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Congress of the United States
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COMMITTEE ON
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COURTS, THE INTERNET, AND
INTELLECTUAL PROPERTY

COMMERCIAL AND
ADMINISTRATIVE LAW

July 29, 2008

The Hon. Michael Mukasey
Attorney General of the United States
Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530

Dear Attorney General Mukasey:

It was good to have you before the House Judiciary Committee recently. I wanted to discuss the following issue with you, as I am concerned that it is one that the Department may be ignoring.

I am writing to you in my capacity as a member of the House Committee on Judiciary in relation to the enforcement actions of the Department of Justice against European Internet gambling operators, banks and the individuals associated with these businesses. I understand that Chairman Conyers has written to you on the subject and other members of the House have raised the specific issue of whether US enforcement practices are in the interests of this country's priority objectives and international reputation with regard to upholding the rule of law.

You are aware of the ongoing and escalating dispute between the US and certain nations in this area and, in particular, with the EU. This results from the ongoing threat of enforcement against companies and individuals who were involved with foreign websites which accepted US customers - sites regulated in their home jurisdiction, operated in many cases by publicly listed companies. The companies referred to did not offer sports betting (a sector I understand that US laws prohibited, notwithstanding the wider WTO commitments made in the area of gambling services) and, more importantly, withdrew from the US market in 2006 when the Unlawful Internet Gambling Enforcement Act was passed.

You are also aware of your Department's repeatedly stated view that all forms of Internet gambling are unlawful in the United States. Yet, US companies continue to operate today, under the noses of the US authorities, with impunity. Chairman Conyers raised this issue in the November 14, 2007 hearing "*Establishing Consistent Enforcement Policies in the Context of Online Wagers*" in which no satisfactory answer was provided to this question. Since that hearing, we in the Committee have still yet to understand the

Department's explanation for the ongoing enforcement against those foreign operators who respected Congressional intent in 2006 and withdrew from the market while US companies continue to operate uninterrupted.

Aside from the unanswered questions and the issue of oversight and accountability to the Congress, we understand that this is creating an escalating dispute with our major trading partner, the EU, and that there is a possibility for a new WTO case being brought against the US which would effectively focus on how the US enforces its laws. This is a serious subject and one that, at a time when the US has so many difficult challenges in championing the rule of law and maintaining the highest standards and integrity in the international institutions in which we participate (like the WTO), needs some explanation. The US recently won its first case against China in the WTO – I wonder what the Chinese will make of our record in this case and whether it will likewise seek to circumvent the decision of the WTO by withdrawing its commitments. Even more concerning here, is that with the US having done just that, enforcement for the past continues and does so on a seemingly selective and discriminatory basis.

There is also the issue of allocation of enforcement resources. As you know, it is essential that our efforts to combat serious crime, terrorism and other major threats that impact US citizens are not compromised by diversion of resources towards issues with questionable public interest value. Here, pursuing foreign targets, which have already withdrawn from the US market some time ago, seems an unlikely priority use of such resources. It also seems difficult to justify when resources do not seem to be expended on pursuing US-based companies which are flouting the very same laws that it is claimed the EU businesses have breached. Again, we would like an explanation of these actions.

Accordingly, I am writing to ask you to request that the Department of Justice immediately suspend all prosecutions and enforcement activity (including advancing any negotiation or plea-bargaining exercises that may be in motion) with respect to activity associated with or attendant to Internet gambling services that were in operation prior to UIGEA. This is a matter that needs careful and proper consideration before unnecessary and avoidable escalation of this dispute with the EU occurs.

I appreciate your attention to this important matter and look forward to your prompt response.

As always, I remain,

Most sincerely,

A handwritten signature in blue ink that reads "Steve Cohen". The signature is written in a cursive, flowing style.

Steve Cohen
Member of Congress