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Internet Gaming Rules Face Long Odds

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By Cindy Skrzycki
Tuesday, March 4, 2008; D02

It's not easy making rules for a U.S. law intended to deter illegal Internet gambling by choking off the flow of funds to offshore sites. That's because no one seems to agree on what the law covers.

Officials at [the Treasury Department](#) and the [Federal Reserve](#) found that out after sifting through more than 200 comments from banks, gamblers, church groups and members of Congress on recommendations for the Unlawful Internet Gambling Enforcement Act of 2006. The basic sentiment was that their Oct. 4 proposal, which depends on financial institution enforcement, won't work.

The outcome will affect 23 million online gamblers, some 2,500 Internet sites and the growth of an industry with an estimated \$15 billion in annual global revenue. The law bars financial institutions from processing payments involving Internet gambling -- with the notable exceptions of Indian gaming, state gaming and horse racing.

"If the federal agencies themselves cannot agree on the law, what hope is there that banks can resolve these confounding legal issues?" the [American Bankers Association](#) said in commenting on a conflict between the Treasury and *Justice* departments on the legality of betting on horses.

The Washington trade group said the suggested rules are more likely to catch its members in a compliance trap than stop profits from illegal gambling from escaping offshore.

The proposal says generally that it covers the making of bets on the Internet that already are illegal under state or federal law. It just doesn't spell out those games of chance.

Banks and other financial institutions would have to make a reasonable effort to stop payments to Internet gambling sites through credit cards, checks or electronic funds transfer.

The final rule is overdue, as regulators review the flood of comments.

"This is an issue that there is so much interest in that we don't want to rush," said *Jennifer Zuccarelli*, a spokeswoman for the Treasury Department. "We are just trying to hear from everyone."

There are a variety of complaints. Gamblers point to what they see as hypocrisy in the proposal. Why hamper Internet gambling, they argue, when states enthusiastically license casinos, and taking long odds on a state lottery ticket is perfectly legal?

Former senator [Alfonse D'Amato](#), a [New York](#) Republican representing the *Poker Players Alliance* in Washington, told the agencies that its constituency should not even be included because poker is a game of skill, not chance.

"What is legal now?" *Joseph Kelly*, a professor of business law at the *State University of New York College at Buffalo* and an expert in online gambling, said in an interview. "God only knows."

"If you operate in [Antigua](#) and take sports bets from the U.S., you are committing a felony," he said. On

the other hand, sports betting is allowed in [Nevada](#) and some other states.

The legal issue is crucial because of conflicting court decisions, differing state laws and applications of older federal laws. Prosecutors and the horse-racing industry have disagreed since 1978 on whether it's legal to bet on horses across state lines. The law said it "is not intended to resolve any existing disagreements over the horseracing law."

Then-Senate Majority Leader and presidential hopeful [Bill Frist](#) (R-Tenn.) pushed the bill through Congress just before it adjourned in 2006.

Almost immediately, big players in the industry such as *PartyGaming* in [Gibraltar](#), which runs the PartyPoker.com and PartyBingo.com Web sites, pulled out of the U.S. market. They had been successful in blocking similar legislation for almost a decade.

"There was a pretty concerted lobbying effort to keep this from happening," *Susan Schneider*, former head of the *Interactive Gaming Council*, a trade association in [Vancouver, B.C.](#), said in an interview.

Antigua, home to some big online gaming sites, objected through the [World Trade Organization](#) to the U.S. crackdown on Internet gambling. The WTO ruled in December that the United States must pay the island nation \$21 million for violating trade rules.

The online gambling industry and its suppliers fear that the proposal to place the burden on legitimate payment operators will encourage gambling operators to set up fictitious accounts as a way around any rule.

Republican Sens. [John E. Sununu](#) (N.H.) and [Pete V. Domenici](#) (N.M.) asked regulators to come up with a list of restricted transactions.

Otherwise, they predicted, "Risk-averse financial institutions will simply choose to block every transaction" that could resemble gambling, "whether legal or not."

Advocates of regulating, taxing and licensing Internet gambling -- as some European countries have done -- think the United States should appoint a federal commission to study those issues.

In the meantime, *Frank Fahrenkopf Jr.*, president and chief executive of the *American Gaming Association*, said many privately owned offshore sites continue to let Americans wager, win and lose.

"Money is fungible, and it gets to where it wants to go," Fahrenkopf said. "I don't know of prohibition of anything that ever worked."

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