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Cory Nebel

University of Nevada, Las Vegas

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The Internet Gaming Industry for Newbies

by

Cory Nebel

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University of Nevada, Las Vegas
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PART ONE

Introduction

The United States internet gaming industry is one which, while many people are aware of its existence, very few fully understand. There remains a tremendous amount of confusion amongst the American public regarding whether or not gambling online in the U.S. is a legal activity. While most would claim to have heard reports that U.S. internet gambling is against the law, just as many people are able to quickly reference both friends and family who regularly gamble online. Through the use of secondary research, this paper will explore a wide range of pre-existing literature on both the internet gaming industry and the act of online gambling in the United States.

Purpose

The purpose of this paper is to develop a handbook which addresses frequently asked questions pertaining to the online gaming industry in the United States.

Statement of objective

This resource is intended to take on a format a structure similar to the popular “XXX of Dummies” series of books and publications. Upon completion, the manual seeks to provide itself with a wide array of answers to some of the most frequently asked questions and misunderstood aspects of online gaming. Aspects pertinent to the U.S. online gaming industry such as history, legality and more will all be addressed within the handbook. Interestingly, none of the factual contents of the handbook will be unveiled via new discovery, but rather the handbook will take pre-existing U.S. online gaming resources and condense this information down into a single handbook.

Justification

There is evidence that, prior to the U.S. Government's passing of the Unlawful Internet Gambling Enforcement Act in 2006, revenues from online gambling had cannibalized traditional brick and mortar based U.S. casino revenue dollars at a rate equal to approximately 27-30 cents on the dollar (Philander, 2011). Such cannibalization implies that should the internet gaming industry in the United States eventually become legalized and regulated, it is imperative that brick and mortar casino companies of all sizes possess a strong understanding of the industry. Certainly, a large portion of the financial successes (or failures) of traditional land based U.S. casino companies would suddenly have tremendous exposure to the new virtual gambling space. By creating a handbook addressing key issues relative to U.S. internet gambling, gaming executives and employees of all ranks will be able to self-educate on the industry.

Additionally, this manual will also provide as an educational resource for those U.S. residents who have previously gambled, currently gamble or have considered gambling online. Experienced, more season internet gamblers would benefit from the existence of a handbook solely devoted to addressing the U.S. gaming industry and the vague, unclear facts with which it is associated. Conversely, those in the U.S. who have not actually gambled online will be able to more clearly familiarize themselves with the industry, in turn aiding in their decision making process of whether or not to deposit money into an online gambling site.

Constraints

Undoubtedly, some portion of this handbook will require reference to laws and legal actions which relate to the internet gaming industry. While the handbook will certainly include such law related items within the text, it's worth noting that the researcher does not derive from a law background or law related education. Elaborations and interpretations of particular law-

based material by the researcher will therefore be unable to provide legal commentary and legal analysis at an advanced level.

Glossary

During the course of this handbook, the terms “internet gambling” and the “internet gaming industry” will be utilized during content related discussion. While “online gaming” is utilized interchangeably with internet gambling and the world of video game players, its utilization in this handbook is applicable strictly to the virtual world of internet gambling.

Internet gambling: Refers to the activity of wagering something of value online (B. Bernhard, personal communication, September 17, 2012)

Internet gaming industry: Term describing the industry characterizing the activity of online gambling/internet gambling (B. Bernhard, personal communication, September 17, 2012)

PART TWO

Literature Review

Introduction

The internet changed the way things are done across the globe, ranging from communication to shopping and everything in between. The birth of the internet also brought about the emergence of a new medium on which gambling could take place. Recognizing the magnitude of the online gaming market, many nations set up the framework necessary to facilitate this new industry. Omitted from the list of territories welcoming online gaming was the United States of America. The U.S. utilized legislature dating back to the 1960's to provide the groundwork for the passing of new law in 2006 aimed at cracking down on the act of internet gambling in the United States. Unfortunately for the U.S. government, the new legislation did little to clarify the types of internet gambling which classify as either legal or illegal. In light of the lacking clarity, many U.S. residents continued to wager real money on offshore based websites offering internet gambling services. In April of 2011, the U.S. Department of Justice again took action, shutting down and seizing the domains of some of the most frequently utilized online gambling sites offering their real money gambling services to U.S. residents (Rose, 2011).

Growth of the Internet and Smart Phones

The number of people worldwide who have access to the internet continues to rise at a rapid rate. Internet usage and penetration across the globe has seen significant increases since the year 2000, having grown a total of 566% worldwide (Miniwatts Marketing Group, 2012). Smart phones, cellular devices with the capability to browse and surf the internet, are also becoming rapidly more popular. Currently almost half of all American adults, specifically 46%, are smartphone owners (Eggerton, 2012). In fact, since as recently as May 2011 smartphone

ownership in the United States has increased a total of 11% (Eggerton, 2012). To summarize, it is clear that across the globe, more and more people are gaining access to the internet. In markets such as the United States where standard internet access has become somewhat ubiquitous, Americans are making purchases which permit internet access at nearly anytime via smartphones and internet capable portable devices. These trends show that consumer use of the internet continues to grow and gain popularity, and businesses of all backgrounds would be wise to take note and plan their ongoing operations accordingly.

The Global Online Gaming Market

The gaming industry recognized the tremendous growth opportunities associated with offering gambling via the internet very early on. The first internet gambling websites opened in 1995 and featured virtual styles of popular casino style games such as blackjack, video poker and slot machines (Williams & Seteroff, 2009). Internet gambling, also referred to as 'online gambling,' describes all forms of wagering via the internet and takes place through the utilization of mobile devices, computers and any other wireless gadget which can connect to the internet (Gainsbury & Wood, 2011). Since its inception, internet gambling has been a very popular activity across the globe and continues to be a market experiencing considerable growth. On a global scale, internet gambling revenues increased approximately \$13 billion between the years of 2002 and 2006 (Gainsbury & Wood, 2011). Additionally, popular online gaming statistics resource H2 Gambling Capital forecasted a 42% increase in the global gaming market size between 2008 and 2012 (KPMG International, 2010). These healthy figures and bullish forecasts combine to display the magnitude of the internet gaming industry despite some jurisdictions declaring the act of online gambling illegal for their citizens.

The online gaming market is composed of a number of different subsections, each of which utilizes differing types of software and business plans. Sports betting includes the act of betting on various sporting events such as horse races, football games, soccer matches, etc.. Online poker refers to providers of various types of poker games who generate revenues via rake, a type of commission earned from wagers. Casino games are also offered online and include all games of chance typically found at brick and mortar casinos such as slots, roulette and blackjack (KPMG International, 2010). Web based versions of bingo and lottery are also classified as components of the online gaming market.

The United States Online Gaming Market

Legal implications

Undoubtedly one of the largest markets in the world who has yet to definitively legalize and regulate internet gambling is the United States. Clearly, the United States is not vehemently opposed to the act of gambling, as taxes collected from licensed betting and income from state lotteries remain a permanent part of the revenue stream for 48 of the 50 states (Owens, 2006). With the exception of Hawaii and Utah, some form of legalized (non-online) gambling is available in every U.S. state. Despite the widespread availability of offline gambling across the U.S., the country remains incredibly stubborn and in opposition to allowing its citizens to engage in real money wagering via the internet.

Legislation pertaining to internet gambling in the United States is far from clear and definitive. Presently, one of the most highly referenced pieces of legislation when it comes to the lack of clarity regarding internet gambling's legality is the Wire Act of 1961. Originally purposed to disallow the use of telephone wires and telegraphs as a means of communicating gaming information to bookmakers, the Wire Act was passed during the summer of 1961

(Schwartz, 2005). Since its passing, however, society has made much progress in communications technology. Cell phones, wireless internet and other modern day forms of communication are able to take place in absence of a wire, thus outdating the verbiage found within the Wire Act.

Additionally, the Wire Act's contents appear to focus on and apply strictly to sports betting, just one of many forms of gambling activities. For many years, this aspect created tremendous amounts of confusion and ambiguity as to what exactly the Wire Act covers. Initially, the Department of Justice claimed that the contents of the Wire Act are applicable to not only sports betting, but all various types of betting (Hichar, 2009). At the time, however, rulings varied from judge to judge. Some judges upheld the view that the contents of the Wire Act applied to all forms of betting. Others muddied the DOJ's claims, making rulings based upon the premise that the Wire Act is only applicable should the wagering pertain to sporting events and contests (Hichar, 2009).

Very recently, however, the Justice Department altered its original stance and ruled that the Wire Act applies only to interstate sport wagering, not online gaming in its entirety (New Interpretation, 2012). The Justice Department's ruling certainly provided a frame of clarity in a previously non-definitive interpretation of when the Wire Act's contents proved applicable. The DOJ's recent change of stance on the Wire Act provides a positive spark for states who have long considered implementing an online version of state lotteries (New Interpretation, 2012).

The Unlawful Internet Gambling Enforcement Act, or UIGEA of 2006, is also frequently referred to in discussions and cases relating to online gambling in the United States. The UIGEA was passed through Congress in 2006 by Republican leadership who snuck the act onto a completely unrelated bill in the waning minutes prior to the election period recess (Rose, 2006).

Frank Lautenberg, Democratic Senator from New Jersey at the time of the UIGEA's passing, stated that no one on the Senate-House Conference Committee had even seen the final language of the bill before it passed (Rose, 2006). Nevertheless, the UIGEA made its way through legislation and remains an important reference in examining legal issues pertaining to internet gambling in the United States.

Interestingly, the UIGEA does not make literal the act of gambling online illegal, but rather targets the business end of the spectrum. The UIGEA prohibits persons engaged in the business of betting or wagering from knowingly accepting payment in connection with the act of unlawful internet gambling (Hichar, 2009). Ultimately, the UIGEA does not expand the scope of the Wire Act by criminalizing internet gambling, but instead is intended to prevent internet gambling by way of making it more difficult for gamblers to access online funds (Shaker, 2007). This targeting of third party payment processors certainly creates a tremendous inconvenience for those U.S. residents who decide to continue wagering funds online, yet does not provide as a means of incriminating online gamblers.

The determination of what constitutes unlawful internet gambling is of utmost importance in deciding what the UIGEA does and does not cover. The Wire Act acted as a framework on which the UIGEA was based. Therefore, the Department of Justice's rebuttal on whether or not non-sports wagers were deemed unlawful drastically altered the scope on what unlawful internet gambling applied to. Such inconsistency and ambiguity has resulted in a tremendous amount of uncertainty on behalf of internet gaming operators in determining what, if any, internet gambling is allowed on United States soil (Hichar, 2009).

Online gambling

Despite the U.S. government's opposition to fully legalizing and regulating online gaming, millions of U.S. residents spend \$4 billion annually gambling online (Stewart, 2011). It is clear that even in the wake of the government's crackdown efforts via the Wire Act and UIGEA, many Americans love to gamble online so much that they will risk wagering funds on offshore based websites despite having limited knowledge of the company's operations. Unfortunately for many Americans, the blind faith they placed in these offshore online gaming companies' services proved to be incredibly costly on April 15, 2011.

Typically referred to as Black Friday, April 15, 2011 represents a historic date in the ongoing saga of the U.S. government's attempts to crackdown on internet gambling. On Black Friday, the U.S. Department of Justice indicted several of the largest poker sites facilitating real money wagers from American players along with the sites' founders, some payment processors and a Utah bank official (Rose, 2011). In addition to accusations of money laundering and bank fraud, the indictment also cited violation of the UIGEA.

Black Friday's events also included the DOJ's acquisition of a warrant allowing them to seize the domain names of these wildly popular internet poker websites (Rose, 2011). The DOJ's seizure of these domain names affected not only U.S. residents, but inconvenienced online poker players around the world who lived and played in jurisdictions where internet gambling is legal. With the .com names of poker sites seized by the DOJ, a huge global uproar understandably unfolded as all funds were frozen and players were unable to access their online funds (Rose, 2011). The global outrage quickly resulted in the DOJ's realization that they clearly overstepped their boundaries, and U.S. attorney Preet Bharara announced on April 20,

2011 that the seized sites would be permitted to reopen their real money games outside of the United States (Rose, 2011).

While the reopening of these poker sites was certainly good news to non-U.S. players with gambling funds online, there remained countless Americans with poker funds online which were frozen and completely inaccessible as a result of the DOJ's Black Friday actions.

Unfortunately for the many U.S. players who gambled on the poker site Full Tilt Poker, the seizure unveiled some shady company practices behind closed doors. U.S. feds accused Full Tilt of not segregating player funds, claimed that executives were dipping into player funds to pay themselves bonuses and declared that Full Tilt was a "global Ponzi scheme" (Kelly & Rose, 2011). Over a year since Black Friday, while U.S. customers who gambled on the highly popular PokerStars have since been paid in full, U.S. players with funds on Full Tilt have still not been paid (Vardi, 2012). It's been estimated that Full Tilt U.S. online players had a total of \$150 million on deposit with the site upon its seizure, and they have continued to wait on the DOJ's actions with hopes of being returned their money at some point (Vardi, 2012).

The debate over legalizing online gambling

There is no uniform agreement across the entire United States regarding whether or not the U.S. should legalize and regulate the online gaming market. Many of those in favor of U.S. legalization and regulation would be quick to point out the aftermath of Black Friday's events. Typically, this group argues that if companies such as Full Tilt Poker were legalized and regulated in the U.S., the whole insufficient player funds debacle could have been avoided. On the contrary, those opposed to legalization generally claim that it's the players' own fault they can't receive their funds, as gambling online is disallowed on U.S. soil. Therefore, they should not have been wagering money on Full Tilt to begin with. In total, each side has valid arguments

that can be used as support in debating whether or not internet gambling should be permitted in the U.S.

U.S. land based casino operators are one of the first groups to come to mind when considering who would be in opposition to legalized online gambling in the United States. Operation of a brick and mortar casino requires an investment of millions, if not billions of dollars to build the physical location of the plant. Building costs, coupled with the payroll of the thousands of employees required to run the daily operations of a terrestrial casino, would be forced to compete with web-based gambling sites carrying a fraction of the costs should the U.S. allow real money internet wagering (Bowen, 2003). Some land based casino operators also argue that online casinos, who have horrible reputations in light of events such as Full Tilt's inability to pay back customers, threaten the integrity of the gaming market and thus would stimulate a new degree of negativity for the gaming industry as a whole (Bowen, 2003).

The unfair competition and threat to integrity arguments typically brought forth by land based casino executives certainly hold true in the current environment of unregulated, illegal act of online gambling in the U.S. However, a United States environment which offered legal and regulated internet gambling would crumble both argumentative points. Brick and mortar locations would be able to run their own virtual based gambling websites in addition to land based operations, providing for a new and previously untapped e-commerce revenue stream. Additionally, codified internet gambling regulation and legalization would rid the industry of unethically run internet companies and greatly decrease the possibility of another Full Tilt insufficient funds debacle, eliminating the potential for a tainted gambling market image.

The general consensus that the availability of online gambling would serve as a substitute for land based casino gambling is a theory which is unfounded and lacking any factual

supporting evidence. One study by Philander and Fiedler (2012) sought to objectively examine the relationship between one form of online gambling, online poker, and the corresponding effect on the offline gambling market. The results of the study revealed that, contrary to popular belief, online poker does not cannibalize the offline gaming market (Philander & Fiedler, 2012). Instead, it was discovered that there exists a significant positive relationship between online and offline gaming and that the markets are actually complementary to one another (Philander & Fiedler, 2012). As a result, gaming operators should actually be in support of the legalization and regulation of online poker, given the positive relationship between internet poker and their own revenues. Land based casino executives should seek to team up and collaborate with online poker operators to positively drive both revenue and profits, but instead they continue fighting tooth and nail against online poker's legalization and regulation.

Sheldon Adelson, chief executive officer of the Las Vegas Sands, is animatedly opposed to the legalization of online gambling in the U.S. Adelson believes that there is not enough technology available to ensure underage players are not making real money wagers on the internet (Garcia, 2011). Adelson is not alone in this assertion, and the threat of underage gambling is commonly cited by those Americans who remain opposed to legalized online gambling. Adelson's argument, however, is countered by the fact that there already exist effective safeguards against underage gambling in jurisdictions where internet gambling is permitted. Online registration processes based on "Know Your Customer" (KYC) methods feature thorough verification requirements during the account sign up process (Lycka, 2011). The KYC registration process checks the potential customer's detailed information against public data sources such as electoral rolls and bank registers to ensure the person attempting to sign up is of legal gambling age (Lycka, 2011). Arguably, this meticulous registration process is

much more stringent and effective than the simple checking of an ID at a terrestrial casino location (assuming the gambler is even asked to show identification upon arrival).

Conclusion

Clearly, the internet's emergence and intense popularity across the globe has opened the door to a new medium through which gamblers can actively place real money wagers via a number of different games. Dependent upon jurisdiction, internet gambling may or may not be considered within the confines of the law. However, as has been previously discussed, legislation addressing internet gambling in territories such as the United States of America tends to be either outdated or lacking any clear and precise verbiage. The Wire Act was passed during a time prior to the birth of the internet and was enacted as a means of eliminating the wagering of real money bets across state lines on various sporting events. The Unlawful Internet Gambling Enforcement Act of 2006 attempted to eliminate the wagering of funds on all forms of gambling on the internet, sports bets and beyond. However the UIGEA's framework was based upon the Wire Act, and fails to clearly address and define what is considered "unlawful internet gambling." The U.S. Department of Justice flexed its muscles and shut down the most popular and widely used online poker websites during the events of Black Friday on April 15, 2011. The DOJ's actions blindsided millions of American online poker players whose funds were immediately frozen and inaccessible.

Since the emergence of the internet gaming industry, the only consistent theme of the legal framework with which it is associated in the United States can be summarized in one word: confusion. This confusion served as the motivation to develop a manual which touches on the timeline of various events associated with the online gaming industry – specifically the events

characteristic of the U.S. internet gaming market – in an attempt to alleviate this incredible lack of clarity.

PART THREE

Introduction

Seemingly everyone with some level of exposure to gambling in the United States has come to believe and understand that gambling via the internet on U.S. soil is illegal. Simultaneously, however, it's far from uncommon to know someone – a friend, family member, co-worker, etc. – who either has wagered real money funds gambling online in the past or gambles via the internet to this very day. How can this be possible? What do the laws say about gambling online in the U.S.? Why is it that online gambling isn't just legalized and regulated in the U.S.?

This consistent state of confusion and uncertainty amongst the gambling community in the United States with regards to internet gambling provided as a the motivator in developing this manual. “The Internet Gaming Industry for Newbies” will provide its audience with answers to some of the more commonly asked questions regarding the internet gaming industry in the U.S. and world alike. Through briefly summarizing and explaining key internet gambling related legal issues such as the Wire Act and the UIGEA, it is the goal of this manual that the audience walks away with a much clearer understanding of the legislation currently in place.

For those with little to no interest in either the offline or online gaming industries, this manual will be of little value to you. However, for those with an interest in learning more about the U.S. and global online gaming markets, and for those who seek to further their knowledge base of all things internet gambling, then you've come to the right place.

The Internet Gaming Industry for Newbies

Technology

It is quite obvious that without the internet, the online gambling industry (and in turn, this manual) would cease to exist. Alas, in 1991 British computer scientist Tim Berners-Lee developed the key components which allowed communication between computers via the World Wide Web, presently known and referred to as today's "internet" (Anonymous, 2010). Following its inception in the early 1990's, the internet has experienced rapid growth across the globe and has since become ubiquitous in developed countries. The birth of the internet created new channels through which communication can take place, goods and services can be purchased, and of course a new medium through which gamblers are able to bet and wager funds on their game(s) of choice.

As the internet's popularity continued to rapidly grow, technological advances in hardware devices with internet connectivity capabilities have also developed. The once wildly popular big, bulky PCs and desktop computers have begun to become less and less common, as consumers are transitioning to smaller and lighter portable laptops. Even more recently, the technology sector has seen tablet devices, a niche positioned roughly halfway between cellphones and laptops, become wildly popular. NPD DisplaySearch, a company with expertise in consumer and retail market research, recently revealed that tablet sales are on track to outpace laptop sales by 2016 (Albanesius, 2012). Similar to its desktop and laptop predecessors, tablets also offer their users the ability to connect to and browse the internet marketplace. Additionally, cell phone devices also have made tremendous strides in keeping up with the growing popularity of the internet. Once utilized solely for making and receiving telephone calls, most cell phones have now been modernized and referred to as "smart phones," offering users the ability to

connect to the internet, check e-mail, surf the web and perform all tasks online which were once only accessibly via hardwired desktop computers. Presently, nearly half of all American adults are smartphone owners and since May of 2011 smart phone ownership in the United States has grown by 11% (Eggerton, 2012).

The shift from internet accessibility being available exclusively from a desktop computer stationed inside a home or office to devices which can be connected to the internet anytime and anyplace has important implications for the internet gaming industry. Laptop, tablet and smartphone users will now have the ability to log on to the internet and gamble more frequently than ever before. Given this ease of accessibility, the Internet Gaming Industry for Newbies now explores into revealing exactly what kind of online gambling options these easy access internet users have at their disposal.

The Online Gaming Market

What forms of gambling are available online?

There are a number of different types of games of chance through which online gamblers wager their funds via the internet. Similar to the slot machines and table games found within typical brick and mortar casino locations, some internet gambling websites offer what are classified as casino games. These virtual games operate just as they would in a land casino and include slot machines, blackjack, roulette and more (KPMG International, 2010). Sports bettors can also find websites which allow the gambler to place bets on the outcome of various events such as games, horse racing and even non-sports related events such presidential elections. There exist online versions of bingo and lotteries, both of which mirror the typical rules found in their offline counterparts (KPMG International, 2010). Finally, there exists online poker websites, allowing for a medium through which various poker games can be played against

counterparts scattered across the globe. To summarize, it's quite likely that if there is some type of offline based game of chance that a gambler enjoys playing; he or she will not be hard pressed to find an online version of that very game. While it's interesting to know that these games are available, the question is: how frequently are people actually gambling online?

How big is the market for online gaming?

While obtaining specific market data pertaining to the online gaming industry can prove to be an extremely challenging and frustrating task, a compilation of a few resources openly sharing industry information allows for a peak into the numbers and scale associated with the online gaming market. Internet gambling has proven to be a very popular activity, as evidenced by the \$13 billion in global online gaming revenue growth between the years 2002 and 2006 (Gainsbury & Wood, 2011). As of 2011, roughly 85 nations have chosen to welcome internet gambling within their borders and took action by fully legalizing the act of gambling online (Stewart, 2011). Staying on the global scale, revenues tied to online gambling totaled almost \$30 billion in 2010 (Stewart, 2011).

Presently, real money gambling online within the United States is an act which is neither fully legalized nor regulated. With the exception of Hawaii and Utah, some form of offline gambling is available in every state. Regardless, the U.S. continually refuses to move forward with legalization and regulation of online gambling. The following section examines the current legislation and main laws in place which are utilized in enforcing the “no internet gambling zone” that is the U.S.A.

United States Online Gaming Market Law

What is the Wire Act of 1961?

To briefly summarize in as simple a manner as possible, the Wire Act was passed in 1961 as a means of making it illegal to utilize wired telephones or telegraphs to place wagers on sporting events or contests. In order to analyze the Wire Act in a more detailed manner, the heart of the Wire Act, subsection 1084(a) is included:

- (a) Whoever being engaged in the business of betting or wagering knowingly uses a wire communication facility for the transmission in interstate or foreign commerce of bets or wagers on any sporting event or contest, or for the transmission of a wire communication which entitles the recipient to receive money or credit as a result of bets or wagers, or for information assisting in the placing of bets or wagers, shall be fined under this title or imprisoned not more than two years, or both.

The first piece of verbiage within subsection 1084(a) which immediately stands out is the clearly stated “wire communication facility.” Given that much of today’s communication methods occur via cell phones and other wireless internet devices, it quickly becomes unclear as to whether or not this act is even applicable to such forms of communication.

Secondly, subsection 1084(a) seems to clearly single out bets or wagers pertaining to sporting events. It is not unfathomable, then, to assume and interpret that the Wire Act is certainly applicable to sports betting, but indirectly exempts any other form of gambling not related to sporting events and contests. In fact, the House Judiciary Report on the bill which eventually became the Wire Act was entitled *Sporting Events – Transmissions of Bets, Wagers, and Related Information* (Hichar, 2009).

Even those individuals and organizations in the United States whose everyday responsibilities include interpreting various pieces of U.S. legislation remain inconsistent in their viewpoint of the specific scope of the Wire Act. At one point in time, the Department of Justice had claimed that the contents of the Wire Act of 1961 apply to all forms of betting and gambling (Hichar, 2009). Recently, however, the Department of Justice has back peddled and altered its interpretation on the scope of the Wire Act's applicability. The DOJ has now determined that the Wire Act applies strictly to only interstate wagering on sports and is not applicable to the online gaming industry in its entirety (New Interpretation, 2012).

Clearly the outdated nature of the Wire Act's contents, coupled with the confusion associated with the types of gambling the act actually covers, created a situation needing to be addressed by U.S. law makers. Forty-five years after the Wire Act's unveiling, the United States attempted to modernize and clarify what was deemed legal and illegal when it came to internet gambling. This attempt at clarification was passed under the title of the Unlawful Internet Gambling Enforcement Act of 2006.

What is the UIGEA of 2006?

The Unlawful Internet Gambling Enforcement Act, or UIGEA, is a piece of U.S. legislation which was enacted as a means of cracking down on the continued online gambling of U.S. players despite the Wire Act remaining in place. Aimed at halting the transfer of funds from the gambler to the gaming website, the UIGEA primarily targets third party payment processors who would typically facilitate player-to-site transactions. More specifically, the UIGEA states that "No person engaged in the business of betting or wagering may knowingly accept any money transfers in any way from a person participating in unlawful internet gambling" (Rose, 2006).

The UIGEA's contents never actually end up expanding the scope of the Wire Act via criminalization of internet gambling, but instead makes it much more of a hassle for U.S. players to deposit and withdraw gambling funds (Shaker, 2007). In examining the UIGEA, one of the biggest points of confusion arises from the use of the phrase "unlawful internet gambling." Recall that aside from the Wire Act, there is no previous legislation dedicated to the internet gaming industry. How, then, are the courtrooms and general public to determine what types of internet gambling is deemed unlawful?

Ultimately, the Wire Act serves as the foundation upon which the UIGEA stands. Therefore, the scope of what types of gambling are covered by the UIGEA's unlawful internet gambling phrase is closely intertwined with the DOJ's interpretation of what types of gambling are covered by the contents of the Wire Act. As previously stated, there remains confusion and inconsistencies on what the over 40 year old act covers in this regard. Once again, the United States' attempt at clarifying the entire internet gaming industry legality fiasco results in a continued state of confusion, inconsistencies and ambiguous terminology.

Also worth noting regarding the UIGEA is the interesting manner through which it was passed by Congress. In 2006 the act was snuck onto the completely unrelated Safe Ports Act, a piece of legislation addressing port security, by Republican leaders in the final minutes leading up to an election period recess (Rose, 2006). One Senate member even noted that despite passing, many members of the Senate-House Conference committee had never even gotten the opportunity to examine the final language of the bill (Rose, 2006). Certainly, such a sneaky and non-traditional method of passing legislation is not what the United States' founding fathers had in mind when designing the law making process many years ago.

Nevertheless, regardless of how it was passed, the UIGEA remains intact to this very day. What does it mean for U.S. players? Well, if you are an online poker player, nowhere does the UIGEA distinctly state that it is illegal to play online poker in the United States. Sure, unlawful internet gambling is not permitted, but who is to say what that phrase precisely covers? The UIGEA undoubtedly can – and has – created tremendous headaches when it comes to players getting money on and off a given gambling website. While pre-UIGEA third party processors such as Netteller were fast, easy and convenient ways of depositing and withdrawing money to online gaming sites, the post-UIGEA era has seen such payment processors diminish at a rapid rate. Now U.S. online gamblers are not only risking losing their funds in games of risk, but they are also forced into risking loss of funds simply during the deposit/withdrawal process.

In the years that followed the passing of the UIGEA in 2006, it became clear that the act was not successful in ridding the internet gaming industry of United States players. Despite the contents of the UIGEA, gaming websites and payment processors continued to remain willing to put themselves at risk by facilitating and accepting fund transfers from U.S. players. In turn, the DOJ decided it was time to take further action. In mid-April of 2011, the Department of Justice did just that, on a day that will be forever known to the online poker community as Black Friday.

What is Black Friday?

Black Friday, while generally understood by the public to represent a nickname for one of the busiest shopping days of the year, holds a much different meaning to the American online gambling public. To online gamblers, Black Friday refers to the date April 15, 2011. It was on this day that the U.S. Department of Justice took serious action against some of the biggest online poker operators in the world. On Black Friday, the DOJ utilized the UIGEA of 2006 as a backbone and proceeded to indict some of the largest poker sites facilitating the real money

wagering of U.S. based online players (Rose, 2011). Additionally, some of the payment processors facilitating player to site funds, the sites' founders and even a Utah bank official were also indicted on Black Friday (Rose, 2011).

For those who did attempt to log on to poker websites such as Full Tilt Poker or PokerStars on Black Friday, they were callously greeted with a large image displaying the seal of the DOJ. Accompanying the DOJ seal was text communicating that the site's domain had been seized by the U.S. Department of Justice. As a result, any player who had an account on one of the websites which had been shut down by the DOJ was unable to either deposit or withdrawal funds. Certainly, it's understandable how concerned and angry U.S based players were upon discovery they could no longer access their online funds. However, United States players were not the only cohort directly affected by the events of Black Friday.

In seizing the domain names of these popular poker websites, the DOJ either chose to disregard or simply failed to realize the effect their actions would have on non-U.S. players. Despite online poker being legal in many of the jurisdictions which these major poker websites serviced, the DOJ's domain seizures made it impossible for players to bypass the DOJ seal/message and access their frozen funds. Understandably, a huge global uproar unfolded which quickly resulted in the DOJ's realization that perhaps they had in fact overstepped their boundaries on the global scale (Rose, 2011). Five days following Black Friday, on April 20, 2011, U.S. attorney Preet Bharara announced to the public that the sites which had been previously seized by the DOJ would be permitted to reopen their real money games to players residing outside of the United States (Rose, 2011).

While Bharara's announcement of the sites' reopening to non-U.S. customers provided a sigh of relief for online gamblers across the world, the aftermath of the events of Black Friday

still loomed large on United States players. U.S. players, some of whom gambled on these poker sites as their sole source of income, remained unable to access their funds. Just when it seemed impossible that the situation for U.S. players could get any worse, the unthinkable happened. The events of Black Friday, coupled with the massive rush of withdrawal requests which closely followed, pulled back the veil on some shady and unethical company practices at sites such as Full Tilt Poker. United States Federal Officials accused Full Tilt of not keeping player funds in separate accounts and segregated (Kelly & Rose, 2011). Even worse, the Feds claimed that executives at Full Tilt were dipping into players' funds to pay themselves bonuses and other incentives, ultimately labeling Full Tilt Poker as a "global Ponzi scheme" (Kelly & Rose, 2011).

As a result, U.S. players who had real money funds on Full Tilt Poker at the time of the site's seizure remain unable to collect the money that they are rightfully entitled to. Not all of the poker sites which were shut down on Black Friday were engaging in shady practices and unable to repay players. United States customers who had money and gambled on the wildly popular site PokerStars have since been refunded their account balances in full (Vardi, 2012). Meanwhile, those in the U.S. who were customers of Full Tilt Poker continue to wait and hope that their funds, which are estimated to total a combined \$150 million on deposit, will eventually be returned (Vardi, 2012).

Legalizing Online Gambling: The Ongoing Debate

What are the typical arguments from those who oppose legalized online gaming?

Inevitably, as is the case with any social or legal issue in a given territory, differing viewpoints with regards to what is in the best interest of the people as a whole will emerge. The debate over whether or not online gambling should be legalized and regulated in the United

States is no exception to this rule. Typically, the reasons cited by those against online gambling can be classified into a few main points of argument.

First, many of those who remain opposed to internet gambling's legalization quickly point to the aftermath of the events associated with Black Friday as reason enough to disallow websites from offering real money gambling in the United States. Clearly, doing business with companies who are reluctant to segregate players' funds and deposits from other cash flows associated with ongoing operations is immoral and unethical. There is no excusing the acts of executives at companies such as Full Tilt Poker who proceeded with paying themselves bonuses and salaries out of a pool of funds rightfully belonging to their customers. Those opposed to online gambling in the United States quickly point out that it is therefore in the best interest of the American people that such companies be blocked from doing business in the states.

Second, for years now it has been no secret that executives of the many brick and mortar casinos in the United States have led the charge in opposition of legalized internet gambling. One reason these executives fear legalization of internet gaming is the threat of how much cheaper it is for an internet gaming operator to offer gambling to its customers relative to the costs of operating a land based casino (Bowen, 2003). Building costs, in combination with the gigantic payroll associated with operating a brick and mortar casino are two aspects of a traditional gaming company's ongoing operations which internet gambling sites would be able to greatly mitigate. Additionally, some brick and mortar casino executives have cited that online casinos, which have developed heavily tarnished reputations in light of Black Friday's aftermath, threaten the integrity of the gaming market and would stimulate a new degree of negativity for the gaming industry as a whole (Bowen, 2003).

The third primary reason which is cited by those opposed to internet gaming's legalization in the United States concerns the ability to ensure that those logging on to gamble online are actually who they claim to be. Las Vegas Sands Corporation billionaire CEO Sheldon Adelson is one powerful figure who has clearly made his position against internet gambling known to the public. One point of Adelson's opposition stems from his opinion that there is not enough technology, nor enough safeguards available, to ensure that underage players are prohibited from gambling online (Lycka, 2011).

Certainly, each of these three argumentative points bring to the table some important aspects associated with online gambling that would be in need of addressing prior to the United States moving forward with the legalization process. One would be hard pressed to find an individual who felt that internet gambling should be legalized if it meant underage citizens could gamble, that land based casinos would lose money and be forced to shut down operations and that players' funds on deposit would not be 100% safe and secure. Let's examine the typical rebuttals by those aware of the aforementioned threats, and reasons why their viewpoints differ from those opposed to online gambling.

What are the typical arguments from those in favor of legalized online gaming?

One of the best ways to reveal the argumentative points of those in favor of legalized, regulated online gaming in the United States is to examine the typical rebuttals against the reasons brought forth by those who oppose legalization. Therefore, this section revisits the arguments mentioned above, but from the point of view of those who feel gambling online should be legalized.

Those in opposition of legalized online gambling are quick to point out the concern of funds security and the lacking segregation of player's funds. Much of this notion was brought

forth as a result of the well documented shady, unethical management practices at online sites such as Full Tilt Poker. However, it is certainly plausible that the United States' refusal to legalize, monitor and regulate these off-shore based gaming websites made it possible – and easier – for corrupt management to partake in such immoral practices. Those supporting legalized, regulated online gambling argue that should sites such as Full Tilt Poker become legalized and regulated by the United States, businesses would be closely monitored and audited by the Government. Therefore, scenarios such as the co-mingling of players' funds and websites' inability to pay back account balances owed to players would be avoided completely.

Brick and mortar casinos have also traditionally been opposed to legalizing online gambling, citing both unfair competition and threats to the integrity of the gaming industry (Bowen, 2003). However, as previously stated, the immoral and shady practices of some of the currently operating off-shore based gambling websites would be quickly put to rest should the United States legalize, regulate and monitor the online gaming industry. The strong integrity and fair practices characteristic of the heavily regulated land based gaming industry would theoretically extend itself into the virtual world. As a result, the argument forecasting a tarnished gaming industry image becomes irrelevant.

In addressing brick and mortar casino executives' fears about unfair competition, those in favor of legalized gambling have counter arguments to this point as well. First, these land based casinos have the ability to extend their product offering by way of the internet. Should internet gambling become legal, they are more than welcome to offer online gambling under their own brand name, thus diversifying their portfolio of game and service offerings. Second, one study found that there exists a significant, positive relationship between at least one form of online gambling, internet poker, and traditional offline gambling (Philander & Fielder, 2012). As a

matter of fact, the study revealed that the relationship between internet poker and land based gambling qualifies as complementary (Philander & Fielder, 2012). In other words, brick and mortar casinos should have minimal fears, of internet poker at least, poaching their typical customers' disposable income devoted to gambling. Based on the study's findings, land based casinos should actually be a part of the group who favors legalization and regulation of internet gambling in the United States.

Those who fear that the implementation of legalized internet gambling would create a scenario in which underage persons would be able to log on and wager real money online certainly raise an important concern. However, Sheldon Adelson and others fearing an environment where underage online gambling takes place should recall that there are pre-existing jurisdictions where internet gambling is already legal. Many of these jurisdictions have already employed safeguards against underage gambling by way of meticulous registration processes referred to as "Know Your Customer" (KYC) methods (Lycka, 2011). The KYC registration process checks the potential customer's detailed information against public data sources such as electoral rolls and bank registers to ensure the person attempting to sign up is of legal gambling age (Lycka, 2011). Through either replication or outright adoption of the KYC registration process, the United States will be able to take preventative action and ensure that those who are underage are not able to gamble online. Certainly, a registration process as detailed and precise as KYC is a much more difficult barrier to by step than is briefly flashing a form of identification to a typical entry level employee manning the desk of a land based casino.

Conclusion

It's safe to say that the contents of this handbook have shown one important factor regarding the future of legalized online gambling in the United States: It's clear that the future

of internet gambling on U.S. soil is unclear. Despite today's technological environment being extremely different from that of the 1960's, the Wire Act continues to be referenced when assessing the legality of real money wagers being placed via the internet. Interpretations of whether or not the scope of the Wire Act covers any form of betting other than sports wagers varies on a day by day, judge to judge basis. The UIGEA was passed, in a completely shady and non-traditional manner via the Safe Ports Act, and U.S. lawmakers were certain that its contents would syphon off any player to site transactions. The UIGEA surely made things more difficult for online gamblers; however it did little to eliminate internet gambling in the United States. The DOJ's power move on Black Friday shut down the most popular sites utilized to play online poker in the states and struck fear into online gamblers across the country. Yet not long after, alternative sites such as Lock Poker emerged and began to offer real money gambling to U.S. players eager to get back on the virtual felt.

Nevertheless, the ongoing debate in the United States continues: Should online gambling be legalized and regulated?

Future Implications

The constantly changing and evolving nature of the online gaming industry, and the laws in place pertaining to it, creates for a tremendous amount of uncertainty regarding what the future will bring. Certainly, one would think that given the current debt and deficit situation plaguing the United States Government, a new stream of revenue originating from the taxation of online gambling would be welcomed with open arms. However bipartisan political interests and fears of the potential negative social impact of legalized online gambling are two aspects continuing to make legalization an incredibly long and difficult task.

It seems that, similar to the prohibition era, there's a large enough portion of the American public that have shown they are willing to gamble online regardless of what current laws state. Given these internet gamblers' ruthless commitment to online gaming, doesn't it then make sense that the U.S. at least reap the tax benefits which accompany full legalization? Perhaps the most logical step forward in the legalization of online gambling process is to legalize one form of gambling and examine the ensuing results. Poker, for example, seems to be an excellent guinea pig for testing the internet gaming waters.

Regardless of what eventually does happen with internet gambling in the United States, it would be strongly advised that existing brick and mortar casino companies prepare themselves for legalization. By setting up free money poker sites and virtual casinos, these land based casinos will at least have some level of infrastructure in place should internet gambling be fully legalized. If, and/or when internet gambling becomes legalized, one would not want to be the casino company left out of the party as a result of having to play the catch up game. For now, though, we sit and wait to see in which direction the U.S. Government decides to proceed with the online gambling legalization process. If one were to ask a gambling man, it would be fairly safe to assume that his or her prediction would be that there will be some form of legalized internet gambling sooner than later here in the states.

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