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**PRESENTATION TO THE
NATIONAL GAMBLING IMPACT STUDY COMMISSION**

by

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I am pleased to appear before you on behalf of Missouri Attorney General Jay Nixon and discuss the various issues that face us all as the internet, and the internet gaming industry, continue to expand. You have requested that we speak to the issues of whether internet gaming should and can be regulated, or whether it should be prohibited. From Missouri's perspective, these questions have very direct answers: 1) Unlike the certain limited forms of gaming allowed in Missouri, internet gambling cannot be effectively regulated to ensure the protection of consumers; and 2) Internet gambling is unlawful in Missouri, should continue to remain unlawful, and Congress should pass the Internet Gambling Prohibition Act to make clear that it is also unlawful under federal law.

Each state's gambling laws and policies are carefully crafted to meet its own public policy concerns. In Missouri, as in most other states in which some form of gaming has been legalized, gambling is presumed to be illegal, unless it falls within one of the few limited forms explicitly authorized by Missouri's Constitution and statutes enacted under the authority of those constitutional provisions. Thus, Missouri has chosen to take a relatively conservative approach to allowing gambling within its borders, only within the last few years authorizing casino gambling on excursion river boats. This cautious approach is founded upon, among other things, our state's recognition that gaming is an ever-expanding industry that can have staggering social consequences. As the members of this commission are aware, gambling revenues in the United States in the last few years have as much as tripled those of major corporations. In 1996, soon after river boat gaming was authorized in the state, Missouri's bankruptcy courts saw a record increase in the number of bankruptcy filings filed, and legal experts cite the recent accessibility of river boat gaming in the state as an important cause. Credit and other counseling services

in Missouri have also reported seeing an increase in the number of Missourians seeking help for problem gambling.

Given the impact gambling can have on our society, and in an attempt to protect consumers and ensure that gambling offered in Missouri is as fair as possible, Missouri maintains a reputation among states that permit some limited types of gaming as one of the country's most stringent regulators. For example, any company seeking a license to offer casino gambling within the state on an excursion river boat must first submit a thick application as well as boxes of financial and other information, and must submit to a rigorous investigation of its finances, officers, directors, shareholders, and employees. Even if the company's application is approved, its operation is constantly scrutinized, its slot machines are regularly and randomly tested, and the day-to-day operations of the facility are monitored on-site by Missouri Highway Patrol officers. Loss limits and minimum payouts are strictly enforced.

This type of regulation in Missouri furthers the public policies that underlie Missouri's gambling laws, and helps protect Missouri consumers; conversely, it is the inability of states like Missouri to similarly regulate those who offer casino and other types of gambling over the internet that puts those same public policies and consumers at risk. As this commission continues its examination of the social and economic impact of gambling in the United States, it will no doubt hear compelling evidence that the internet may further harm those who cannot control their gambling addiction by giving them an even easier way to feed it. However, even putting aside these important social issues, it is still clear that gambling over the internet is not a "good bet" for the estimated 1 million Missouri consumers and their children who have access to the internet every day. This is because there is no effective way for states like Missouri to regulate the activity of those who offer Missourians the opportunity to gamble over the internet.

Who owns these websites? Do the owners have ties to organized crime? Is this a money laundering scheme? Is the company a "fly-by-night" operation which will simply take consumers' deposits and disappear? How do consumers know the games offered are being run fairly? What does "fairly" mean? Consumers do not know the answers to these questions. Further, in most cases, the promises of the operators cannot be verified, and their obligations cannot be enforced. These gambling websites have no minimum payout requirements imposed on them, no loss limits to protect consumers from losing too much, and no means by which they can ensure that minors and problem gamblers will not gamble through their website. They also have no means by which they can guarantee consumers that they will be able to pay their winnings or that they will even have the money to pay consumers who want to close out their accounts.

In fact, the vast majority of the websites Attorney General Nixon has investigated and, in one case, has obtained a judgment against, purport to maintain their operations and customers' accounts offshore where they believe they will be safe from state and federal laws. These accounts are not federally insured, and customers' funds are not held in escrow, but are often used instead to finance the company's operations. In one case in which our office has taken action, the company reported to the SEC an amount that represented customers' account deposits. The company also told the SEC that this amount actually exceeded the amount the company had in available cash by more than \$1 million. In other words, if these consumers wanted the company to close out their accounts and refund their deposits, the company would be \$1 million short of being able to do so.

In addition, the actual conduct and integrity of the games these operators offer cannot be effectively regulated. The randomness of the plays on gambling websites is allegedly achieved through the use of computer algorithms over which only the company has exclusive control, and which can be changed or manipulated with the click of a mouse. Further, there is no effective technological way for anyone to verify the physical location of players and website operators in order to ensure that participants and businesses are operating lawfully within the jurisdictions in which they are physically located.

In short, there is no effective way for Missouri to ensure through regulation that its balance of public policy and consumer protection concerns are being met by the operators of these sites. In fact, the overwhelming evidence from our investigations is to the contrary. Attorney General Nixon, therefore, supports the continued prohibition of internet gambling, both under Missouri law, and under federal law as proposed by S. 474, the Internet Gambling Prohibition Act. That legislation clearly creates a blanket federal prohibition against gambling over the internet or with the use of an interactive computer service. It also provides for specific civil and criminal enforcement of its provisions by federal authorities. At the same time, it allows states to enact or enforce tougher laws, and, by providing states with the ability to seek pendent civil remedies under its provisions, gives them an additional enforcement tool. It also addresses any concern that website operators may find themselves subject to potentially different laws of the various 50 states.

It is true that the prohibition of gambling activity conducted through advanced technological means presents special challenges for law enforcement, as does the fact that much of this activity is directed at states from outside the country. However, these are challenges which state and federal law enforcement agencies have been meeting for many years. Recent civil and criminal actions by states such as Missouri, Minnesota and Wisconsin, as well as by the Justice Department, prove that, despite these challenges,

operators of websites offering gambling in violation of state and federal law can be stopped.

As we have seen in the rapid growth of the internet over the past few years, the expansive and relatively free-wheeling nature of the internet and the breadth of information and services available on it can be of great benefit to our society. But when it comes to gambling, these same qualities threaten to erode, if not eliminate entirely, the ability of states to protect their citizens. This should not be allowed to happen.

Thank you for giving me an opportunity to talk to you today.