

Written Statement of Mark Lipparelli
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Introduction

Thank you Mr. Chairman and members of the Committee for the invitation to speak before you today.

I am Mark Lipparelli and I was asked to present as a result of the emphasis of my work for the past seven years and my overall 22 years in the gaming technology field.

In January 2009, I was appointed by the Governor of my state to the Nevada Gaming Control Board. In January 2011, I was elevated to the position of Chairman. I also served on our state's Gaming Policy Committee that adopted support of regulated interactive gaming in our state. This is relevant because during my tenure on the Board, our state embarked on creating the first set of gaming regulations governing "legal" interactive gaming ("igaming") in the United States. I concluded my tenure on the Gaming Control Board in October, 2012 and since that time have provided advisory work to a number of entities engaged in the gaming, technology, sports, and investment sectors. I am also a Co-Founder of the International Center for Gaming Regulation at the University of Nevada, Las Vegas and currently serve as a Nevada State Senator.

I would add that prior to serving on the Board, I spent 15 years in senior management positions with some of the gaming industry's leading technology providers.

The comments I make today are my own.

Current Backdrop

As you continue your review of igaming and the related role of law enforcement, I can tell you confidently your committee is now in a position to benefit from a significant amount of deliberation and contribution from many well-informed and experienced operators, regulators, technologists and industry experts.

Unlike 2009, we are no longer in the greenfield. We have learned a great deal in the past six years. The creation of enabling law and regulation in three states, a large number of informed studies and debates as well as, perhaps most importantly, the creation, testing and deployment of many igaming systems throughout the world has provided concrete knowledge that does and should replace speculation. A healthy portion of the knowledge gained also comes from international markets that, by US standards, are not highly regulated.

From a regulatory and law enforcement perspective, Nevada, New Jersey and Delaware have been successful. Where there were concerns over licensing, protecting children and the vulnerable, player protection, taxes, money

laundering, and geolocation these states have had good success. I have provided further discussion of these items in my full remarks. We know there have been many attempts to compromise these systems, but those issues are being revealed, thwarted, evaluated and, where warranted, new standards are implemented. This is a hallmark of gaming regulation of traditional casino operations.

I would provide praise to my former colleagues in Nevada for beginning this effort and particular praise to the efforts of Dave Rebeck and the New Jersey Division of Gaming Enforcement. Unlike Nevada where regulations currently authorize only online poker, New Jersey chose to implement all forms of gaming. This no doubt expanded the scope of effort and energy to get it right.

Like any innovation, ongoing diligence and continued product improvements will be necessary to meet the constant work of those who seek to compromise laws and regulation.

Striking the Right Balance

The three existing US markets and several regulated markets in Canada have now applied their knowledge to actual operations and historical speculation has given way to their success and foundation knowledge. Future regulatory agencies that consider gaming legislation will be subject to inquiry from those seeking clarity on subjects ranging from licensing investigations, product submissions, site approvals, employee registrations, and many other regulatory questions. These questions have been widely debated, tested and largely addressed.

To the degree possible, I have advised state governments, law enforcement and regulatory policy advisors to provide for broad statutory frameworks but leave specific requirements to regulations. This approach gives regulators (the experts in the field) more opportunity to adjust to changing technology and provide flexibility where appropriate.

Depending on the underlying products that may be introduced in the future, it is important that law enforcement and regulators strike an appropriate balance of clarity and regulatory policy. Where the intent is to allow full commercial styled casino games online, a more robust form of oversight is likely warranted. Where there are other forms of online gaming entertainment that fall short of these definitions, lighter forms of regulation may suffice.

Concluding Comments

A couple of concluding remarks.

One, I would not leave this subject without specific reference to what I consider to be the much bigger policy challenge. In my opinion, illegal gaming operators need to be put in the spotlight. These operators continue to exist in the shadows and enjoy untaxed and unregulated operations. This is an area where states that have authorized gaming and, those that have not, need to work together with federal law enforcement to continue to reveal rogue operators. It is a continual effort but cooperation between all levels of government, financial institutions and licensed operators is critical.

If illegal, nontaxpaying, operators are allowed to freely compete with untested and unregulated products, the playing field will remain unlevel and consumers will be left unprotected. Nevada, New Jersey and Delaware, as well as the testing labs, have begun to reverse this trend. In the short and long term, the lasting impacts on licensed operators will be significant. This knowledge must be shared with other states and the federal government as policies are shaped.

Two, the pace of US legalization has been, to date, modest. This has largely abated concerns five years ago that igaming would spread too quickly without proper oversight and without actual knowledge that it could be effectively regulated. Even with our law in place for nearly 15 years, Nevada remains a poker only jurisdiction and several states have passed on legalization.

Three, there are a host of attendant businesses that desire further clarity around igaming policy. These include financial institutions, handset providers, network providers, credit card issuers and many others. In nearly every case, they too seek to take advantage of legal markets and seek to avoid those who are not providing such clarity.

Four, technology innovation is taking place at higher and higher speeds and consumers are adopting mobile preferences. Newer technology to protect state choices on allowing or prohibiting igaming is getting stronger and more diverse. The proximity of New Jersey to New York and Pennsylvania is a great example of these protections in operation.

Five, consistency in igaming regulation is very important. The security of any system is made more difficult if we end up with application code that varies widely from market to market. If policy changes are considered this should be kept firmly in mind.

Lastly, you have no doubt heard (and will continue to hear) from those who suggest that the risks are simply too great or that you cannot be given complete assurance that legal igaming can be properly governed. As Chairman, these concerns were very real for me. No other state had taken up the regulation of igaming and we had a 75 year history to protect. My Governor, himself a former

Gaming Commission Chair, Attorney General and Federal Judge, made it clear to me that outsized risk was not in his or our state's interest.

However, after spending six years with experts in the field, developers of products, independent test labs and regulators from Alderney, the United Kingdom, Gibraltar, France, Italy, Malta, the Isle of Man, Singapore and many others I can give you confidence that the regulated model does work.

That said, you must be willing to accept that this market, like any market, is not entirely bullet proof. As markets grow, there no doubt will be challenges. I expect we will uncover new risks we did not anticipate despite our exhaustive efforts. State regulators and independent test labs have and will continue to act to address such challenges.

Thank you very much for your attention and I am happy to answer any questions.

Appendix:

Common Elements of Igaming Legalization and Regulation

While there may be several specific elements you consider, there are likely 4-5 major elements that normally follow the analysis around igaming legalization. These have been debated for a number of years now and I find them to be generally consistent from market to market. These elements generally include Regulatory Licensing, Player/Patron Protection, Taxes, Money Laundering, and Geolocation.

1. Regulatory Licensing

Regulatory licensing is perhaps one of the most important elements in regulating igaming. When asked, I normally suggest that if licensing is established successfully, the rest of the legal framework is not the subject of as much great debate. Naturally, many stakeholders will weigh in on the subject.

First, the analysis will relate to whom shall be qualified to apply for a license and, appropriately, this will vary from market to market. The determination of qualified applicants will be largely dependent on the type of gaming licenses in the given market. This could include casinos, tribal operations, bingo operators, lotteries, racetracks, card rooms among others.

There will likely be little debate about licensing requirements of the primary operator and the key technology providers with a bit more reasonable disagreement how far down the service provider chain will require licensing or registration.

Secondly, and perhaps as critical, is the level of regulatory scrutiny applicants will be subjected to in seeking licensure. In my view, the igaming licensee, should be subject to what is generally known in the gaming regulatory community as full licensing. Qualified applicants would be required to meet the highest standards for qualification, integrity, acumen and reputation. In other respects, state systems may need to account for tiers of products that fall outside the traditional definitions of full igaming activities that do not require such extensive licensing burdens.

2. Player/Patron Protection

One of the central reasons we are here today is concern over protecting online patrons. I have found broad consensus that igaming can be successful and are not subject to the outsized risks many warned could come. The first generation systems have proven that it is possible. Many of the patrons today who gamble

on illegal sites would likely be shocked at the vulnerability of their funds and lack of protection.

Either through specific language in statutes or, preferably, through regulation igaming products can be subjected to various levels of testing by long established independent test labs to ensure that player funds are protected, that collusion can be reasonably detected, that risks are monitored and corrected, and that patron disputes are properly administered.

Player protection also extends to providing for requirements geared towards minimizing the harmful effects on the more vulnerable. Despite arguments you may hear to the contrary, online gaming provides materially greater protections than are generally available to brick and mortar casino operators.

Lastly, first generation systems have been largely successful in preventing underage gaming. None of the initial states have cited this concern as a major source of challenge. As the next generation of solutions come to market, more can be done to ensure that patrons are recognized.

3. Collection of Taxes / Auditing

Taxes are often complicated. However, it is my experience that gaming systems have proven, over time, to be highly effective and efficient as it relates to the tracking of revenue for the assessment and collection of taxes both in brick and mortar and in the igaming market. Coupled with the privileged nature of gaming licensing, there is a strong incentive for licensed operators to maintain a nearly perfect record of tax payments.

In fact, online systems are substantially more capable for a couple of key reasons. One, normally such systems are built on more modern and robust technology frameworks. Two, transactions in online systems are recorded at a granular level compared to several elements found in physical casinos that do not lend themselves to granular tracking (e.g. table game play).

While this is not scientific, I should note it is also worth mentioning that igaming tax policy, generally, is an important consideration. It is my judgment that defaulting to higher rates of tax is not optimal as established illegal operators will exploit this in the form of “price advantage.”

4. Money Laundering

The internet is often cited as a law enforcement concern regarding the movement of funds illegally. While I won't speak to the illegal operators, I can say regulated online gaming would not be an obvious or an attractive place to launder funds or move money outside the traditional financial system.

Regulated operator requirements require tracking of granular level events and presents substantial evidentiary trails for law enforcement with regard to money laundering.

Further, patrons on regulated gaming sites are subjected to rigorous identity mandates when player accounts are created. If anonymous movement of funds were the goal, regulated igaming would not be the best place to do it. If such patrons are complicit in nefarious actions, their identities will be known. Little, if any, such enforcement tools are in place on illegally run gaming sites.

5. Geolocation

The last of the major areas often discussed as a law enforcement challenge are mandates that reasonably assure igaming remains within the market where such activity is legalized and regulated. Given that the internet was designed with the mindset that it becomes readily accessible from anywhere, this is a reasonable concern.

Substantial progress has been, and continues to be made, by service providers who have perfected methods to pinpoint patron location and gain knowledge of technology used to misdirect actual patron location. You should not presume that the regulated markets were accepting of basic internet protocol ("IP") as a method of determining the location of patrons. The adopted technical requirements and ongoing monitoring, particularly in New Jersey where population density around its borders was a much bigger challenge, have proven to be robust and capable. More and more tools are becoming available and this will be an ongoing effort.

Nevada's Background

While it is important to note that a good amount of progress in igaming legalization work in the US was accomplished in the past six years, Nevada's enabling legislation was actually created in 2001.

As such, I believe it is important to know how the US market for regulated igaming came to be.

Shortly after Nevada's adoption of law in 2001, a question was raised about the applicability of the 1961 Wire Act (a long standing federal law). At the request of Nevada's regulators, in 2002, Michael Chertoff, then a senior official of the US Justice Department's Criminal Division, mailed a letter to the former chairman of the State Gaming Control Board stating that it was the view of the US DOJ that igaming was a violation of the Wire Act. This placed the State of Nevada in a stalemate position. Nevada's 2001 initial interactive law included a mandate that the State needed federal clarity before it could proceed.

With the receipt of the Chertoff letter, even though Nevada had created its igaming law, there were no regulations adopted. A similar DOJ letter was published in 2005 to the State of North Dakota reiterating the position.

While this was the opinion of the Criminal Division of the USDOJ there were mixed judgments coming out of the US federal courts some arguably concurring with the Chertoff position and others countering the position.

Igaming had continued to rapidly expand both within (albeit illegally in most cases) and outside the US. Material lobbying efforts, both pro and con, were also taking place here in Washington DC.

In 2006, partly in response to the rapid growth of illegal online gaming, Congress adopted the Unlawful Internet Gambling Enforcement Act. While this was a significant policy statement emanating from Congress, it generally did not change the underlying applicability of the Wire Act. The passage of UIGEA did have an impact on the marketplace. As a result of passage of the act, several foreign companies made an affirmative decision to discontinue accepting wagers from US patrons. Others did not.

In the years following the passage of UIGEA, a good deal of business progress continued. Igaming was growing at great speed in markets outside the US. Regulated markets developed in the Isle of Mann, Alderney, Gibraltar and Malta. Importantly, it was also during this time that Italy, France and Spain elected to address the "grey" nature of online gaming and ring fenced their markets. In essence, the economics on online gaming was beginning to bear fruit and individual markets were paying attention.

Uncertainty about whether legal online gaming in the US would come to be was further complicated in April, 2011, an event now commonly referred to as Black Friday. The USDOJ unsealed an indictment and seized the domain names of three major online gaming companies. The indictment related to charges of bank fraud, money laundering and illegal gaming offenses. These indictments had a chilling impact on legalization efforts. However, some argue, including me, that these indictments shed a bright light on the scope of illegal igaming in the US and that, without federal changes, states would likely become the incubators of legalized igaming in the US.

In December 2011, one of the next major milestones was passed and one of the reasons for today's hearing. With federal legislation efforts mired in disagreement, the USDOJ Office of Legal Counsel published an opinion, in essence, countering the previously held view that the Wire Act prohibited igaming at the state level. This opinion was a response to a request by the state of Illinois and the State of New York who were considering online expansion of their lottery products.

As a result of this opinion, the State of Nevada now arguably had its clarity under its law. We began the process of drafting regulations, conducting public workshops, framing testing requirements, and compiled application requirements. In the ensuing months, licenses were issued (June, 2012), systems were tested and online poker commenced (April, 2013).

This brief history by no means covers the decade in full scope but it does give you some important key steps that bring us to today's hearing.

Mark A. Lipparelli

Mark Lipparelli is the founder and CEO of Gioco Ventures, LLC, a development stage technology/investment company and also serves as a strategic advisor to world wide clients in the gaming, entertainment, investment and sports industries. Mr. Lipparelli also currently serves as a Senator in the Nevada State Senate.

In 2013 Mr. Lipparelli completed a four-year term on the Nevada State Gaming Control Board including his final two years as Chairman. Prior thereto, Mr. Lipparelli served in several senior level management positions over a span of fifteen years with the gaming industry's leading technology companies including Bally Technologies, Shuffle Master, and Casino Data Systems.

Mr. Lipparelli currently serves as a member of the Board of Directors of Golden Entertainment, Inc., as a Board Trustee of the University of Nevada Foundation, as a member of the Board of Directors of the National Center for Responsible Gaming and is a co-founder of the newly formed International Center for Gaming Regulation and UNLV.

Mr. Lipparelli served as a Board Trustee and Treasurer of the International Association of Gaming Regulators and was a member of the Gaming Policy Committee and the State Crime Commission in Nevada. In 2011, Mr. Lipparelli was named as *Regulator of the Year* for the Americas by the International Masters of Gaming Law and was named to an Advisory Panel on Sports Wagering to the International Olympic Committee. Mr. Lipparelli served five years as a member of the Board of Directors and two years as Vice Chairman of the Gaming Standards Association.

Mr. Lipparelli graduated from the University of Nevada, Reno with an undergraduate degree in Finance, Master of Science degree in Economics, and is a graduate of the Executive Development Program sponsored by the Institute for the Study of Gambling and Commercial Gaming.