MR. ANGEL: Thank you very much. My name is Albert Angel, I’m Vice Chairman and co-founder of the Interactive Gaming Council. I’m employed by a company called ICN Limited, in Del Ray Beach, Florida. And ICN is a telecommunications service bureau...

I’m also a board member of the internet alliance, a trade organization that represents a number of mainstream online and Internet companies. And really my involvement with interactive gaming issues stems from my participation at the board of the Internet Alliance...

Now, the interactive gaming council is a trade group, it is comprised of companies that are interested in interactive technologies, and gaming in particular. I really appreciate the opportunity to address this group...

Others from our group have addressed you before. I think you may call Sue Schneider of our group, who is a chair, who was with you in Chicago. I personally have attended your Boston meeting, and your Chicago meeting, and tried to stay abreast of the deliberations of the Commission....

I’m here because I want to make a contribution to the ongoing dialogue. And if you had a moment to review our bullet point recommendations and findings, you will find that we are making a rather bold first-time presentation with regard to a framework for regulation of interactive gaming....

Our overall position is that regulation is far preferable to prohibition as a model for controlling interactive gaming, particularly on the Internet, and that it is better designed to reach the social and economic concerns that you are charged with analyzing and addressing..
I attended the internet subcommittee meeting last night, and I understand the presentation by that group today will be in favor of prohibition...

And what I would like to offer up is a counterproposal. Hopefully you will take the opportunity to integrate both points of view in your final recommendations to Congress, so that whichever way policy is ultimately made here, there is a good road map emanating from your group in particular.

With Madam Chair’s permission, I would like to start with a parable, which I think is really best designed to apply some common sense to what is a very difficult area...

CHAIR JAMES: You are at Regent University, we love parables

MR. ANGEL: Good, good. The parable is of a hypothetical plot of land, which is very, very fertile. Wondrous things can happen in this plot of land, virtually anything that is planted there grows marvelously...

And for a period of time this plot of land is surrounded by a half dozen towns, and each of the towns have different approaches to the way they live their lives, and the way they conduct themselves, but they all for a time make use of this common centralized body of land.

It is very lush, it has rivers that run through it, navigation is very easy, in fact there is a plentiful supply of water coming from the north, and it is well irrigated.

Well, it turns out that the towns cannot really get together with managing/cultivation of this particular plot of land. And the land, ultimately through the efforts of some of the towns, is fenced off. It is fenced off with some big iron
fencing, and notwithstanding the efforts of the townspeople, and their enforcement authority to keep people out of this lush, wondrous garden, people sneak under the fence, get in there, and they step up enforcement.

For a time that works, but as fate would have it, weeds begin to infest the garden, these weeds and their roots grow very deep, and they get spindly and very inhospitable to human life.

The town to the north of this land takes a different approach. They decide to annex this body of land, and they begin to grow some cash crops that are essentially used in the production of illegal drugs, and it becomes a plague, essentially, on all the people that surround this lush wondrous garden.

And they use the funds to essentially construct dams, and systems that blockade the water that flows from the north over the land. And, inevitably, what happens is this town to the north ends up controlling, in bad ways, the outcome of this land.

The parable essentially is designed to give you an analogy that I would hope you would refer back to in terms of the construct of determining whether regulation or prohibition is a better model for regulating the internet.

Because the internet itself, obviously, is a miraculous resource and medium for communicating quickly among various nations. It offers benefits, and the strengths also offer the greatest risks, primarily to those vulnerable in our society, like minors, and compulsive gamblers.

Now, the weeds are the unscrupulous operators. No matter how high the fence is made, and how well it is fortified,
weeds grow in fertile soil through the inaction of someone cultivating the garden.

    Regulation, on the other hand, is the approach that we would recommend, and to draw out the analogy, if the town elders in each of the towns got together and decided what forms of plant life were to be grown, there would be no doubt that lush and wondrous garden would be complete with green pastures, botanical wonders, opportunities for navigation, and through a common scheme, the weeds would not grow, and the land could be cultivated to draw benefits for the people, in terms of their enjoyment, as well as revenues for other social purposes.

    This is the essential difference between prohibition and regulation. Prohibition essentially announces a blockade. There is no systematic manner of cultivating and developing a market. Instead there is a harsh enforcement that ultimately fails because, as in gaming, as in the garden, people like to plant, people like to gamble.

    And with regulation you have a systematic revisitation so that there can be a segmentation of the issues. The analogy, once again, would be that the plot on the internet might be subdivided, that states and nations would take responsibility for enforcing their segments, and through comity among nations develop means whereby they could understand and appreciate the best ways to cultivate this plot of land, and develop cooperative procedures to enforce it.

    That is the analogy, that is the parable. Let me move now to precisely what it is that we would propose by way of a framework for regulation. By the way, the comments that I am
making are not unlike comments that are being made in all facets of the internet that concern commerce.

We have the same issues in the security area, we have issues in terms of insurance regulation, and it is without doubt, most appropriate that we address regulation of the internet with respect to gaming products, and draw out a key distinction.

We are not advocating that the internet itself be regulated. We are advocating that gaming products offered over the internet be regulated. That is an important distinction, that is one of the findings that I think is incumbent upon you to make.

Proponents of regulation are not persuaded that the internet can be regulated, nor would they want to burden existing internet service providers with enforcement obligations, but instead gaming products should be regulated, as they are in the real world.

If you turn to the bullet point recommendations, let me highlight a few which I think are really the framework that we would like to propose.

First we believe that all gaming companies that wish to offer their services over the internet be required to proceed under licensure. In fact, the Gaming Council, itself, requires that each of its members, in order to be a member, must be licensed by some jurisdiction. So the licensing jurisdiction would typically exercise its authority over an entity that was within its borders, and occupied its computer, equipment, and servers. The obligations for licensure would carry, in a very traditional sense, to the basic exercise of regulation.
It would be that there was ways to check the integrity of the games, to make sure that the computer algorithms are checked, maintained, and offering a fair deal to consumers.

Secondly that the people that are involved with the gaming enterprise are qualified, and that they have had background checks, and do not present a risk to society for taking what could be a good economic resource, and put it to a bad end.

Third, there would be methods to control access by minors, and to control and limit compulsive gambling on the internet.

Fourth, that there would be a systematic way for taxing revenues that are earned on the internet, and developing a reciprocal tax sharing arrangement amongst states and nations.

That licensing is really the key. The licensing can occur at any recognizable jurisdictional level, whether it is a state, a nation, a group of nations, the notion is that it starts with licensure.

Since this is a United States organization, the Commission is really aimed at developing proposals for the United States, we have a very clear requirement that we are articulating in our regulatory framework, that any company that proposes to offer internet services of a gaming nature to U.S. citizens, be present in the United States.

Through one of two means. The first either physical presence, where my previous remarks would indicate the level of licensure, and the level of control, or alternatively, through deemed presence, where you essentially have a registration.
This latter approach would involve an offshore operator that is licensed by a recognized jurisdiction, posting potentially a bond in the United States, and be reachable from the standpoint of enforcement efforts, in the United States, and responsible to any injuries that are caused in the United States. This creates both a jurisdictional framework, and an enforcement framework, and works to build a better cohesion among companies, wherever they are licensed, but with key reference to where they operate.

The enforcement mechanism, and this is one of the third points of our regulatory model, is that enforcement effort should really take place at the state level. The states have a parental role in protecting their citizens. They would, in effect, make complaint to a licensing jurisdiction.

That entity, by virtue of its authority over the licensed entity would exercise its jurisdiction. In cases of offshore operators, or nations outside of the United States, we would propose a federal role.

Now, whether this is a separate agency created by Congress, or an existing agency that has a new charge, this group would essentially devise minimum standards with regard to consumer protection and financial transactions, and at the same time, it would also be the principal apparatus whereby foreign enforcement is undertaken.

One key point, and it is a principal underlying our regulatory framework, is that there should be parity between the real world and cyberspace. The comment is almost becoming cliche, but it really is based on principles that have very, very strong foundation.
The notion that something that is permissible in the real world does not become illegal once it is offered through a different medium, is I think unassailable. The Department of Justice made the same recommendation, and urged the legislators in Congress, in crafting laws, not to make arbitrary distinctions by virtue of the medium that is being used, but instead to focus on the conduct and to really try their best to keep a parity between cyberspace and the real world.

One of the key questions that we will no doubt get into in terms of question and answer is the question of respect for jurisdictional boundaries. In the United States we have, you know, two states, Utah and Nevada, that are adjoining states, they take different approaches with regard to gaming.

Because the internet has no boundaries, one has to ask the question, you know, how do you propose to deal with jurisdictional sovereignty and the right of states to protect its citizens. It is a difficult question, and there is a wide degree of opinion, even within our own group.

But I can highlight for you that at the interactive gaming council highest level, and embodied within our code of conduct, is the belief that if a jurisdiction speaks in uncertain terms, no uncertain terms, about its policies with regard to internet gambling by its citizens, that responsible gaming operators should follow those pronouncements.

So that, for example, if Utah has a complete prohibition, and the prohibition is current, focuses on commerce that occurs in the internet, then internet gaming should not accept wagers from states that have such prohibitions.
Closer questions are presented where we are talking about the degree of the wager, or the type of wager, and I will leave that more for the question and answer.

One other key principle is that we believe that there must be interaction among the international community of regulators in order to fashion a minimum set of guidelines and standards.

I had the opportunity to address the international association of gaming regulators, and as I addressed that group it came home what a great diversity there is in terms of gaming products, an different nation’s willingness to accept gaming products.

In the internet we have a flat terrain with free and easy navigation. I think the regulators should be charged with getting together, like my analogy, the town elders getting together and comparing notes, to devise something that works in the context of the internet, taking due account of jurisdictional boundaries, and different state’s approach to how citizens should or should not be permitted to entertain themselves on the internet.

The final point of our recommendation is that in whatever is recommended, due consideration should be given to the ares where gaming has flourished without problem, in the current context under the existing laws.

The two examples that are most often cited is that of account wagering in the pari-mutuel context, where virtually for 25 years now, we have had instances where account wagers, often between states on an interstate basis, proceed with no harm to
consumers, in a way that is not socially detrimental, but personally beneficial.

The other example that is given is of Indian use of technology. The good example that I can offer up is satellite bingo that joins reservations in disparate places to create a larger bingo pool to draw people to a local gaming enterprise. But the use of the interstate instrumentalities in the satellites are, essentially, an extension of the regulation that already exists.

If the approach here is to articulate a prohibition, surely those areas that have caused no problem should be allowed to continue as you develop new areas.

The final point that I would like to make is with regard to the infirmities of prohibition itself. It is the Gaming Council’s belief, and in fact the vast majority of expert witness that have testified before you, it has been their unified opinion that prohibitions do not work, and regulation is the preferred model for achieving your goals.

Now, we could agree precisely on the same objectives, protecting minors, limiting compulsive gambling, perhaps strictly limiting the expansion of gambling. Prohibition will not be the favored approach to achieve those results, regulation will.

In some nations the regulatory model is, in fact, a prohibition. But like the garden analogy, unless you continually tend the garden, and you have people conscientiously looking after the ways in which gambling is expanding, you are not going to have an effective prohibition.

I will offer up four or five very key points why prohibitions don’t work. The first is the historical point that
is made time and again, with regard to the embargo on alcohol in the United States in the earlier part of the century.

It did not reduce consumption, it only changed the channel of distribution into organized crime. If you really want to control and limit gambling, regulation is the means, not prohibition.

Plus marketplace dynamics are showing that it is inevitable that gambling will occur on the internet. Four or five key points there.

First of all, the internet itself is becoming a primary and mainstream vehicle for commerce and communication. Think about, for example, the securities brokers, Schwab and Fidelity, that had pretty much implemented a retail brokerage some years ago and then moved into the on-line environment a short two years ago.

Today if you actually look at the number of trades that are constituted in Schwab and Fidelity, over 50 or 60 percent of those trades are conducted on-line.

I think many, many other things in the internet are drawing to the same conclusion. I believe an expert that addressed you on Monday’s session pointed out that within a few scant years nearly 30 percent of leisure income will be spent over the internet.

When I think of my children, and their active use of the internet, there is no doubt in my mind that they will find their entertainment on the internet, as they do today. And when they become adults, they will expect to find entertainment such as gambling on the internet.
So in anticipation of that turned you must respond to it with the mechanisms that address it. Thirdly, with regard to the market dynamics, you have a situation where you have numerous nations that have already authorized gaming.

I don’t know of any nation that has sought to prohibit interactive gaming, to this point, but about 25 jurisdictions have already approved some form of interactive gaming.

Some, Australia for example, are first world nations. You may recall Brian Farrel’s testimony where he stated, quite emphatically, with or without a U.S. prohibition, they intended on accepting bettors from the U.S.

If that is the case, you know, we are going to have interactive gaming as a virtue of these trends.

One of the key points here is also of state’s rights. You know, what maybe articulated by the Internet Subcommittee is a recommendation for a prohibition. But is that a federal prohibition? What right does the federal government have to curtail the interests of the constituent states? Under the 10th Amendment, those are rights that are not specifically enumerated for the federal government are reserved to the states, and the states would be operating here in an area where they clearly historically have had the authority to authorize gaming.

Two recent developments are key to this point. Bally’s is a company that many of you are familiar with, that is regulated, it has received intra-state authority, on a preliminary basis, for an instate interactive wagering system.

Now, if that is to be the law in Nevada, who is the federal government to say that people in Nevada cannot pursue
their interests in that fashion, when you do have a regulatory enterprise.

In addition I would highlight that the bills that are before Congress often are interpreted as taking regulatory approach. A bit of history is very important Senator Kyl’s bill, started with the National Association of Attorney’s General. It is that initial –

CHAIR JAMES: Mr. Angel, I’m going to ask if you could summarize those remarks? I think we have heard a lot of the testimony that has sort of given us the history. What we are really interested in hearing from you are your recommendations. We have heard some of those, we would like to hear some more, and then we are going to move on to Saum, but thank you very much.

MR. ANGEL: My pleasure. I would be glad to just conclude that thought. I would just highlight that the National Association of Attorney's General did start out with a regulatory model. It was through interaction by the Senate Judiciary Committee that the Kyl Bill turned into a prohibition measure.

But on the House side McCollum and Goodlat have favored a regulatory model that gives due reference to state's rights.

So rather than opt for the prohibition model, I would encourage you to take regulation as your first step.

Thank you.

CHAIR JAMES: Thank you.

Mr. Saum?