

Statement of: Sebastian Sinclair
Vice President
Christiansen Capital Advisors, LLC
Before the Subcommittee on Oversight and Investigations of the House Committee on
Financial Services
Washington, D.C.
Wednesday, July 11, 2001

Introduction

The Internet is the fastest growing telecommunications medium in history. In eight years, it has grown from virtually nothing to boast an estimated 151 million adult home users worldwide. It took only five years for the Internet to reach 50 million users. This compares to 38 years for radio, 13 years for television, and 10 years for cable. All forecasts for the future of this amazing medium predict continued growth.

On the other hand, the Internet has created some of the most vexing social problems ever encountered. The current social order, based on the premise of governments that rule over defined landmasses, has become complicated. In short, governing used to be directly related to real estate. Previously, physical location was used to determine legal (or illegal) activity. Someone from Utah, a State that has no legalized gambling, could gamble in a Nevada casino without fear of recrimination, and someone from Nevada could smoke marijuana in Amsterdam and the same rules applied. However, those lines on a map, once so important for governance, are blurred by the digital age.

The Internet has no geography. Distance is measured in nanoseconds and mouse-clicks, not miles and driving time. This lack of geography makes governance of the Internet difficult, particularly for goods and services that can be digitally delivered (such as pornography, music, movies, and gambling). Undaunted, however, some governments are attempting to dominate a global Internet with their own doctrines, dogma and practices (and the laws that develop from them). This would be fine if these governments and the nations they represent agreed on basic doctrines, dogma and practices. However, China does not like free speech, the United States does not like gambling, and most European nations like the Value Added Tax (VAT). To further complicate matters, governments are struggling with how to govern certain aspects of the medium (such as pornography, gambling, and taxation) without harming other activities that they view as beneficial.

Cyberspace itself is dangerously neutral; it has no predisposition toward what may be right or wrong. Built from the ground up to lack centralization, it may be built too well from the perspective of those that hold political power. It allows anyone to become a publisher of information or content that is easy to replicate and that reaches a global audience. This, in turn, makes the tracking and enforcement of copyrights difficult for their owners. It allows customers to quickly survey the offerings of thousands of suppliers, and purchase those goods tax-free. It eases communication, including terrorist communication. It allows for the global dissemination of products, offensive to some, such as pornography and gambling.

The balance between perfect freedom and perfect order has always been a delicate one; it is impossible to add or subtract from one side of that scale without proportionately influencing

the other. The creation of a global hard-to-regulate medium that will someday soon be available to nearly everyone has tipped that scale, maybe irrevocably.

It is in this environment that gambling over the Internet, or e-gambling, thrives.

The State of the Industry

More than a Medium

The foundation of globalization being built by the Internet has no architect; it is not so much by design but rather by accident that the world has become a much smaller place. And therein the problem lies; for all its promise and capacity for good this process underway is not without evils, the unique and chaotic formation and formulation of cyberspace has led to this final and inextricable globalization. Yet it's very nature, that which has fostered its astounding growth over the past decade, has become challenging for the protection of citizens and the enforcement of laws.

It would work well if our society had progressed as far as our technology, but the bottom line is that as we begin the 21st century society has a lot of catching up to do. The Internet is the true embodiment of egalitarianism. In cyberspace the weak are inseparable from the strong, the beautiful from the ugly. It is in this computer ether-world that cultures that have not yet learned to understand each other, let alone tolerate or get along, find themselves. Hindus mingle with Muslims, Muslims with Christians and Communists with Fascists. It is here that the 21st Century Barbarians at the gate of globalization accrue, not at IMF meetings, but on the Internet. The nucleus of all the "problems" associated with the Internet can be boiled down to one simple concept; regardless of whether we speak of pornography, taxation, human rights, or gambling, global society (if there is such a thing) differs on how to treat these issues. The individuals and institutions from different cultures are not ready to be in the same global boat despite the fact that that is where we find ourselves. It is unfortunate, but true that some of the individuals and institutions sailing toward this high tech frontier will try to push others, who possess different value systems, overboard.

This is dangerous ground that we tread. Increasingly, citizens and rulers in the 200 or so other countries of the world hear the word "Americanization" in place of "globalization" when the President and/or Bill Gates talk about the future. There appears to be widespread sentiment that globalization is a good thing, but as the United States moves forward in developing new efficient lines of lines of communications and commerce across multiple borders. Leaders would be wise to respect that laws and sensitivities of other cultures.

We now turn to the subject of e-gambling, global gambling, and the interactive future. While certainly not at the center of the social and cultural differences that have become so divisive in cyberspace, it is certainly not on the fringes either.

First off, e-gambling is anything but simple. It is an incredibly complex phenomenon that pits thousands of years of isolated cultural and societal evolutions and the social institutions that enforce these varying cultural standards with a technology that makes the enforcement of these standards difficult. Furthermore, it magnifies these cultural differences and calls question upon the legitimacy of institutions that can see the very same issues so differently.

Add to this mix a desire to gamble that seems hard wired in the human species and you have the nasty, foul-smelling brew that has spawned prohibitions, moratoriums, imperceptive political debate, and some hugely profitable businesses.

The American Experience with Gambling

As the United States National Gambling Impact Study Commission (NGISC) recognized, gambling, for the most part prohibited in the United States only a generation ago, is now a force in the economy and a pervasive presence in American life. Fifteen years ago, families choosing a vacation destination made Orlando the automatic choice; in 2001, Las Vegas is a viable option. Ten years ago, only a handful of computer users knew what the Internet was; and none of them gambled on it; now over 1,400 Web sites offer commercial gambling activities.

Consumers spent \$61.4 billion on legal gambling in the United States in 2000 (Exhibit 1).¹ That is more than they spent on movie tickets, recorded music, theme parks, spectator sports, and video games combined. U.S. Gambling, Inc. (USGI), our fictional holding company for the nation's lotteries, casinos and other gambling businesses fared poorly in this expanding economy, however, dropping from 10th place in the 1999 *Forbes* Sales 500 to 12th in 2000, ahead of J.P. Morgan (\$60.1 billion) and below Philip Morris (\$63.28 billion).²

¹ Christiansen, Eugene and Sinclair, Sebastian. The Gross Annual Wager of the United States-2000. <http://www.cca-i.com/> Forthcoming.

² *Forbes*, "The Forbes 500s Annual Directory", April 16, 2001. <http://www.forbes.com/>.

Exhibit 1: 2000 U.S. Gross Gambling Revenues by Industry and Change From 1999

	1999 Gross Revenues (Expenditures) (revised)	2000 Gross Revenues (Expenditures)	Increase/(Decrease) in Gross Revenues (Expenditures)	
			Dollars	Percent
Pari-Mutuels				
Horse Totals	\$3,382.9	\$3,338.9	-\$44.0	-1.30%
Greyhound Total	\$489.7	\$457.1	-\$32.6	-6.65%
Jai Alai Total	\$44.7	\$46.6	\$1.9	4.16%
Total Pari-Mutuels	\$3,917.3	\$3,842.5	-\$74.7	-1.91%
Lotteries				
Video Lotteries	\$1,397.0	\$1,657.0	\$259.9	18.61%
Traditional Games	\$14,952.8	\$15,558.7	\$605.9	4.05%
Total Lotteries	\$16,349.8	\$17,215.6	\$865.8	5.30%
Casinos				
Nevada/NJ Slot Machines	\$8,739.8	\$9,146.9	\$407.1	4.66%
Nevada/NJ Table Games	\$4,243.7	\$4,407.6	\$163.9	3.86%
Deepwater Cruise Ships	\$273.4	\$280.2	\$6.8	2.50%
Cruises-to-nowhere	\$318.8	\$339.5	\$20.7	6.50%
Riverboats	\$8,340.0	\$9,014.6	\$674.7	8.09%
Other Land-Based Casinos	\$787.3	\$1,428.0	\$640.7	81.37%
Other Commercial Gambling	\$183.4	\$171.0	-\$12.3	-6.73%
Non-Casino Devices	\$2,002.0	\$1,558.2	-\$443.9	-22.17%
Total Casinos	\$24,888.4	\$26,346.0	\$1,457.6	5.86%
Legal Bookmaking				
Sports Books	\$109.2	\$123.8	\$14.6	13.37%
Horse Books	\$9.4	\$6.8	-\$2.6	-27.66%
Total Bookmaking	\$118.6	\$130.6	\$12.0	10.12%
Card Rooms				
	\$909.3	\$949.3	\$40.0	4.40%
Charitable Bingo				
	\$1,044.6	\$994.2	-\$50.5	-4.83%
Charitable Games				
	\$1,417.7	\$1,483.8	\$66.1	4.66%
Indian Reservations				
Class II	\$1,149.8	\$1,198.1	\$48.3	4.20%
Class III	\$8,464.9	\$9,238.5	\$773.6	9.14%
Total Indian Reservations	\$9,614.7	\$10,436.6	\$821.9	8.55%
Internet Gambling				
	\$1,167.0	\$ 2,207.5	\$1,040.5	89.16%
Grand Total	\$58,260.5	\$61,398.6	\$3,138.2	5.39%

Notes: Columns may not add to totals due to rounding.

Because Internet gambling is conducted globally, gross gambling revenue from Internet gambling is not included in the grand total.

Christiansen Capital Advisors, LLC

Gambling businesses paid about \$20 billion in taxes for the privilege of operating their commercial games in 2000.³ Lotteries accounted for most of gambling's direct tax contribution, although gaming privilege taxes paid by casinos are significant to Nevada, New Jersey and the six riverboat casino states. In addition, as much as \$3 billion went to Native American tribal governments fortunate enough to have a Class III (casino) facility.

The fact that Congress saw fit to impanel a National Gambling Impact Study Commission is an indication that quite a few people think this consumer choice may not be a healthy one. Many people feel Americans allocate too much of their incomes to gambling. On one side of the ledger are the quantifiable positive consequences of this consumer choice: the more than \$20 billion in gambling privilege taxes the industries paid in 2000; the 400,000 or more jobs provided by the casino and pari-mutuel horse racing and breeding industries; the thousands of additional jobs provided by other pari-mutuel sports and lotteries as well as bingo halls and charitable operations; the capital invested in gambling businesses and the employment created by this investment on Wall Street. Also on the ledger's positive side is the difficult-to-quantify recreation that consumers derive from gambling: the fun ordinary people have playing bingo or blackjack or betting on the ponies.

But gambling's general ledger has a negative side. Some Americans believe gambling is sinful. Heavy consumer spending on commercial games is inconsistent with these beliefs and a source of discomfort for Americans holding them. Other Americans are persuaded that the costs of the operation of commercial games exceed the benefits. Some arguments commonly adduced to support this thesis are specious: for example, the oft-repeated assertion that "gambling is a sterile transfer of money that creates no new wealth."

The widespread acceptance of this argument makes a careful examination worthwhile. Demand, whether for shoes, PCs, Internet access, movies or blackjack, calls supply into being unless the state forbids suppliers to enter the market. The idea that commercial gambling is an exception to this economic law confuses one of the *macro-economic functions of commercial games*, the maintenance of a circulation of wagered dollars from one player to another, with the *economic consequences of supplying consumer demand for these games*. Bingo or blackjack or lotto games do indeed transfer money from one player to another, and, if they are friendly (i.e., non-commercial) games, that is *all* they do. In this sense, friendly games are "sterile": they produce nothing except recreation for the people who play them.⁴

But commercial games are not "sterile" in this sense, because they add a second macro-economic function to the activity of gambling: they extract a percentage of the circulating flow of wagered dollars and transfer it to the operator(s) of the game(s). The aggregate amounts thus transferred constitute the gross gaming revenues of gambling. These consumer expenditures on gambling call supply into being: they pay the wages and salaries of the hundreds of thousands of employees of the gambling industries, provide a

³ This figure represents gambling privilege taxes only, most gambling business also pay corporate income, property, and sales taxes as well, that are not included in this number.

⁴This claim is literally true for a friendly game of coin-toss, since the only equipment needed, a coin, is supplied by the mint. Friendly poker games oblige participants to buy cards and poker chips, as well as, perhaps, potato chips and beer; these direct and indirect friendly-game related consumer expenditures are inputs to the general economy but they are typically not funded by a percentage of the pot, an arrangement that would begin to move our poker game into the commercial category.

return on the equity component of the tens of billions of dollars invested in casinos and racetracks and companies that vend computerized wagering systems, service the debt component of these investments, support the stock prices of the hundred or so publicly owned companies involved with gambling, and, in sum, are the motivating force of an economic engine that is most visible in Nevada but that less visibly drives an annually growing portion of the United States leisure economy.

There are other arguments against allowing commercial games to operate that are not specious. The most important of these arguments is a "negative externality" that is peculiar to gambling: problem and pathological gambling behavior. There are hard costs, direct as well as indirect, to individuals and to society as a whole, of gambling that isn't fun and isn't play but a disorder. This disorder, which afflicts between 1% and 6% of North American populations exposed to commercial games, results in unaffordable losses and a long list of individual and social dysfunctions.

For lawmakers and for the development of rational public policy toward commercial games, it is important to understand how much problem gambling costs. The U.S. National Gambling Impact Study Commission determined that problem and pathological gamblers account for 15% of the industry's gross gambling revenues. Applied to the industry's \$61.4 billion 2000 gross gambling revenues, this would amount to \$9.2 billion.

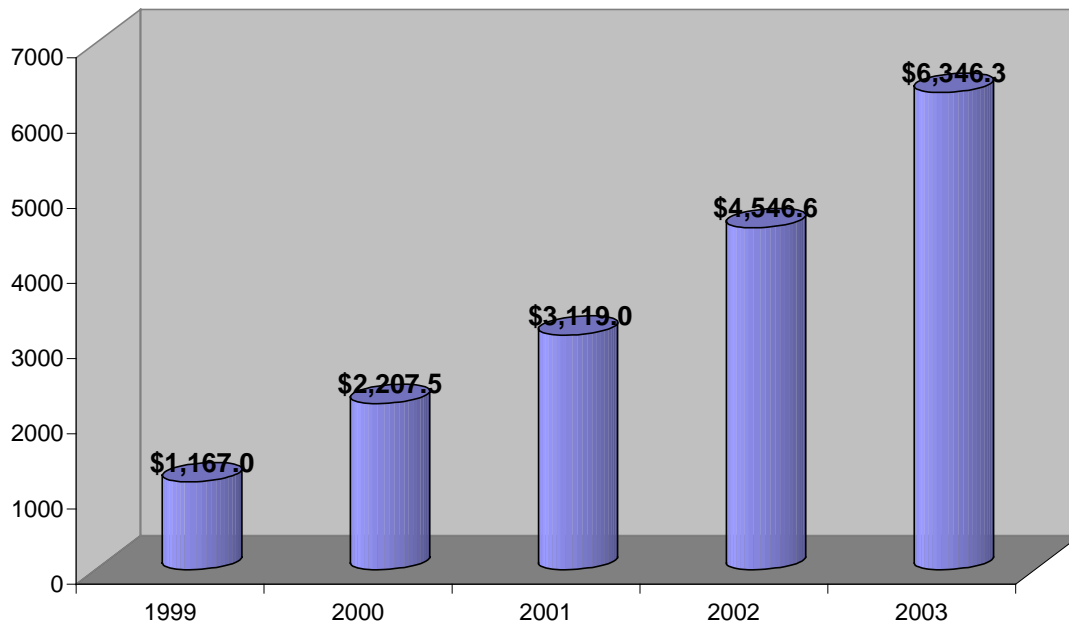
These numbers go some way towards balancing the costs and benefits of gambling in the United States. Consumer spending on commercial games generated a \$61.4 billion input to the U.S. economy in 2000 and that is a good thing. About 34¢ of every dollar of this consumer expenditure, or more than \$20 billion, went to government in the form of gambling privilege tax. Many governments think that is a very good thing indeed, as do, we suspect, many taxpayers.

Gambling is prevalent in the United States. Only two jurisdictions Utah and Hawaii have no forms of legalized gambling. The numbers presented above convey the American appetite for commercial gambling games.

Until very recently that demand was serviced through ubiquitous lotteries, bingo halls or with pilgrimages to the nearest casino. Today gambling is available via the nearest Internet-enabled device. This has led to hyper-growth in the industry. Internet gambling increased by 89% in 2000; yet another record. The Internet has created the first global gambling market. Consumers, many of them Americans, spent an estimated \$2.2 billion on e-gambling in 2000. We project this expenditure to rise to \$6.4 billion by 2003 (Exhibit 2).

Exhibit 2: Estimated Internet Gross Gambling Revenues

Estimated Internet Gambling Expenditures 1999-2003
(in millions U.S.D.)



Emerging Trends-Domestic and International

The Internet is reconfiguring all industries, not just gambling. At the leading edge, business models for securities trading, airline reservations, travel agencies, recorded music and a growing number of retail categories are being transformed, as Websites wring previously unsuspected inefficiencies out of pre-Internet methods of supplying these demands. At the trailing edge are goods that cannot be distributed or consumed in digitized form: agricultural products, transportation, energy, and smokestack industries like steel or manufacturing. Even in these sectors, however, the Internet is bringing new efficiencies to production and distribution.

Adjusting to the Internet has been a ragged process. Established businesses are seeing their markets altered overnight. Taxation and concepts of sovereignty are being tested and revised by the *force majeure* of Internet economics. Capital has poured indiscriminately into untried, often unsound business models. The so-called "New Economy" business failure rates are high and rising and yet the Internet wave continues to wash through the general economy undeterred.

At the heart of this process is *globalization*. Cyberspace is borderless, and Internet markets are inherently global. For governments this is an entirely new problem, one with few precedents for solution. "Walling off" a citizenry, as the Republic of China and Singapore

are trying to do, may prove impractical.⁵ Collecting sales taxes on e-commerce goods and services is already problematic: a global tax structure for the global Internet marketplace is a possible solution, but one that implies global sovereign power to levy such taxes and global powers of collection and enforcement that do not currently exist. International treaties that were negotiated before digital property rights existed have been rendered obsolete, and rights in intellectual property--the basis for the communications and entertainment industries—are jeopardized by cyberspace. The scale of adjustment implied by the consequences of global Internet commerce is without precedent: not since the rise of nation-states have the fundamental assumptions underlying national sovereignty undergone such radical change.

Somewhere between the leading and trailing edges of the Internet wave lies gambling. Globalization has shifted the terms of the policy debate about gambling from social to economic imperatives and has led to the emergence of a highly competitive multinational industry.⁶ Some likely impacts of globalization on legal gambling include the continuing fusion of gambling with popular culture and entertainment, major reorganization of the gambling industries, and further blurring of the boundaries between traditionally separate gambling enterprises.⁷ Unsure of its legality and concerned for their licenses, established U.S. gambling suppliers have yet to embrace it. Elsewhere things are different. U.K. bookmakers and Australian gambling concerns, both public and private, have bowed to market forces and ported their businesses to the Web.

This is important; things have changed immensely since Senator Kyl first introduced legislation to prohibit Internet gambling. At that time, most of the jurisdictions authorizing and licensing the conduct of e-gambling were in the Caribbean, nations most famous for warm climates and their off-shore banking industry. Table 3 presents the nations that have authorized or allow some form of Internet gambling. Now 55 nations strong, that table is no longer dominated by St.-this or St.-that, but by recognizable 1st world nations: the United Kingdom, France, Australia, and Germany.

The emerging trend, domestically and internationally, is that the United States and the rest of the world may be walking down diverging roads.

⁵Because these two nations have only one Internet Service Provider (ISP), the state, the prospects for the effective filtering of content are better than in a relatively fragmented and highly developed access market such as in the United States.

⁶ McMillen, J. 1996. "The Globalization of Gambling: Implications for Australia," *The National Association for Gambling Studies Journal* 8 (1): 9-19.

⁷ Austrin, T. 1998. "Retailing Leisure: Local and Global Developments in Gambling." In *Time Out? Leisure, Recreation and Tourism in New Zealand and Australia*, Perkins, C. C. & G. Cushman (eds.). Auckland: Longman. Pp. 167-181.

Exhibit 3: Legal Jurisdictions for E-gambling

ONLINE GAMBLING JURISDICTIONS

AFRICA (4)

ANGOLA, LIBERIA, MAURITIUS, SWAZILAND

AUSTRALASIA (14)

AUSTRALIAN CAPITAL TERRITORY
COOK ISLANDS
NEW SOUTH WALES, AUSTRALIA
NEW ZEALAND
NORFOLK ISLAND, AUSTRALIA
NORTHERN TERRITORY, AUSTRALIA
THE PHILIPPINES
QUEENSLAND, AUSTRALIA
SOLOMON ISLANDS
TASMANIA, AUSTRALIA
VANUATU
VICTORIA, AUSTRALIA
VIETNAM
WESTERN AUSTRALIA

CARIBBEAN (10)

ANTIGUA AND BARBUDA
CUBA
DOMINICA
DOMINICAN REPUBLIC
GRENADA
JAMAICA
SABA
ST. KITTS AND NEVIS
ST. VINCENT
TRINIDAD

CENTRAL AMERICA (2)

BELIZE
COSTA RICA

EUROPE (19)

ARLAND
BERNESE ALPS, U.K.
AUSTRIA
BELGIUM
FINLAND
FAROE ISLAND (DENMARK)
FRANCE
GERMANY
GIBRALTAR, U.K.
GREAT BRITAIN, U.K.
ICELAND
IRELAND
ISLE OF MAN
LIECHTENSTEIN
MALTA
NORWAY
SCOTLAND
SPAIN
SWEDEN

NORTH AMERICA (2)

BARBADOS
FLEECE ISLAND

RUSSIA (1)

KALMYKIA, RUSSIA

SOUTH AMERICA (3)

CHACO, ARGENTINA
FORMOSA, ARGENTINA
VENEZUELA

Source: River City Group

Legislative and Regulatory Landscape

The policy issues posed by e-gambling are particularly acute. Governments and many ordinary people worry that turning the home PC and Internet enabled televisions and cellular phones into casinos and sports books will increase the prevalence of problem gambling and exacerbate its effects. Traditional land based casinos, lotteries, pari-mutuel sports and bookmakers see potentially vast new markets but, in the face of their continuing uncertain legality, are unsure how to enter them. Telecommunications and technology firms increasingly aware of Internet gambling's growing consumer base, are likewise intrigued but hesitant about getting involved with something that may prove embarrassing, or even criminal.

For regulators the issues posed by e-gambling's advent include all of the above plus one: the Internet invalidates the territorial nature of licensing. Though less immediate a public concern than potential increases in problem gambling, this is extremely important to regulators. *Licensure* is the legal basis for gambling. The power to grant, revoke or withhold licenses is a sovereign prerogative. Jurisdiction over licensee activity is co-terminous with

state, provincial and national borders; it follows that states have sovereign power over gambling activities within their borders.

Pre-Internet, it was not possible to supply demand for blackjack in, say, Nevada, without a Nevada gaming license. Exceptions to this practical limitation, gambling transactions readily transmitted through wires, were largely confined to betting on sports and racing; the slow evolution of wire communications technology permitted an orderly and effective modification of gambling law and regulation that accommodated these exceptions within the framework of sovereign national power. It all worked fairly well.

The Internet changes the licensing paradigm and with it the basis for gambling control. Borderless Internet markets invalidate the key assumption on which licensure depends. The Internet makes it eminently possible for someone to supply Nevada demand for blackjack from locations outside Nevada *without a license issued by the State of Nevada*--and, not incidentally, *without paying Nevada gambling privilege taxes*. Similar statements apply equally to other commercially significant games. This fact, already evident, poses problems for regulators with dimensions that are not yet wholly apparent.

The Factors Driving Internet Gambling

Internet gambling is in an early stage in what is certain to be a lengthy evolutionary process. What are the underlying factors that will govern the regulation of e-gambling, this new and (for governments) problematic thing under the sun?

The factors powering the development of Internet gambling include consumer demand; ease of entry and the arrival of name brands; product quality advantages; internal gambling industry pressures; Internet gambling's exceptional profitability and its consequent attractiveness to sources of investment capital; tax advantages, and the consumer price advantages created by low- or untaxed e-gambling businesses located in tax havens; the Internet's unique ability to facilitate communities of interacting individuals centered on shared interests or activities; and the enabling technology of the Internet itself.

Far from the simple phenomenon it is often assumed to be, online gambling is highly complex, rooted in the nature of the Internet itself and the still imperfectly understood psychological and emotional motivations for risking money at commercial games. Complex phenomena may not be amenable to simple policy solutions; less so, perhaps, when they are controversial.

Industries as diverse as recorded music and securities trading have already found that the market forces unleashed by the Internet are not controllable. For the music industry, particularly, which rests on intellectual property rights that are legally enforceable, e-commerce has been a traumatic learning experience. Courts and legislatures are proving to be poor vehicles to control the activities of consumers in cyberspace. For recorded music, and by extension for books, movies and any other intellectual property in digitized form, the massive shift of economic power from gatekeepers to consumers created by the Internet has created new policy issues. Law enforcement is the easy and emotionally satisfying answer for label executives unaccustomed to consumers listening to music without compensation to the record companies and artists. However, to date, law enforcement has not worked well.

Other policies and business models may be needed if content industries *as we know them* are to survive.

Gambling on the Internet raises similarly complex issues. A review of each of the identifiable drivers of growth in Internet gambling is, therefore, in order.

Consumer Demand

Prominent among the drivers of e-gambling growth is consumer demand. By 2004, websites offering gambling services will supply a global market of 15 million consumers who will spend \$8.8 billion on blackjack, slot machines, sports betting, horse racing, lotteries and other commercial games.

The Internet is gambling's strongest growth market. As with other forms of e-commerce, PC wagering platforms are eclipsing older telephone systems, while interactive cable, now in its second go-around, is still trying to get out of the gate. In the United States, in spite of the proposed Internet Gambling Prohibition Act, a recent conviction of an off-shore sports book operator under the 1961 Wire Act, and the National Gambling Impact Study Commission's recommendation that Congress criminalize Internet gambling, market forces are overwhelming legislative and judicial efforts to halt the migration of gamblers to cyberspace. Internet gambling sites are multiplying like rabbits, and an increasing number of countries are legalizing this activity and bringing it under the control of regulatory régimes.

Tax Advantages

The Internet enables consumers who are so inclined to shop for price advantages created by low- or untaxed suppliers. This characteristic of e-commerce is calling sales taxes into question for a lengthening inventory of consumer goods: in a sense, the Internet is turning the globe into a borderless customs union. Long-term downward pressure on sales tax rates appears to be one consequence of the Internet revolution.

Consumer Pricing and Taxation

Like other consumers, many gamblers are price-sensitive. Sophisticated horse race and sports bettors are particularly sensitive to the consumer price of betting and are accustomed to seeking price advantages. Brand names and supplier reputations for integrity are important in all kinds of e-commerce. This is especially true for commercial gambling. If name brand operators enter the Internet market and offer value-driven gambling, many consumers may switch to the lower-priced service.

Falling consumer prices for forms of gambling offered by reputable Internet suppliers are likely to be another consequence of the growth of the e-gambling industry. In the United States, state-licensed casinos pay gaming privilege taxes ranging from effective rates of about 8% of win in Nevada and New Jersey to two and three times that amount in some riverboat states. Geography makes differential taxation feasible for land-based gaming. In cyberspace, differential taxation may not be feasible. If the U.K. betting levy experience is

any guide⁸, downward pressure on tax rates for forms of gambling that develop major Internet supply in jurisdictions with low or no gambling privilege tax (and/or offer players shelter from income taxation) is going to be a long-term issue. Forecasting any other outcome from the current process is difficult.

Enabling Technology

The challenge that the Internet, with its borderless connectivity, poses for gambling regulation and control is that it invalidates the jurisdictional licenses that are the legal basis for existing gambling industries. A host of troublesome questions is thereby raised. Two of these questions are especially important: Do sovereign powers extend into cyberspace? Moreover, can national laws, particularly laws prohibiting Internet gambling, be enforced?

The Wire Act and Federal Prohibition

Press reports indicate that legislation that would criminalize Internet gambling may be reintroduced in upcoming legislative sessions. If one of these bills were to pass it would create a new Federal enforcement concern and, effectively, a new Federal jurisdiction: gambling in cyberspace.

Each of these bills has provoked considerable debate concerning enforceability. There is broad agreement that the Internet, by its nature, makes effective enforcement of prohibition exceedingly difficult.⁹ The Lasseters Casino and World Sports Exchange examples presented later, reinforce this view, albeit in different ways.

Payment Mechanisms

The Unlawful Internet Gambling Funding Prohibition Act, or HR 556 is an attempt to prohibit Internet gambling by making it impossible for Americans to pay for their online gambling activities. This bill, like the Kyl legislation before it that attempted to block Internet gambling sites at the level of the Internet Service Provider (ISP), will be difficult to enforce. The first and most important component goes back to globalization. Take a look back at Exhibit 3. Gambling on the Internet is a sanctioned activity in a good proportion of the world. There are many banking institutions that are multinational- and many that are

⁸ In order to avoid paying a nine percent surcharge (that was passed on directly to consumers) a large number of major U.K. bookmaking concerns began to move their operations to offshore locations such as Alderney and the Isle of Man and service customers over the Internet tax-free. Faced with the prospect of decreasing tax revenue from the exodus, leaders in that country opted for law enforcement or the criminal code. They decided to lower the rate to a tax on profits rather than a surcharge. Following the announcement most of the major bookmakers announced their intention to move back on-shore.

⁹ After a careful technological review, Australia's Productivity Commission came to a similar conclusion: "a policy of prohibiting access or provision *by Australians* [italics added] of online gaming is likely to be less enforceable than allowing some legal 'certified' sites", *Final Report* 18:55 ; "making it illegal to operate or use online gaming sites [by for example] blocking of notified illegal sites would have the likely effect of significantly reducing their use, albeit while also creating a black market" of illegal suppliers. p.18: 55. In light of these conclusions the Commission decided there are "good grounds for regulation of Internet gambling along lines appropriate for other gambling forms. The Commission considers that there are ways of sufficiently inhibiting access to (foreign-sourced) unlicensed sites to make such regulation effective. It would also be considered fair and be complied with by most consumers--whereas complete prohibition may not. Moreover, prohibition would eliminate some potential benefits from the technology (including competitive advantages in trade)."

based in other nations that have no U.S. contacts. It will be difficult for any U.S. legislation to prevent banks from participating in an entirely legal transaction on foreign soil.

That's the thing about globalization, it's a two way street. Money now flows across borders at a rapid rate, and if the U.S. wants the continuation of the inflows of foreign money and investment, it has to allow the outflows as well. In short, H.R. 566 can probably prevent Wells Fargo and Chase Manhattan from processing Internet gambling transactions. But it will be hard, if not impossible, to prevent an on-line gambler from depositing funds in U.K. or German bank that does.

The PayPal Problem

Now consider all the various companies that are actively courting on-line gambling companies with alternative payment mechanisms. A short list includes checking, ATM, debit and credit card transaction solutions--all available in a secure online environment. Some of these products authorize, process and manage electronic check transactions in an online environment; others enable operators to disburse customers' winnings or refunds through a funds transfer or automatic checking account debit and credit program.

These alternative solutions create easier ways to circumvent the proposed legislation: with third party processors, or the PayPal problem. PayPal is an e-commerce provider that allows individuals to establish a PayPal account by depositing funds. Users can use a credit card, check, or wire transfer. Once the account is established, Internet users can purchase goods and services from any site that utilizes the PayPal system--including eBay.com and gambling sites. If a foreign domiciled third-party processor like PayPal were to arise, it would be difficult for law enforcement to prevent funds from being deposited in these "non-gambling" accounts.

Is this level of enforcement sufficient to make prohibition good public policy? The answer depends partly on the policy goals that the supporters of prohibition seek to achieve. The question of what prohibition would accomplish goes to the heart of the debate over appropriate national policy for gambling. American history offers two experiences with prohibitory laws that provide insight into the likely consequences of adopting prohibition as policy for the phenomenon of Internet gambling. These, uniquely American, experiences are with alcohol and illegal sports betting.

The Prohibition of Alcohol in the United States

The 19th century Temperance Reform movement polarized the country over the issue of alcohol and in the aftermath of the Great War resulted in the 18th Amendment to the Constitution and the enforcing Volstead Act, passed in 1919.¹⁰ The United States is the only

¹⁰ Sixty-sixth Congress. Sess. I. Chap. 85. October 28, 1919.

Western country¹¹ to deal with the problematic aspects of alcohol by enforcing laws against its manufacture and sale. There is at least one good reason why. The so-called “Noble Experiment” failed, disastrously. Criminalizing drinking, a widely accepted behavior, created a vast market of thirsty consumers soon supplied by Al Capone and his unlettered but rapidly organizing associates .

While it may have been a moral triumph, as public policy, Prohibition was a catastrophe. The Volstead Act marked the intersection of a deadly combination: widespread demand for a good or service, in this case alcoholic beverages; ready supply through ease of transport (or an enabling technology) that cannot be effectively policed, in this case trucking; and prohibition.

An important assumption underlying the 18th Amendment and the Volstead Act was that Prohibition was enforceable. Its supporters promised that Prohibition would curtail the supply of alcoholic beverages and thereby reduce their consumption; ultimately it would eliminate drinking from American life. Despite vigorous enforcement, Prohibition failed to accomplish any of these goals. Instead of falling, consumption of alcoholic beverages *increased*, this rising demand, with its implied profitability, attracted suppliers undeterred by the fact that distilling and distributing liquor was a Federal crime. However unintended the result, Prohibition forcibly transferred ownership of the liquor industry from licensed, legitimate companies to organized crime. This was in fact the single outstanding accomplishment of the Volstead Act, for Prohibition, while it encouraged rather than discouraged criminals, operated effectively against legitimate business. Consumer protections were eliminated in the process; dangerous and even lethal alcoholic beverages moved through the illicit distribution system; alcohol blindness, and death, were direct consequences.

Enormous resources were allocated to enforcing the Volstead Act before it was repealed in 1933. Human nature refused to cooperate. Seventy years later America is still drinking; and still struggling with the harmful effects of alcohol. Drunk driving is an issue. Drinking by minors is an issue. Alcoholism is an issue. The Volstead Act did more damage to America than alcohol ever could,¹² but alcohol's social ills remain real, and persistent.

Sports Betting, the Wire Act, and the Professional Amateur Sports Protection Act

Bookmaking on the outcome of sports events is the object of the Wire Act. While American lottery, pari-mutuel, and casino prohibitions have been dismantled, the bookmaking

¹¹ The *Qur'an* prohibits wine-drinking (though without imposing a penalty), an Arabic game of chance, *maysir*, and loaning money at interest as behaviors of the pagan Arab society that Muhammad sought to eradicate. Subsequent religious authorities strengthened and codified these prohibitions, and by the Middle Ages alcohol was forbidden to Moslems. Since then alcohol, as well as gambling and (until recent times) loaning money at interest, have been generally proscribed in predominantly Islamic countries. *The Cambridge History of Islam*, vol. 2, pp. 54-542. London and New York: Cambridge University Press. 1970.

¹² A recent, accessible, non-scholarly summary of Prohibition's adverse impacts on American society is provided by Edward Behr, *Prohibition. Thirteen Years that Changed America*. New York: Arcade Publishing. Distributed by Little, Brown and Company. 1996.

prohibition remains firmly in place. Only Nevada has full-scale sports and race book operations.

The Federal Wire Act was enacted in 1961. Like the Volstead Act, Federal agents have enforced it sporadically; there have been numerous indictments and numerous convictions. Considerable law enforcement and judicial system resources have been absorbed by enforcement of the Wire Act. The Professional and Amateur Sports Protection Act that passed in February 1991 strengthened this legislation. This Act prohibits any State from authorizing any forms of sports wagering. It provides an exception only for those States that had existing authorized sports wagering. Effectively, the combination of the Wire Act and the Professional and Amateur Sports Protection Act made sports wagering illegal throughout the United States, with the exception of Nevada. But no one can argue that the Wire Act and the Sports Protection Act have eradicated illegal bookmaking or even made a dent in it.

Why? Because bookmaking lies at the same fatal intersection marked by the Volstead Act: widespread demand for a good or service (betting sports); ready supply through enabling technology that cannot be effectively policed (the telephone); and prohibition. Some of the persons prosecuted under the Wire Act could be classified as representatives of organized crime, and to the extent that the Wire Act has proven an effective weapon against that enemy, one can argue that it has served the public interest.

As social engineering, however, the Federal sports wagering prohibitions have proven as ineffective as the Volstead Act. They failed to discourage illicit bookmakers from supplying demand for sports betting, and failed to discourage this demand. Forty-one years after the enactment of the Wire Act, few if any law enforcement officers would subscribe to the statement that illegal betting on sports is not widespread in the United States. Three Federal study commissions¹³ and countless investigating bodies have concluded that sports betting is pervasive and that bookmakers are readily available. Indeed, some believe that there may be little unsupplied demand for sports betting in the United States today, despite Federal prohibition.

What have the Federal sports wagering prohibitions actually accomplished? They have prevented legitimate business from supplying massive consumer demand for sports betting. In effect, they have ensured that ownership and operation of the U.S. bookmaking industry remains with the criminal entrepreneurs that the Wire Act has proven ineffective in eradicating. They also cast Federal law enforcement agencies in the role of regulators of the American sports betting market--a role for which they are poorly equipped.

This experience (like the earlier Volstead Act) says something important about prohibition as public policy. Criminal codes are tools for dealing with aberrant criminal behavior. They are poor tools for dealing with behavior in which many law-abiding citizens engage and that most law-abiding citizens do not consider crimes. That is the lesson of the American experience with the Volstead Act and the Federal sports wagering prohibitions. The implication is that trying to prohibit widely accepted activities or behaviors does not work, particularly when the prohibitory law is hard to enforce.

¹³ Commission on the Review of the National Policy Toward Gambling, 1975; Task Force on Organized Crime, 1967; The National Gambling Impact Study Commission, 1999.

The implication here is that prohibition may be a poor policy choice for Internet gambling. If the American experience with alcohol and sports betting is any guide, an Internet gambling prohibition may repeat the failures of the Volstead Act and the Federal sports wagering prohibitions, exacting a heavy price from legitimate gambling industries and the consuming public and contributing little in the way of concrete benefits in return. The elements of the failed "Noble Experiment" are again present: widespread demand (for Internet gambling); an enabling technology (the Internet) that cannot be effectively policed; licensed, legitimate suppliers in other countries that don't wish to subject their citizens to Noble Experiments and won't respect other nation's prohibitions.

The assumption that underlies the argument for prohibiting Internet gambling is that it will prevent gambling through the Internet because enforcement efforts will prevent demand for Internet gambling from being supplied. The American experience with bookmaking and the Federal prohibition suggests that this assumption is false. In so far as Internet gambling offers parallels with alcohol consumption and sports betting, its prohibition is likely to have similar results. It will not discourage or reduce demand for Internet gambling nor will it reduce problem gambling.

If nations around the world were to rise up and attempt to stamp out gambling on the Internet, prohibition could work. But that hasn't happened: nearly 55 nations to date have seen fit to authorize and regulate gambling on the Internet, and it looks like there will be many more to come. On a global Internet, it will be very difficult for one nation or even many nations to undue or circumvent the legal policies of another. Is this good thing? Maybe not, but it is the hard reality of the digital age.

The Option of Regulation

The second policy option is regulation in a legal context. Regulation would allow legitimate companies holding State gambling licenses to supply consumers with honest, regulated betting services that provide jobs and tax revenues. The various regulatory régimes that have evolved over the past half-century would continue their evolution in cyberspace, perhaps adding, as a necessary consequence of cyberspace's borderless nature, *reciprocity* in standards of integrity and uniform rates of taxation in this process.

Although not without difficulties, gambling on the Internet is regulatable. In fact, if policymakers and governments were to take a proactive approach to the regulation of Internet gambling, the world's most tightly regulated gambling market could thereby be created. In regulating gambling on the Internet, the possibilities offered by current and future technologies, are nearly limitless.

Competition among Jurisdictions

As with a prohibition, regulation of Internet gambling in one nation will have little effect on the actions of another. Unlike prohibition, however, regulation presents the gambling public with a choice, in this case between gambling over the Internet with an enterprise based in loosely regulated offshore tax havens or with recognized branded companies in major nations that can offer gamblers consumer protections.

Commerce on the Internet has developed along some very interesting lines that have direct relevance to the potential of regulating gambling on the Internet. Given its questionable legal status in some nations, e-gambling is certainly unique in the e-commerce world. But rather than excepting Internet gambling from the rules that govern commerce on the Internet, this uniqueness makes the industry more beholden to them. Two consumer demands, trust and security, currently dominate commerce on the Internet; this has manifold implications for e-gambling.

E-commerce companies have determined that the most effective method of dealing with issues of trust is branding. The relative successes of companies like eBay, Amazon.com and other Internet commerce companies, stand as testament to the potential of the Internet. They also provide evidence of the importance of branding in cyberspace. On the Internet, any company can market its products to a global audience. While this makes the market extremely competitive, branding has become a key component of success on the Internet because consumers are reluctant to give their credit card numbers to companies that they do not know and trust.

This has very positive implications for the regulation of gambling on the Internet. Although the policymakers in one nation do not have control of the actions of another, Internet gambling businesses operating in a tightly regulated environment have a large competitive advantage over those in less stringent locales. In short, it is our belief that the importance of regulation in consumer decision making matrixes will drive them to tightly regulated recognized gambling companies in great numbers.

In terms of the day-to-day regulation of gambling on the Internet, the fact that this business is conducted in a networked data-intensive environment offers opportunities for oversight in several critical areas.

1. **Operator Fitness:** The first stage in gambling regulation is licensure. For cyberspace gambling businesses, the process of background checks and assessments of fitness to hold an Internet gambling license could be achieved using the same methods as in traditional land based gaming.
2. **Technical Integrity and Game Fairness:** Front- and back-end software would undergo testing by regulatory agencies or companies in their employ. This would be very similar to the way that slot machines and their back-end systems undergo regulatory scrutiny today. The testing of random number generators and overall "game fairness" can follow previously constructed models for computer based gambling. Internet gambling operations will require another level of scrutiny, however, since the Internet gambling systems reside on the open Internet. Testing of overall site security will be required so that players and operators can be reasonably assured that their site is adequately protected from "hackers" and "crackers."
3. **Auditing and Oversight:** In terms of auditing and oversight, the conduct of commercial gambling games over a computer network has great advantages for regulators. Regulators can be given server level access to licensed gambling suppliers; this means that all aspects of the gambling operation, down to the level of

the amount bet by Player X at 12:03 p.m. on Saturday, July 15, 2000, can be scrutinized. Furthermore, since storage (hard drives) is inexpensive, this data can be maintained indefinitely. Entire gambling operations could be audited in a matter of seconds, and, with server-level access, regulators could "watch" gambling activity in progress.

- 4. Prevention of minors or other undesirables:** Another important element in the regulation of commercial gambling is preventing children or other undesirables from gaining access to Internet gambling sites. Although arguably the weakest component of on-line gambling regulation¹⁴, we believe that more than adequate results can be achieved by a number of alternative methods, many which could work in conjunction with each other. First, licensed Internet gambling companies can require that "off-line" proof of identity be provided to ascertain that a prospective player is who they say they are and is of appropriate age and fitness to gamble on the Internet. As further protection, regulations could require that gambling sites require all new customers to install and use specialized copies of commercially available filtering software such as "Net Nanny" or "Cyber Patrol" to prevent their children from accessing gambling sites. These methods could be combined with "IP Header Addressing" (sort of an Internet call tracing method) to block citizens from countries that have prohibited gambling on the Internet.

No security is full proof, however, and there may be rare instances when children do gain access to Internet gambling sites, as they occasionally gain access to land-based casinos, purchase alcohol, and engage in other activity that society has attempted to shield them from. The standard applied to the Internet should be the same as in the "real world", imposing fines on operators that let minors or other desirables gain access, but with the understanding that these events will inevitably occur despite an operators best efforts, on-line and off-line.

- 5. Customer Protections:** As with land based gambling, in the event of a dispute between operators and players, the same institutions and regulatory procedures should be applied to gambling on the Internet.
- 6. Problem Gambling:** It is in the area of the unique negative externality of problem gambling that the Internet offers unsurpassed potential . The Internet is a data-intensive medium, and as we noted above with regard to auditing and oversight, every detail of every gambling transaction can be recorded and, potentially, analyzed in the Internet gambling environment. Players "chasing losses" or exhibiting other behaviors which are indicative of problem gambling can be flagged and their betting habits further analyzed. Internet gambling sites could be required to have information about problem gambling present on players' screens at all times. Licensed gambling sites could be required to have links to helplines and problem

¹⁴ The (not so) old saying goes "[that] on the Internet no one knows you're a dog." While this is certainly true, and has distinct implications for gambling regulation, it is important to recognize that this issue of proper and accurate identification of customers is a problem that faces many e-commerce businesses, the auction site eBay in particular. In other words, it seems very likely that in the very near future new and better methods will be developed by technology companies such as eBay, to accurately identify people on the Internet

gambling counselors. Furthermore, players should have the ability to set their own pre-determined betting limits and to exclude themselves from play.

7. **Taxation:** As with e-commerce generally, taxation of e-gambling is an extremely complex issue. While the vast majority of Internet gamblers will flock to Internet gambling businesses in tightly regulated jurisdictions, the Internet, by its very nature, is borderless. National or territorial governments have little or no influence on what goes on outside their jurisdiction. Most gambling privilege tax rates are inversely related to the amount of competition in the market. At the low end of the tax scale, places like Nevada do not restrict the number of licensees and the amount of supply in the market is determined wholly by how much gambling supply the market will bear. At the other end of the spectrum, places like Germany tax gambling revenues at extremely high rates in exchange for monopoly or quasi-monopoly status for their licensees. In other words, high gambling privilege taxes are usually predicated upon monopoly or quasi-monopoly supply.

Individual governments cannot offer monopoly or quasi-monopoly status to Internet gambling licensees. The Internet is a global medium, and the behavior of the vast majority of consumers and operators is outside the control of any one government. In other words, rates of taxation that are at least not somewhat competitive (i.e. relatively low) with the (currently, and likely to remain) tax-free banana republics may undo the competitive advantage that is provided by offering Internet gambling from a recognized nation.

Even under an effective regulatory structure, the social concerns raised by the advent of gambling on the Internet would remain. Like alcoholic beverages, commercial gambling, whether location-based or on an individual's PC, is a problematic activity; while harmless for most consumers, it is dangerous for some. Like alcoholism, there is no easy solution to the tragedies of problem gambling. However, Internet gambling has the potential to teach us more about how problem gambling develops in individuals and could even help us create tools to combat it more effectively than ever before.

In preventing and/or treating problem gambling, prohibition is probably not the answer since pushing suppliers beyond the reach of regulators makes it harder, not easier, to protect consumers who are at risk. The foregoing list, while certainly not complete, is at least a step in the direction of policies that might help in the real world.

Congress and Offshore Operations

As a practical matter, what would prohibition accomplish? Particularly as it relates to offshore operations which are the beyond the reach of U.S. law. As an approach to this question, let us look at two historical examples:

Lasseters Casino

The United States has thus far been unable to prevent Australia's Northern Territory from licensing Lasseters Casino and permitting Lasseters, under the terms of this license, from accepting wagers placed in the United States regardless of the status of such gambling under

United States law. Lasseters has been doing exactly this since it opened its online casino in April 1999 without provoking a legal challenge from U.S. authorities. Short of negotiating a treaty or resorting to war against Australia, the United States appears to have no further recourse in acting against online gambling operations such as Lasseters.

World Sports Exchange

Now consider the somewhat analogous case of Jay Cohen, the president of World Sports Exchange, an Antigua-licensed, Antigua-based Internet and telephone betting service that also accepted wagers placed by persons in the United States. Mr. Cohen was swept up along with a number of similar Caribbean-based Internet and/or telephone betting services in a 7-month criminal investigation by Federal agents and prosecuted by Mary Jo White, U.S. Attorney for the Southern District of New York.¹⁵ Believing himself innocent, Mr. Cohen voluntarily returned to the United States to stand trial. On February 28, 2000, a jury found him guilty of violating the Wire Act. Although the case is being appealed, it demonstrates that Federal enforcement agents can successfully prosecute offshore violators of the Wire Act if they are apprehended on U.S. soil.

But let us step out side the court room for a moment. As a practical matter what does the Cohen case really mean? First, Mr. Cohen **voluntary** returned to the United States to stand trial. If he had decided otherwise, he would probably still be drinking margaritas on the beach. Second, Mr. Cohen's company, World Sports Exchange, is still operating, and still taking bets from United States citizens.

While Jay Cohen's conviction establishes a precedent, it also demonstrates that *partial* enforcement of anti-Internet gambling laws is probably about as far as the Federal Government is going to get.¹⁶ The allocation of massive law enforcement resources to investigating and prosecuting offshore infractions of the Wire Act does not seem to be in the cards.

The Consequences of Congressional Failure to Act

Formulating public policy is never easy, particularly when it relates to gambling. Unlike the hard sciences, nature has supplied no objectively "right" answers for policy makers, and to construct rational gambling policy, decisions must be based on the expected outcomes of given actions. To construct rational policy towards gambling on the Internet, or terrestrial gambling for that matter, accurate assessments of the benefits and costs of any given action can be immensely beneficial.

With relatively few exceptions, the power to authorize, endorse, and license gambling has been tacitly reserved by the States. It is a policy that allows the State of Utah to remain

¹⁵Indictments returned March 4, 1998. Benjamin Weiser, "14 Facing Charges In First U.S. Action On Internet Betting", *The New York Times*, March 5, 1998.

¹⁶On September 16, 1999 Judge Wood of the United States District Court in the Southern District of New York (Manhattan) denied a motion to dismiss the indictment against Allen Ross, who was also named in the March 4, 1998 complaint filed by Mary Jo White against Caribbean Internet gambling operators. *UNITED STATES OF AMERICA v. Allen Ross*, No. 98 CR. 1174-1(KMV), Order, September 16, 1999, Wood, J. Judge Wood's construction of the Wire Act (18 U.S.C. § 1084(a)) in this Order is relevant.

gambling free, and Mississippi to implement economic redevelopment around riverboat casinos. While Senator Kyl and others have attempted to pass legislation prohibiting on-line gambling, many States have not waited for Congress to act. Currently five States, Illinois, Louisiana, Michigan, South Dakota, and Oregon have passed prohibitory legislation.¹⁷ One State, Nevada has recently passed legislation that permits interactive gambling sites to operate from within the State. AB 466 was signed into law by Gov. Kenny Guinn June 14, 2001.¹⁸

It is our view that despite what if any action by Congress, gambling on the Internet and through other Interactive media will continue and thrive, despite considerable conflict along the way. In the end, we believe that licensed and regulated e-gambling is inevitable. It seems that one way or another prohibition will prove an unworkable policy, as the Volstead Act did before it. The industry will simply move underground, and it will continue to take bets from U.S. citizens. By taking this industry from the hands of licensed, regulated suppliers and handing it to criminals a Federal prohibition will likely do more harm than good.

Whether gambling is right or wrong, moral, or immoral is certainly debatable, whether it is pervasive is not. At the heart of the issue of gambling on the Internet, and gambling anywhere else for that matter, is the view that gambling is immoral, and is an example of the increasing decadence of our society. Maybe it is. Nevertheless, the fact remains that neither this view nor gambling, are going away.

Right or wrong, gambling like other "sin" products such as alcohol or tobacco does create some very discernable harms. Problem and pathological gambling are as real as gambling is ubiquitous, and greater efforts must be made to prevent it. One thing is certain, suppliers to an illegal U.S. gambling market will not be overly concerned about problem and pathological gambling and its impact upon our society.

At the end of the day, the reality of the Internet, the reality of consumer demand for commercial gambling games and the reality of the Cohen case and others like it will set in. It is hard to see any other outcome from the process now underway.

¹⁷ It is important to note, however that in Oregon pari-mutuel horse racing was exempted from the ban and in Michigan the wording of the bill would appear to allow existing licensees to offer e-gambling to residents of Michigan, although this has yet to be tested.

¹⁸ The original bill, AB 296, was eventually incorporated into a companion bill, AB 578. At first, the bill passed in both houses, yet failed at the final step. The legislation, however, was brought to back life when it was piggybacked onto AB 466, a bill that creates a uniform, statewide system for issuing work cards to gambling employees. The next step is for the Nevada Gaming Board and the Gaming Control Board to do an in-house survey of applicable legislation on the state and federal levels and develop rules and regulations.

Sebastian Sinclair
Vice President

Mr. Sinclair has been an analyst at Christiansen Capital Advisors, LLC (formerly known as Christiansen/Cummings Associates) since 1993, and became Vice President in 1999. In that capacity he has conducted studies of the economics, financial structure, and valuation of existing and proposed businesses. Mr. Sinclair has extensive experience in the development and application of quantitative computer models, and specializes in the competitive economics, business models, and the strategic financial analysis of many industries.

Mr. Sinclair is the author of numerous professional articles dealing with the economic and financial aspects of legal gambling industries in trade and professional publications. Of particular note, is his widely cited and respected "By the Numbers" column published by IGWB. Mr. Sinclair authored a chapter assessing the prospects for Internet gambling that was recently published in "The Internet Gambling Report IV" edited by Anthony Cabot, and in conjunction with the River City Group LLC prepared a definitive study of global Internet gambling entitled "E-gambling: Wagering on the Internet." Mr. Sinclair has leveraged his unique experience with computers and the Internet, and knowledge of legal gambling businesses to become one of the foremost experts in the world on the subject of Internet gambling. His opinion and comments regarding these and other gambling matters are often sought by the newsmedia.

Illustrative current and recent projects include: Assistance in securing venture funding for Internet start-ups; the analysis and evaluation of international markets, and strategic advice on entering these markets, for a publicly traded Internet commerce concern; industry analysis and strategic advice to a major Australian telecommunications company planning to expand its business to the Internet; the development of a business model and assistance with the business plan of a major media company investing in new Internet businesses; The current analysis of, and five year forecast for, the worldwide market for casino gambling supplier industries through the development of a detailed economic input/output account model; a detailed sales model, historical and *pro forma*, for the gaming device market, that has since been adopted by the research analysts of many major financial institutions; advice and counsel to the research analysts at Salomon Smith Barney on various companies and industries; assessment of the prospects for, valuation, and strategic development of, Hialeah Park for the State of Florida; analysis of the potential and net impacts of video lottery terminals at a thoroughbred racetrack; the feasibility and likely financial performance of a casino cruise-to-nowhere to be berthed in Miami, Florida; the development of a business model and assistance with the business plan of a major media company investing in new Internet businesses; and the appropriate valuation and strategy for the purchase of an ailing Las Vegas Strip property for a New York investment firm. Since 1994, Mr. Sinclair has directed the data collection, statistical analysis, and assessment of gambling industries in the "The Gross Annual Wager of the United States" published annually in *International Gaming and Wagering Business* (IGWB) magazine. These articles review wagering statistics, trends, new gambling products, and industry analysis.

Mr. Sinclair has testified on various aspects of commercial gambling before state and local governments, and has been a featured speaker at the World Gaming Congress and Expo, The Global Interactive Gaming Summit, Gaming Online, Investing in Online Gaming, and several other industry conferences.

Mr. Sinclair is a graduate of New York University.