in several activities, including Internet gambling. Caesar's Palace could have a hotel and a gaming operation or a foreign company could have a hotel and a casino that could be paid as a single account over the Internet. Or, an e-cash or electronic payment system, or any escrow agent can relocate in

another country and thereby evade the enforcement mechanism in this bill, or even domestically. All the bank knows is that the payment came from “PayPal”. And with some Internet gaming activities being legal, how would a financial institution distinguish between them and illegal activities?

Further, we should not overestimate the cooperation we will get from other countries. According to Christiansen Capital Advisors, Internet gambling websites brought in \$14.71 billion worldwide last year, which is up from \$8 billion the year before. This number is expected to almost double to an expected \$24 billion by 2010. Presently, over 85 foreign governments allow some form of gambling online, and that number is likely to grow, as well. So what governments are likely to cooperate with us in prosecuting businesses they authorize to operate? And

even if we are successful in getting cooperation from some countries, we would simply be increasing the profit opportunities for uncooperative countries, especially those with whom the United States does not have normal diplomatic relations.

This bill does not prohibit internet gambling; it prohibits running the operation. If we wanted to be effective in prosecuting illegal gambling over the Internet, we would prosecute individual gamblers. A few sting operations would get the word out that if you gamble over the Internet, you are at the mercy of law enforcement, because you leave a trail they can follow. So long as individuals can gamble over the Internet with impunity, a market will be provided for them which the regulatory scheme in this bill will not be able stop. For

example, we prohibit sales of illegal drugs but we see that as long as there remains a demand for drugs, we only have limited success in the war on drugs. If we took the approach of this bill in enforcing drug laws, we would be prosecuting the seller but not the buyer, and have even less effect than we have now.

Since we are not talking about prohibiting Internet gambling but simply prohibiting the operation of internet gambling sites in jurisdictions the FBI can get to, I believe that there are more effective regulatory approaches than the approach offered by H.R. 4777. However, the approaches must be developed, taking into account the technology, state policies with respect to gambling, and Internet gambling practices and preferences. This was the effect of the bill authored by full Committee Ranking Member Conyers last Congress, H.R. 1223.

It established a Commission that would study the issue and made recommendations for a regulatory environment for Internet gambling that would be controlled by individual states. States do tend to prohibit individuals from gambling, so Internet gambling can be both effective and individualized to each state. Under the bill's regulatory scheme, if Nevada opted to allow Internet gambling within its borders, it could. If Utah prohibited individuals in that state from gambling over the Internet, it could and that would be enforceable by the federal government, by the states that allow gambling as well as by the state of Utah because in the fullness of time, a gambler could be required to provide a mailing address in order to get paid.

And if protecting the public is a goal of regulating Internet gambling, it is much more likely that those who chose to gamble

over the Internet will do so through a licensed, regulated entity under the Conyers approach than under H.R. 4777. First, a consumer in a state where Internet gambling is legal will have confidence that, if they win, they will get paid by the licensed, regulated operation. A consumer would have no similar confidence in “fly-by-night-off-shore-casino.com”. So, a likely result from licensed regulated Internet gaming entities would be to drive less reputable businesses, who do not abide by the law, out of business.

Another significant result is that states that chose to authorize Internet gambling can tax it. At a time when unauthorized Internet gambling is flourishing (over \$14 billion dollars with half of it originating in the U.S.), and when most states are cash strapped, those states that have already chosen to

authorize regulated gambling could receive much needed revenues from both the operators and winners, while contributing to the control of the industry and protections to the gambling public.

The overwhelming portion of those who play the numbers buy legal lottery tickets which are regulated and taxed and actually pay lower odds compared to illegal numbers operations. For the same reasons, people who choose to gamble over the Internet will patronize legal domestic websites, even if they have to pay taxes on winnings. I believe we should regulate Internet gambling, but we should do it effectively. And we should not subject any single business sector to sole or principle responsibility for doing the bulk of the enforcement work, whether it is the banking industry, as in this bill, or the Internet service industry, as we tried in prior bills. There are ways to regulate Internet gambling effectively, and a study Commission to develop those ways is the best way to come up with them. Again, I thank you, Mr. Chairman, for holding this hearing and look forward to hearing the testimony of the witnesses.