

NATIONAL GAMBLING IMPACT STUDY COMMISSION

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Good morning and thank you for inviting me to appear here today. My name is Ron Rychlak and I am the Associate Dean for Academic Affairs and a Professor of Law at the University of Mississippi School of Law. For several years now, one of my special interests has been in the area of gambling and the gaming industry. I serve as an editor on the *Gaming Law Review*, I have taught a gaming law course at the University of Mississippi, I have written several articles on gambling-related issues, and I have appeared on panels at several conferences relating to gaming and gambling issues. I should note, however, that my interest developed before the gaming industry moved into Mississippi, and I have no ties with interests on either side of this issue.

The down side of not having a vested interest is that my opinions are not as set as they might otherwise be. I tend to see both good and bad in the gaming industry. For whatever they are worth however, I am happy to offer my opinions for your consideration today.

I should note that the materials that have sent along to support my presentation include three law review articles which I have written as well as seven shorter articles written by students from my class. That seven students from my Gaming Law class were able to write papers worthy of publications is one of the matters, in which I, as a professor, take my greatest pride.

The gaming industry has certainly come to Mississippi in a big way, and the results have been decidedly mixed. There are clear benefits in terms of increased employment, greater tax revenues, new construction, tourism, and greater economic activity. On the down side, bankruptcy is up, crime is up, suicide is up, divorce is up, and some in our state are concerned about the general corruptive influence that gambling has had on the state's morality.

My personal judgment is that thus far the beneficial impacts have outweighed the negative ones, but only slightly, and I think that balance could tip one day in the other direction.

Legalized gambling impacts different localities in different ways. As you know, in my state the casino/riverboats - most of which appear about as seaworthy as the Sears Tower - are restricted to counties along the Mississippi river and the Gulf of Mexico (with the exception of

one Indian casino in the middle of the state). Even within this one relatively small state, the impact varies greatly from one local to another. Tunica county, which Rev. Jesse Jackson referred to as America's Ethiopia less than ten years ago, has suddenly become a very prosperous area. The Gulf Coast, which was largely a fishing community until recently, now aspires to be a new Las Vegas. Cities like Natchez and Vicksburg have certainly seen some interesting development, but changes have not been nearly as dramatic as in those other regions.

Both the beneficial and the adverse impacts of legalized gambling tend to be concentrated in those areas of the state where gambling is permitted. It is in these areas where the most jobs have been created, economic activity has been most stimulated, and tourism is way up. The entire state has benefited in terms of increased tax revenues, and to a lesser extent greater economic activity, but restricting gaming to specified counties has clearly shaped the way gaming has impacted the state of Mississippi.

I believe it is appropriate to restrict gaming to certain areas, limit types of gambling available in specific states, and to completely prohibit gambling in other areas. Gambling comes in so many forms, is so controversial, and has so many impacts -- both positive and negative -- that it is most appropriate to leave decisions as to what types of gambling and where it will be permitted to individual states, if not individual counties.

Despite the clear financial incentives, many states have resisted legalizing casino style gambling, and some states have resisted gambling all together or nearly all together. This suggests to me the very deeply held convictions that many hold about an activity which traditionally has been considered a vice. It also reflects concern about possible psychological dependency on gambling activity.

I think that everyone acknowledges that gambling has certain risks associated with it, but the gaming industry is trying to cooperate with the experts, and the recent cigarette litigation has had a real impact. At almost every industry conference that I have attended, casino officials have expressed concern about the kind of liability that tobacco companies now face, and they are trying to take steps to prevent that risk.

It is interesting to note that many people consider state lotteries to be a lesser form of gambling. In fact some states even market their lotteries as a sort of civic obligation. Historically, however, the United States Supreme Court has recognized lotteries as the absolute worst form of gambling because they permeate the society rather than being confined to specific locations. I agree with that historic interpretation, and as more fully described in my Boston College Law Review article, I believe that lotteries are particularly bad because they convey the impression that the state is actually encouraging gambling, instead of merely tolerating it.

The Supreme Court is not the only entity to recognize the problems associated with lotteries. Until about twenty years ago, most state constitutions prohibited lotteries. These constitutional provisions, most of which were enacted between the 1820s and the 1880s, came about because state legislatures realized that lotteries were a particularly seductive and dangerous way to raise revenues. Accordingly, it was felt that the state constitution should prohibit legislatures of the future from resorting to a lottery. Similar constitutional prohibitions were never implemented regarding other types of gambling.

In Mississippi, riverboat gambling came into play almost through the back door, as anti-gambling forces within the state waged an all out war to stop a proposed lottery. The history of that particular incident is laid out in greater detail in my Mississippi Law Journal article. Both forms of gambling can have dangerous consequences, but I believe that the riverboats/casino approach offers more positive benefits to the state, and lotteries tend to send a worse message to the citizens.

In addition to the casinos and lotteries, another broad category of gambling which should be mentioned is the parimutuel betting typically found at horse or dog tracks. This type of gambling tends to be viewed as less morally objectionable than casino gambling, and I believe that it does not have all of the same bad consequences that lotteries do. Free standing horse and dog tracks, however, are not nearly as profitable as casino or riverboat gambling locations. For one thing, the races are usually spread out over time so that betters may place bets and collect their winnings and so that the animals can prepare for the next race. This means that there is not the high intensity action and rapid betting that generates so much income for casinos. In addition, race tracks tend to have set hours, rather than being open around the clock as are most casinos. As such, many horse and dog tracks are beginning to offer slot machines and betting on races at remote locations.

As the horse and dog tracks begin to take on characteristics that come closer to traditional casinos, many of the aspects that keep them unique will be lost. Many states are currently considering the extent to which they will permit their race tracks to offer additional forms of betting, and it seems appropriate to me that these decisions be made at the state or local level, where decision makers know the political will of the people, the economic climate, and the business risks and opportunities.

In discussing these different forms of gambling, I have not singled out Indian gaming for separate treatment, because in terms of types of gambling events, Indian casinos are not necessarily distinct from regular casinos or riverboats. There are of course certain differences, but the Indian gaming with which I am familiar is essentially comparable to gambling at a regular casino. There are, however, a few advantages and disadvantages for Indian tribes.

The first advantage of an Indian casino is the tax benefit. Because Indian tribes have the status of being separate governmental entities, their casinos are not taxed the way regular casinos are taxed. Donald Trump, in particular, has been very vocal in his objection to this

special treatment. In addition, Indian tribes are free from some of the restrictions that govern other gambling operations. For instance, Indian casinos do not have to be on the water in the state of Mississippi, and they can sometimes offer games not available in other casinos. Some of these advantages may be offset by difficulties encountered by the Indians in handling the compacts which must be negotiated with the states. This, of course, is illustrated in the recent controversies in California.

I would also note that the advantages accorded to Indian gaming have been limited thus far, primarily because the gambling enterprises have been established on traditional tribal lands. Of particular concern is the possibility that tribes will use the money generated from successful gambling operations and invest that money by purchasing new property outside of the traditional settlement area. If that becomes the case, and tribes are permitted to open gambling operations in areas where gambling is otherwise prohibited, I believe there could be serious consequences. I assume that matters such as this will have to be decided by the courts, due to constitutional issues involved.

Regarding other advantages and disadvantages that particular forms of gambling have over one another, I would note that lotteries have the advantage of state-sponsored advertising. It is quite typical for states to use phrases such as "When you play, your money works for Missouri." This is an advantage to the lottery, but it concerns me.

While it may be true that few people actually suffer psychological dependence on lottery play, state sanction of this form of gambling tends to break down the moral prohibitions and encourages children and teenagers to gamble at a much earlier age. Sociological studies clearly indicate that teenage gambling, which did not even register on the scale a few years ago, is now a very serious problem. I believe that state-sponsored advertising promoting lottery purchases has played a bigger role in encouraging youthful gambling in America than any other single factor. That is why I have long felt that casino or riverboat gambling is preferable to state-sponsored lotteries.

I should also note that lotteries have an additional advantage over other types of legalized gambling in that when the jackpots become very large, the lottery itself becomes news worthy. As illustrated earlier this summer, when the power ball jackpot grew immense, the lottery reaps tremendous free advertising due to news coverage of the event.

In many states, video gambling devices are proliferating not only in the casinos, but also in locations such as bars, truck stops, and restaurants. Whether this should be called an "advantage," I do not know, but it is important to note that these types of slot machines are particularly dangerous in terms of developing compulsive behavior. Because they are user-friendly, and can be operated without anyone watching, people who are novices at gambling frequently feel more comfortable at video slot machines than they would feel at a table game. Because of this, many youthful gamblers, or people who have not previously gambled, begin their gambling experience with video slot machines. It is, therefore, not surprising to discover

that with the proliferation of video gambling devices, the profile of a typical problem gambler has changed.

Until recently, problem gamblers were middle aged white men, normally with a substantial income. With the development of video gambling devices, more women, teenagers, people of color, and people from all economical levels have developed gambling problems. This is discussed in more detail in my ULCA Law Review article.

Already in the works are machines with a built-in television, so the gambler can watch sports or keep up with soap operas without leaving the machine; machines with direct lines to food and drink service, so the gambler never needs to look up for a waitress; and even a machine that has links to outside computers, potentially giving the gambler access his or her bank account. Obviously, these developments will give regulators many difficult issues to consider in the coming years.

While I have spent much of my time today discussing why I believe regulatory matters and decisions relating to appropriate gambling should be left at the state level, I would like to mention a couple of areas where I believe federal involvement might be appropriate. The first area is that of internet gambling. Obviously this has become a major problem, and it will require a major effort to deal with it.

I believe that internet gambling can be regulated, but that the regulation must come from the federal government. The model that I would propose involves internet licensing for major casino operations that already hold state licenses. These state license holders would then be designated as an approved or authorized internet gambling provider. Serious gamblers would soon come to recognize the value of this designation. Regulators could assure the financial viability of these organizations, the legitimacy of their gambling operations, and assure the gamblers that bets will be paid off. Unauthorized internet casinos would still exist on the internet, but the system should be structured so as to permit regulated internet casinos to offer pay backs comparable to unregulated casinos. As such, intelligent gamblers would be encouraged to bet with the regulated casino. This may limit the ability of governmental agencies to collect significant revenue from internet gambling, but it would provide an important service to patrons and hopefully minimize the dangers associated with unregulated gambling.

The other important area where I see federal involvement in the gaming area is that of background investigations. As you know, key employees in all casino states must be investigated to assure that there is no criminal infiltration of the industry. This investigation can take a long time, and problems can develop. You may recall from the motion picture "Casino" how this process was abused by early casino operators in Nevada. It would seem logical to me for the federal government to become involved in conducting these checks, and in coordinating inspections from one state to another. I believe there would be a certain

savings from economies of scale, and the investigations could be quite thorough so that the check would be sufficient to satisfy the needs of any of the gaming states.

In summary, there is a role for the federal government to play in the gaming industry, but that role very limited. The gaming industry tends to be highly taxed as it is, and I think that excessive federal involvement - assuming that means federal taxation - could drive the price up to such a point that illegal gambling would try to fill the void. At the very least, unregulated internet gambling would try to pick up any gamblers turned away by higher costs associated with higher taxes. If that were the case, federal involvement in the gaming industry would end up having precisely the opposite of the intended effect.

Thank you very much for your attention this morning and the opportunity to participate in this very important endeavor. I will do my best to answer any questions you may have either today or any point in the future when I can be of assistance.