



Department of Justice

STATEMENT

OF

TESTIMONY OF

BRUCE G. OHR
CHIEF

ORGANIZED CRIME AND RACKETEERING SECTION
CRIMINAL DIVISION
UNITED STATES DEPARTMENT OF JUSTICE

BEFORE THE COMMITTEE ON THE JUDICIARY
SUBCOMMITTEE ON CRIME, TERRORISM, AND HOMELAND SECURITY
UNITED STATES HOUSE OF REPRESENTATIVES

CONCERNING

H.R. 4777, THE "INTERNET GAMBLING PROHIBITION ACT"

PRESENTED ON

APRIL 5, 2006

**Statement of Bruce G. Ohr, Chief
Organized Crime and Racketeering Section
Criminal Division
United States Department of Justice
Before the U.S. House of Representatives
Committee on the Judiciary
Subcommittee on Crime, Terrorism, and Homeland Security**

April 5, 2006

Good morning, Mr. Chairman, Ranking Member Scott, and Honorable Members of the Subcommittee. Thank you for inviting me to testify today. My name is Bruce G. Ohr and I am the Chief of the Organized Crime and Racketeering Section in the Criminal Division of the Department of Justice. I would like to commend Congressman Goodlatte, as well as Congressman Leach and Senator Kyl, for their tireless efforts and longstanding commitment to provide law enforcement with additional tools to combat Internet gambling. Today, I am pleased to offer the views of the Department of Justice on H.R. 4777, the Internet Gambling Prohibition Act.

Since the Department of Justice last appeared before you on this topic, we have continued investigating and prosecuting illegal Internet gambling. For example, in January 2006, the United States Attorney's Office in St. Louis announced a \$7.2 million settlement with the Sporting News to resolve claims that the Sporting News promoted illegal gambling from early 2000 through December 2003 by accepting fees in exchange for advertising illegal gambling. As part of this settlement, the Sporting News will conduct a public service campaign to advise the public of the illegality of commercial Internet and telephonic gambling. On April 11, 2005, the United States Attorney's Office of the District of Massachusetts indicted 13 individuals on racketeering charges, which included allegations that the enterprise used an offshore gambling office in San Jose, Costa Rica and that customers of the enterprise's sports betting business were able to place bets over the Internet and through the use of a toll-free telephone number. The operator of the offshore gambling office was Todd Westerman, who pled guilty on January 10, 2006. Two other defendants have also entered guilty pleas. The trial date for the remaining defendants has not yet been set by the court.

The Department of Justice generally supports the efforts of the drafters of H.R. 4777 because this legislation amends an existing criminal statute and it applies equally to wagering over the Internet and over the telephone. While the Department believes that 18 U.S.C. § 1084 already encompasses both types of wagering, the proposed amendments in H.R. 4777 strengthen our position and assure the continued viability of Section 1084 into the future. Further, the Department also supports the proposals to increase the penalty for a violation of Section 1084, to prohibit the acceptance of certain forms of payment, such as credit cards, for Internet gambling, and to provide for civil enforcement action against such activity. Finally, H.R. 4777 also provides law enforcement with a method to cut off the transfer of funds to and from illegal Internet gambling businesses.

The Department of Justice, however, has concerns regarding some of the provisions of H.R. 4777, including that sections of this proposal may weaken current law and standards and that it would also permit gambling over the Internet from the home and favor certain industries over others.

The Department of Justice views the existing criminal statutes as prohibiting the interstate transmission of bets or wagers, including wagers on horse races. The Department is currently undertaking a civil investigation relating to a potential violation of law regarding this activity. We have previously stated that we do not believe that the Interstate Horse Racing Act, 15 U.S.C. §§ 3001-3007, amended the existing criminal statutes. H.R. 4777, however, would change current law and amend Section 1084 to permit the interstate transmission of bets and wagers on horse races. H.R. 4777 also permits “intrastate” wagering over the Internet without examining the actual routing of the transmission to determine if the wagering is “intrastate” versus “interstate.” Under current law, the actual routing of the transmission is of great importance in deciding if the transmission is in interstate commerce. The Department is concerned that these two proposals would weaken existing law.

The Department also opposes provisions in the bill that weaken or alter existing federal law or standards pertaining to civil injunctive relief. The Justice Department believes that Rule 65 of the Federal Rules of Civil Procedure should be the sole standard used by courts in considering whether to grant injunctive relief and what form this relief should take. Rule 65 is the well-established standard that Federal courts use in all cases in which a party is seeking injunctive relief. That provision leaves it to the discretion of the district court judge to determine on a case-by-case basis what form the relief should take. Proposed subsection

1084(i)(3), however, limits the relief that can be granted against an Internet service provider. The Department believes that the judge who has reviewed the specific evidence in the case should have the authority, as he or she currently does under Rule 65, to fashion the appropriate remedy or relief.

The Department is also concerned that H.R. 4777 permits gambling from the home, which raises issues about gambling by minors and compulsive gambling. We also have concerns about the requirement for the “secure and effective customer verification and age verification to assure compliance with age and residence requirements.” Unlike casinos, online gambling businesses cannot see their customers in order to do onsite age verification. The exception for intrastate wagering in subsection 1084(d)(1) requires that the bettor be physically located in the state at the time that the wager is made, not that the individual be a resident of that state. Verifying residence would not be sufficient to meet this requirement. For example, if only state residency is subject to verification, an internet gambling customer could be a resident of the state but be physically located in another state when the wager is made. Further, under this verification requirement the State must have the verification system, not the gambling business. This implies that the verification would not be occurring at the time of the actual transmission of bets and wagers. Even if this requirement were changed to verification of physical location, however, the Department believes that further study is needed as to whether existing technology can address compliance where a bettor places bets using his or her cell phone or laptop computer using a WiFi or similar wireless internet access.

As the Department has stated on prior occasions, we also have concerns about compulsive gambling and other deleterious effects if Internet gambling is permitted. Because it is so easy to access and use, Internet gambling could exacerbate the problems and temptations facing compulsive gamblers. For example, the United States Attorney’s Office in New Mexico recently charged a bank executive with fraud charges for stealing \$5 million from Union Bank. The executive pled guilty to a criminal information charging him with felony theft, embezzlement or misapplication of funds. The executive admitted that he used most of the money to fund Internet gambling accounts.

As we have noted on several occasions, as a general matter the Department believes that Internet gambling should remain illegal. The Department of Justice is concerned about Internet gambling because of the potential for gambling by minors and compulsive gambling, the potential for fraud and money laundering, and the

potential for involvement of organized crime. For example, a recent indictment charged members of the Uvari group, which included associates of the Gambino Organized Crime Family. The Uvari Group established wagering accounts for their customers with off-site gambling business and the customers placed bets on horse races and other sporting events over the internet and the telephone.

We also are concerned that this bill would permit interstate wagering by the horse racing industry. Under H.R. 4777, other industries could only conduct intrastate wagering. As expressed earlier, it is the Department's view that the Interstate Horseracing Act did not change Section 1084. H.R. 4777, however, expressly permits interstate wagering on horse racing. The Department questions why, under the provisions of H.R. 4777, one industry will be able to accept interstate wagers while other industries that are also regulated by the states cannot.

Finally, the Department of Justice also has some drafting concerns with the legislation, including several of the definitions slated to be added to Section 1081. For example, since the definition of the term "bet or wager" requires that the activity be "predominately subject to chance," we are concerned whether this definition is sufficient to cover card games, such as poker. In addition, the definition of the term "information assisting in the placing of bets or wagers" should include the receipt of information by the gambling business from bettors or third parties, and not just information sent by the gambling business. For example, as drafted, the receipt of line information would not be covered.

Conclusion

On behalf of the Department of Justice, I want to thank you again for inviting me to testify today. We thank you for your support over the years and reaffirm our commitment to work with Congress to address the significant issue of Internet gambling. I am happy to answer any questions that you might have.