

Department of Justice



STATEMENT OF
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UNITED STATES DEPARTMENT OF JUSTICE

BEFORE THE
UNITED STATES
HOUSE OF REPRESENTATIVES
COMMITTEE ON THE JUDICIARY

CONCERNING
“INTERNET GAMBLING”

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Statement of
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Good morning, Mr. Chairman. Thank you for inviting me to testify today. My name is Catherine L. Hanaway. I am the United States Attorney for the Eastern District of Missouri. Today I am pleased to offer the views of the Department of Justice on the issue of Internet gambling.

Background

As in the physical world, gambling in the cyber world takes many different forms. In some instances, the operator of the website runs the gambling operation, including processing of payments, and bets and wagers are transmitted via the website. In other instances, payment and collection of monies are conducted in person while the placement of bets occurs using the website. In still other instances, the bettor can establish an account with the gambling business, get information from the website, but place the bets using the telephone. There are even “peer to peer” gambling websites, where the website operator does not set the bets, rather the customers set the bets. Internet gambling includes many different types of gambling. The Department’s view for some time has been that all forms of Internet gambling, including sports wagering, casino games, and card games, are illegal under federal law. While many of the federal statutes do not use the term “Internet gambling,” we believe that their statutory language is sufficient to cover Internet gambling.

As we have noted on several occasions, the Department believes that Internet gambling should remain illegal. Internet gambling poses an unacceptable risk due to the potential for gambling by minors and compulsive gambling. We note that Keith Whyte, Executive Director of the National Council on Problem Gambling, submitted a statement for the record for the April 8, 2007 hearing on Internet gambling held by the House Committee on Financial Services. In this statement for the record, Mr. Whyte stated that “[i]t is likely that individuals with gambling problems will find the internet attractive for pursuing their addiction. Risk factors include underage access, high speed of play, anonymity, social isolation, use of credit/non-cash, 24-hour availability.”

Internet gambling carries a potential for fraud and money laundering and the involvement of organized crime in online gambling. For example, a recent indictment brought by the U.S. Attorney’s Office in the Southern District of New York charged members of the Uvari group, which included associates of the Gambino Organized Crime Family, with violations of Sections 1084, 1952, and 1955. Section 1084 of Title 18, United States Code, prohibits one engaged in the business of betting or wagering from using a wire communication facility in interstate or foreign commerce to transmit bet or

wagers. Section 1955 prohibits five or more persons from conducting, financing, managing, supervising, directing or owning all or part of an illegal gambling business, which operates in violation of state law. Section 1952 prohibits the use of interstate facilities, interstate travel or use of the mails to either distribute proceeds or to promote, manage, establish, carry on, or facilitate unlawful activity, including a business enterprise involving gambling in violation of state or federal law. The Uvari Group established wagering accounts for their customers with off-site gambling businesses and the customers placed bets on horse races and other sporting events over the Internet and the telephone. Six defendants, including the lead defendants, Gerald Uvari, Cesare Uvari, and Anthony Uvari, pled guilty to a Section 1955 violation. Two pled guilty to Section 1084 violations. Five defendants pled guilty to conspiracy. The case is still pending against two defendants and the case was dismissed against two defendants.

Current Legal Authority and Enforcement Efforts

Legal Authority

As we have stated on previous occasions, the Department interprets existing federal statutes, including 18 U.S.C. §§1084, 1952, and 1955, as pertaining to and prohibiting Internet gambling. These statutes pertain to more than simply sports wagering. As I previously stated, Sections 1084, 1952, and 1955 are the primary federal gambling statutes that are applicable to Internet gambling. Section 1084, which is also known as the Wire Act, prohibits a business of betting or wagering from using a "wire communication facility" in interstate or foreign commerce for the transmission of bets or wagers. It is the Department's view, and that of at least one federal court (the E.D.Mo.), that this statute applies to both sporting events and other forms of gambling, and that it also applies to those who send or receive bets in interstate or foreign commerce, even if it is legal to place or receive bets in both the sending jurisdiction and the receiving jurisdiction. Section 1952 requires the use of "facilities in interstate commerce." Section 1952(b)(1) defines the term "unlawful activity" as including "any business enterprise involving gambling, . . . in violation of the laws of the State in which they are committed or of the United States . . ." Section 1955 is the illegal gambling business statute. Unlike Section 1084, Section 1955 requires that there be a violation of state law. No state's law permits unregulated gambling, whether on the Internet or otherwise. Further, the scope of the gambling activities covered by Section 1955 is broad. Section 1955 (b)(2) provides that the term "gambling" includes but is not limited to pool-selling, bookmaking, maintaining slot machines, roulette wheels or dice tables, and conducting lotteries, policy, bolita or numbers games, or selling chances therein." The state law does not need to be an Internet specific law. Even statutes such as promotion of gambling statutes may be sufficient as the state law violation.

In October 2006, the Unlawful Internet Gambling Enforcement Act ("UIGEA") was enacted. This statute was codified at 31 U.S.C. §§5361-5367, and it prohibits the acceptance of the specified forms of payments for unlawful Internet gambling by a business of betting or wagering. It is the view of the Department that Internet gambling

was illegal under existing federal criminal statutes even before the UIGEA. Since the enactment of this statute, several Internet gambling businesses have ceased accepting bets and wagers from individuals in the United States. For example, the *Financial Times* reported that PartyGaming quit the U.S. market, causing a 68 percent drop in group revenues.

Unlike other statutes, the UIGEA is specific to Internet gambling. The statute defines the terms “unlawful internet gambling” and “bets or wagers.” However, those definitions are only applicable to that statute. Additionally, the UIGEA does not specify what forms of internet gambling are illegal, but instead relies upon existing federal and state statutes for that purpose.

The UIGEA required the Department of the Treasury and Board of Governors of the Federal Reserve, in consultation with the Attorney General, to issue regulations to implement applicable provisions of the UIGEA. These agencies consulted with the Department during the drafting process. The regulations were published for public comment in the Federal Register on October 4, 2007. As stated in the Federal Register notice, “the proposed rule designates certain payment systems that could be used in connection with unlawful Internet gambling transactions restricted by the [UIGEA]. The proposed rule requires participants in designated payment systems to establish policies and procedures reasonably designed to identify and block or otherwise prevent or prohibit transactions in connection with unlawful Internet gambling. . . . Finally, the proposed rule describes the types of policies and procedures that non-exempt participants in each type of designated payment system may adopt in order to comply with the Act and includes non-exclusive examples of policies and procedures which would be deemed to be reasonably designed to prevent or prohibit unlawful Internet gambling transactions restricted by the Act.” The time period for the public to submit comments on the proposed regulations to the Department of the Treasury or to the Board of Governors of the Federal Reserve ends on December 12, 2007.

Nonetheless, there have been misconceptions that Internet gambling is only now illegal due to the UIGEA. The Department previously supported efforts to amend federal criminal statutes to eliminate any misconceptions concerning their applicability to illegal Internet gambling. We also supported increasing the term of imprisonment for violations of these statutes.

Enforcement Efforts

When the charges against NETeller, an Internet payment company, were announced on January 16, 2007, in the Southern District of New York, FBI Assistant Director Mershon stated that “Internet gambling is a multibillion-dollar industry. A significant portion of that is the illegal handling of Americans’ bets with offshore gaming companies, which amounts to a colossal criminal enterprise masquerading as legitimate business. There is ample indication these defendants knew the American market for their services was illegal. The FBI is adamant about shutting off the flow of illegal cash.” The

Department continues to investigate and prosecute Internet gambling. Currently, the FBI has several pending investigations concerning Internet gambling and the FBI has been the lead agency on several other investigations, which have already led to prosecutions. The FBI coordinates and consults with the Department on issues arising in Internet gambling investigations, particularly on international issues.

Most of the prosecutions brought to date have been the result of joint investigations by federal and state law enforcement agencies. For example, the NETeller prosecution in the Southern District of New York was the result of investigative efforts of the FBI with assistance from the United States Customs & Border Protection, the United States Coast Guard, and the Virgin Islands Police. The prosecution of BetonSports, PLC, which owned several Internet sportsbooks and casinos, in the Eastern District of Missouri was the result of a joint investigation by the FBI and IRS Criminal Investigation with assistance from the Florida Department of Law Enforcement, the Tampa Police Department, the Jacksonville, Florida Sheriff's office, NFL Security, and the NCAA Enforcement Office. The prosecution of Gold Medal Sports, an Internet gambling sportsbook in the Western District of Wisconsin in 2001-2002, was the result of an investigation by the IRS, Criminal Investigative Division, the FBI, United States Postal Inspection Service, and the State of Wisconsin's Department of Justice.

These joint efforts have led to several successful and ongoing prosecutions, the latter of which I cannot comment on beyond the information available in the public record. For example, on July 18, 2007, in the Southern District of New York, the Internet payment company, NETeller, admitted criminal wrongdoing and agreed to forfeit \$136,000,000 for its part in a conspiracy to promote Internet gambling businesses and to operate an unlicensed money transmitting business. The company also agreed to return \$94 million held in the accounts of U.S. customers since January 2007 and will submit to a monitor for a period of 18 months. Two founders of NETeller, Stephen Lawrence and John Lefebvre, who are Canadian citizens, pled guilty to conspiring to promote illegal Internet gambling businesses. They agreed to forfeit \$100 million. In March 2007, three individuals in Maryland were sentenced for running an illegal sports bookmaking operation in Baltimore and Washington, D.C., which used an off-shore wire room in Dominica. These recent successes built upon lessons learned in the U.S. v. Mark Meghrouni, et al. (Paradise Casino) prosecution which convicted two individuals and their corporation in the E.D. of MO in 2000, resulting in \$14+ millions in forfeitures and back taxes, as well as in the U.S. v. Jay Cohen trial in the S.D. of NY in 2000, which produced a conviction and nearly two years imprisonment for a highly-visible proponent of this illegal gambling activity.

Several other cases have been charged and are awaiting trial. In May 2007, seven individuals and four companies were indicted in the District of Utah for operating a business that helped Internet gambling websites disguise credit card charges for gambling as charges for something else, thereby deceiving credit card issuers. The U.S. Attorney's Office in Utah has also filed a civil complaint seeking forfeiture of funds in bank accounts that were used to fund payouts from Internet gambling. In the case of United States v. Arthur Gianelli, et al. in the District of Massachusetts, 13 defendants are

charged with RICO violations alleging a pattern of racketeering activity including gambling violations for an illegal sports betting business. This business operated in Massachusetts with assistance from a toll free number and Internet website, both located in Costa Rica. Similarly, in the Eastern District of Missouri, the grand jury returned a superseding indictment on June 28, 2007, in United States v. BetonSports PLC, et al. BetonSports PLC is a publicly traded company that owns a number of Internet sportsbooks and casinos. In conjunction with the indictment, the United States also filed a civil complaint to obtain a court order requiring BetonSports PLC to stop taking sports bets from the United States and to return money held in wagering accounts. On November 9, 2006, the district court judge signed the order of permanent injunction. On May 24, 2007, the company, BetonSports PLC, pled guilty to the racketeering conspiracy charged in county one of the indictment. The pattern of racketeering to which the company pled guilty included mail and wire fraud, money laundering, and multiple state gambling charges. BetonSports operated out of the Caribbean and Costa Rica and advertised itself as the largest online wagering service in the world. Sentencing is scheduled for June 23, 2008. Lastly, on October 2, 2007, the FBI in Miami-Dade County, Florida, arrested two individuals pursuant to a criminal complaint for a Hobbs Act extortion violation relating to the collection of an internet gambling debt.

In addition to prosecutions, the Department also has reached several settlements concerning Internet gambling. On March 27, 2007, the U.S. Attorney's Office for the Southern District of New York announced that it had entered into a non-prosecution agreement with the Electronic Clearing House, Inc. ("ECHO"), a Nevada corporation involved in the transfer of money on behalf of various on-line payment services, known as e-wallets. 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.

While the Department has not yet returned indictments alleging violations of the UIGEA, we note that Internet gambling investigations are time and labor intensive cases. The federal indictments that have been returned allege time periods prior to the enactment of the UIGEA. The Department is also handling a challenge to the UIGEA, which was brought by Interactive Media Entertainment and Gaming Association, L.L.C. in the District of New Jersey. In this civil suit, the plaintiff alleges that the UIGEA violates the First Amendment because it impermissibly chills expressive association, violates the Tenth Amendment because it gives to the United States powers reserved to the individual states to regulate gambling and financial transfers, and that it violates a World Trade Organization Dispute Settlement Body ruling. That company is seeking a temporary restraining order to enjoin the enforcement of the UIGEA and its forthcoming regulations. We are awaiting the decision of the court. Similarly, the individual defendants in the BetonSports case have raised the WTO issue. The government's response to the issue has been filed and is publicly available, and we anticipate the Court will find it both accurate and persuasive. Given the ongoing status of that litigation, however, I cannot comment on that issue beyond what has been publicly filed in Court.

Conclusion

On behalf of the Department of Justice, I want to thank you 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.