

Enforcing a Ban on Internet Gambling



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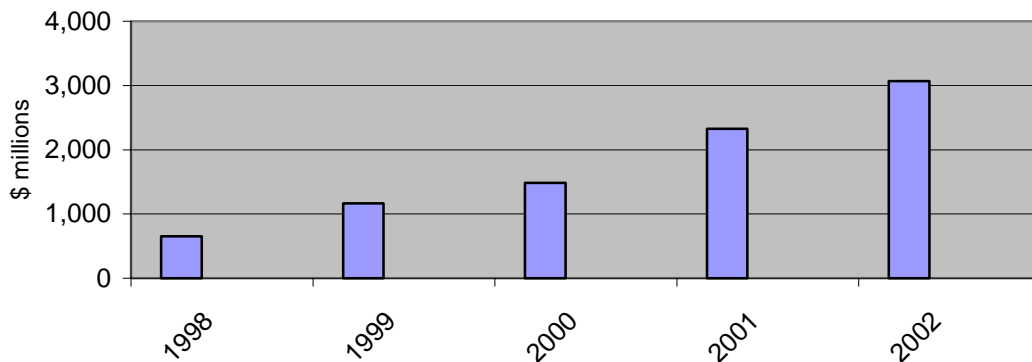
THE IDEA

Because online gambling promotes addiction through easy accessibility and presents great potential for criminal abuse, the federal government should enforce an Internet gambling ban in the United States.

THE PROBLEM

Internet gambling represents one of the fastest-growing segments of online activity, with more than seven hundred websites now providing users the opportunity to wager on everything from casino games to sporting events. The industry will reap \$1.5 billion in worldwide revenue this year, according to Internet research firms; conservative estimates show this figure rising to more than \$3 billion by 2002 (see Figure 1). The number of online bettors in the United States grew by a third, to 5.2 million, in just the first three months of 2000.¹

Figure 1. Estimated Internet Gambling Expenditures



Source: River City Group, LLC, and Christian Capital Advisors, Inc., "Wagering on the Internet," 1998.

This boom in online gambling should provoke concern among policymakers for a number of reasons:

- With virtual casinos and "sports books" available on computers at home and in school, opportunities to bet become widely available to children and teens. Studies indicate that adolescents are more likely to develop gambling problems than adults and that the number of

¹From studies by research firm Cyber Dialogue, as reported by Roland Jones, "A Winning Wager," ABCNEWS.com, July 3, 2000, available at <http://www.abcnews.go.com/sections/business/TheStreet/onlinebetting000703.html>.

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teenage pathological gamblers may already be as high as 1.1 million.² University administrators report that Internet gambling—especially wagers on sports events—is growing more popular on college campuses. The accessibility of Internet gambling increases the chances that underage players will participate—and become hooked.

- Internet gambling poses particular hazards for adult pathological gamblers and has the potential to increase greatly the number of people with gambling problems. While the newness of Internet gambling means that there has been little research concerning its addictive quality, video poker, a casino game very similar to some forms of Internet gambling, is believed to be so addictive that experts refer to it as “video crack.” The growing presence of Gamblers Anonymous in states with video poker provides one rough indicator of the game’s allure: in Oregon, during the seven years after video poker’s emergence, the number of Gamblers Anonymous chapters swelled from three to thirty.³
- Since Internet gambling conducted in the United States involves operations based outside the country, it increases the opportunity for illegal activity, including money laundering and fraud. The mobility and anonymity offered by the Internet provide cover for corrupt operators to rig games or steal players’ credit card numbers outright.⁴
- Gambling proponents frequently justify the expansion of legal gambling by citing its economic benefits, such as jobs and tax revenue. Internet gambling, however, does not offer these purported advantages. And, when the social costs of problem gambling are factored in, its economic consequences are clearly negative.

Noting Internet gambling’s considerable downside, the National Gambling Impact Study Commission in 1999 unanimously recommended an outright ban.⁵ A number of organizations have supported the commission’s stance, including the National Association of Attorneys General, the National Collegiate Athletic Association, and the American Gaming Association.⁶

HOW THE BAN WOULD WORK

As Congress and other interested parties have considered addressing Internet gambling, several alternatives for putting a ban into effect have emerged:

- Existing laws, which prohibit the use of wire communications such as telephone lines for placing bets or wagers, could be updated and strengthened in order to cover Internet gambling more effectively.
- New laws could be enacted requiring Internet service providers to shut down any gambling sites hosted on their networks.
- New laws could be enacted prohibiting the use of electronic payment methods (such as credit cards) in Internet gambling transactions. A related alternative would be to make Internet

² *National Gambling Impact Study Commission Final Report*, Washington, D.C., June 1999, p. 4-12.

³ David Plotz, “The War on Video Crack,” *Slate*, December 16, 1999, available at <http://slate.msn.com/Features/convenience/convenience.asp>.

⁴ *National Gambling Impact Study Commission Final Report*, p. 5-5.

⁵ *Ibid.*, p. 5-12.

⁶ For statements from these organizations, see *ibid.*, p. 5-9 (NAAG); http://www.ncaa.org/gambling/19990324_testimony.html (NCAA); and http://www.americangaming.org/casino_entertainment/aga_facts/facts.cfm/ID/17 (AGA).

gambling debts legally unenforceable, thereby creating a financial incentive for credit card issuers to avoid such transactions.

Any of these steps would require legislation and enforcement at the federal level. While most regulation of gambling currently falls under the purview of state governments, the fact that Internet transactions can easily cross state and national boundaries makes federal action a necessity.

The Department of Justice has voiced support for strengthening existing law, with the caveat that any amendments should be “technology neutral.”⁷ That is, new statutes should not single out the Internet for regulation but, instead, should prohibit bets and wagers through any type of communication facility. This approach would broaden the law’s application beyond wire-based transmissions, ensuring that regulations keep pace with new developments in communications technology.

Consideration of the second and third alternatives raises a basic question: Who would take on the task of identifying illegal gambling sites? Most likely, this responsibility would fall to a law enforcement agency, such as the FBI, that would pass information about gambling websites to Internet service providers and financial institutions. These companies then would implement the ban by blocking access to the illegal sites or stopping the authorization of electronic payments. Intermediaries would not be held liable for facilitating gambling activity unless they knowingly did so.

EVIDENCE THAT THE BAN WOULD WORK

A ban on Internet gambling presents significant enforcement challenges. Identifying operators of online casinos and sports books would require the government or a third party to monitor the Internet for websites dedicated to gambling. In addition, prosecuting the owners of those sites could be problematic because of the Internet’s international reach, particularly when the operations are based in countries where Internet gambling is legal.

These problems are not insurmountable, however. In a recent instance, federal prosecutors put the New York-based owner of an Internet gambling operation licensed in Antigua on trial. The government argued that, while the business was authorized by its Caribbean host, the gambling activity actually was taking place in the United States, where it is illegal. The case resulted in a conviction, fine, and prison sentence. This outcome sets a precedent for future legal actions against operators of online casinos. Such moves, combined with a prohibition on electronic payment to online gambling sites, could create a more effective system for enforcement.

As efforts to curb Internet gambling move forward, the industry’s defenders have claimed that regulation, rather than an outright ban, offers a more sensible way to manage the growth of online casinos and sports books. But regulation offers little protection against the most disconcerting aspects of this phenomenon, especially its potential for harm to youth and problem gamblers. Australia’s attempt to regulate online gambling confirms such reservations: even with

⁷ Statement of Kevin V. Di Gregory, deputy assistant attorney general, before the Subcommittee on Crime of the House Committee on the Judiciary, June 20, 2000, available at <http://www.usdoj.gov/criminal/cybercrime/kvd0600.htm>.

regulations in place, concern over problem gambling remains high in that country and has prompted the government to investigate the feasibility of an outright ban.⁸

THE COST

Enforcing a ban on Internet gambling will require resources to identify illegal websites and prosecute their operators. Such activities would entail new costs for federal and state governments.

However, restricting access to online casinos and sports books would create savings for the public and private sector by lessening the economic costs associated with problem gambling. The financial, physical, and emotional price tag of problem gambling—including the costs of health care, loss of employment, family dissolution, crime, and so on—already amounts to at least \$5 billion a year and is likely to grow should Internet gambling's expansion go unchecked.⁹

MORE INFORMATION

Analysis and recommendations regarding Internet gambling from the National Gambling Impact Study Commission are available at the commission's website, www.ngisc.gov.

Policy.com reviews the debate over Internet gambling at its website, <http://www.policy.com/news/dbrief/dbriefarc753.asp>.

The Tech Law Journal summarizes legislation pertaining to Internet gambling now before the Congress at its website, <http://techlawjournal.com/cong106/gambling/Default.htm>.

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⁸ David Legard, "Australia Moves to Curb Net Gambling," CNN.com, June 29, 2000, available at <http://www.cnn.com/2000/TECH/computing/06/29/oz.v.gambling.idg/index.html>.

⁹ National Opinion Research Center at the University of Chicago, "Gambling Impact and Behavior Study," report submitted to the National Gambling Impact Study Commission, April 1999, p. 53.