

PHOTOCOPY
PRESERVATION

May 9, 2000

11/11/00 -
G. M. M.

MEMORANDUM FOR THE CHIEF OF STAFF

FROM: BRUCE REED
BETH NOLAN
CHUCK BRAIN
KAREN TRAMONTANO

SUBJECT: INTERNET GAMBLING LEGISLATION

This memorandum provides information about the Internet gambling legislation now moving through Congress. The legislation is titled the "Internet Gambling Prohibition Act of 1999," but as we detail below, it is deeply flawed and actually expands gambling in certain circumstances. This legislation has passed the Senate by unanimous consent and was recently reported out by the House Judiciary Committee. It is expected to go to the House floor next week. Because it has a better-than-even chance of final action by both bodies, we wanted to bring the issue to your attention now. We have outlined some options for an Administration position, ranging from a "hands off" approach to a more active effort to block this legislation.

Provisions of the Internet Gambling Legislation

The "Internet Gambling Prohibition Act of 1999," sponsored by Senator Kyl, passed the Senate on November 19, 1999 by unanimous consent. The House version, sponsored by Representative Goodlatte, passed the House Judiciary Committee by a vote of 21-8 on April 6, 2000. Despite its title, the legislation (H.R. 3125) actually expands gambling in some circumstances because of its broad exemptions for bets placed on horse racing, dog racing, and jai alai.

The Department of Justice has two major concerns with the bill. First, DOJ is concerned that H.R. 3125 will overlap with and create inconsistencies in federal gambling laws, impeding effective prosecution. Under current law, for instance, it is illegal to place an interstate bet on a horse race over the telephone; H.R. 3125 would permit that same bet over the Internet. In addition, the bill's Internet-only prohibition may quickly become obsolete as new technologies develop. The bill refers only to the Internet and interactive computer services, and does not leave open the possibility of application to new technologies not yet developed.

Second, and more important, H.R. 3125, exempts several gambling activities from the ban against online wagering, such as horse and dog races and jai alai games. There is no policy

justification for these exemptions. In fact, they have the effect of allowing individuals to bet on dog and horse races from their homes – and giving children and other vulnerable populations unsupervised, unlimited access to such gambling activities. The bill is also internally inconsistent in that it requires bets on state lotteries to be placed at a public lottery outlet, while requiring no such limitation on the other excepted categories of gambling.

DOJ has testified on the bill's shortcomings, but we have not expressed public and forceful opposition. The Department has also drafted an alternative bill that would avoid the problems of H.R. 3125. It would amend existing law instead of creating a new statute to deal with the Internet. And it would allow no exemptions for parimutuel wagering, and create no loopholes permitting bets to be placed from the home. This alternative bill has not yet been introduced.

Political Background and Legislative Outlook

When Senator Kyl first introduced his bill in December 1995, it was supported by a coalition of “family values” organizations, the National Association of Attorneys General, professional sports leagues, and the NCAA. The horse- and dog-racing industries then lobbied Kyl for an exemption, arguing that they should be regulated by the states and not the federal government. Kyl gave them a carve-out, even though there is no greater states’ rights argument for horse racing than for state lotteries. The Senate bill was then hotlined last fall and passed by unanimous consent. Most Senators did not study the bill, and the coalition remained intact.

In the House, however, the coalition has splintered. The Family Research Council, which pushed successfully for the provision barring state lottery gambling from the home, supports the bill. But the Christian Coalition opposes it because the bill still allows parimutuel betting from the home. The National Indian Gaming Association is opposed because the bill expands gambling for parimutuel wagering, but does not do the same for tribal gaming. States and state lotteries are also opposed because they are not treated the same as the parimutuel industry. Internet Service Providers (ISPs) are generally supportive of the bill because it grants them partial immunity, but have not lobbied extensively and have generally kept a low profile. The NCAA supports the bill, fearing that the spread of online gambling could affect the integrity of its games and that college students might be susceptible to huge gambling debts.

If the bill is cleared for House floor consideration, Democrats are unlikely to present vigorous, united opposition. Absent a strong signal from the Administration that opposition is important, Democratic members will likely vote according to the parimutuel interests in their own states. The issue before us now is whether to send such a signal.

Recommendations and Options

We present the following options:

1. Have DOJ become more proactive in arguing against the bill, on the grounds that it

creates problems for prosecutors and exposes children to more gambling in their homes. The Attorney General could send a letter or speak out against the bill.

2. Engage the White House, along with DOJ, in vocal opposition to the bill.
3. Ask House Democrats to introduce the DOJ alternative as a substitute on the floor.
4. Continue with the “hands-off” approach we have taken thus far.

We would recommend Option 2. We believe that the White House and DOJ jointly could take a principled stand against the expansion of gambling. This would allow us the opportunity to reach out to those persons who want to protect children from the dangers of gambling. While we believe we should take a strong stand, we should also recognize that it may be an uphill battle and that we may have a difficult time prevailing, given the history of this issue. Nonetheless, we believe this is a political battle worth having.

May 9, 2000

MEMORANDUM FOR THE CHIEF OF STAFF

FROM: BRUCE REED
BETH NOLAN
CHUCK BRAIN
KAREN TRAMONTANO

SUBJECT: INTERNET GAMBLING LEGISLATION

This memorandum provides information about the Internet gambling legislation now moving through Congress. The legislation is titled the "Internet Gambling Prohibition Act of 1999," but as we detail below, it is deeply flawed and actually expands gambling in certain circumstances. This legislation has passed the Senate by unanimous consent and was recently reported out by the House Judiciary Committee. It is expected to go to the House floor next week, although jurisdictional sparring could delay a floor vote. Because it has a better-than-even chance of final action by both bodies, we wanted to bring the issue to your attention now. We have outlined some options for an Administration position, ranging from a "hands off" approach to a more active effort to block this legislation.

Provisions of the Internet Gambling Legislation

The "Internet Gambling Prohibition Act of 1999," sponsored by Senator Kyl, passed the Senate on November 19, 1999 by unanimous consent. The House version, sponsored by Representative Goodlatte, passed the House Judiciary Committee by a vote of 21-8 on April 6, 2000. Despite its title, the legislation (H.R. 3125) actually expands gambling in some circumstances because of its broad exemptions for bets placed on horse racing, dog racing, and jai alai.

The Department of Justice has two major concerns with the bill. First, DOJ is concerned that H.R. 3125 will overlap with and create inconsistencies in federal gambling laws, impeding effective prosecution. Under current law, for instance, it is illegal to place an interstate bet on a horse race over the telephone; H.R. 3125 would permit that same bet over the Internet. In addition, the bill's Internet-only prohibition may quickly become obsolete as new technologies develop. The bill refers only to the Internet and interactive computer services, and does not leave open the possibility of application to new technologies not yet developed.

Second, and more important, H.R. 3125, exempts several gambling activities from the

ban against online wagering, such as horse and dog races and jai alai games. There is no policy justification for these exemptions. In fact, they have the effect of allowing individuals to bet on dog and horse races from their homes – and giving children and other vulnerable populations unsupervised, unlimited access to such gambling activities. The bill is also internally inconsistent in that it requires bets on state lotteries to be placed at a public lottery outlet, while requiring no such limitation on the other excepted categories of gambling.

DOJ has testified on the bill's shortcomings, but we have not expressed public and forceful opposition. The Department has also drafted an alternative bill that would avoid the problems of H.R. 3125. It would amend existing law instead of creating a new statute to deal with the Internet. And it would allow no exemptions for parimutuel wagering, and create no loopholes permitting bets to be placed from the home. This alternative bill has not yet been introduced.

Political Background and Legislative Outlook

When Senator Kyl first introduced his bill in December 1995, it was supported by a coalition of “family values” organizations, the National Association of Attorneys General, professional sports leagues, and the NCAA. The horse- and dog-racing industries then lobbied Kyl for an exemption, arguing that they should be regulated by the states and not the federal government. Kyl gave them a carve-out, even though there is no greater states’ rights argument for horse racing than for state lotteries. The Senate bill was then hotlined last fall and passed by unanimous consent. Most Senators did not study the bill, and the coalition remained intact.

In the House, however, the coalition has splintered. The Family Research Council, which pushed successfully for the provision barring state lottery gambling from the home, supports the bill. But the Christian Coalition opposes it because the bill still allows parimutuel betting from the home. The National Indian Gaming Association is opposed because the bill expands gambling for parimutuel wagering, but does not do the same for tribal gaming. States and state lotteries are also opposed because they are not treated the same as the parimutuel industry. Internet Service Providers (ISPs) are generally supportive of the bill because it grants them partial immunity, but have not lobbied extensively and have generally kept a low profile. The NCAA supports the bill, fearing that the spread of online gambling could affect the integrity of its games and that college students might be susceptible to huge gambling debts.

If the bill is cleared for House floor consideration, Democrats are unlikely to present vigorous, united opposition. Absent a strong signal from the Administration that opposition is important, Democratic members will likely vote according to the parimutuel interests in their own states. The issue before us now is whether to send such a signal.

Recommendations and Options

We present the following options:

1. Have DOJ become more proactive in arguing against the bill, on the grounds that it creates problems for prosecutors and exposes children to more gambling in their homes. The Attorney General could send a letter or speak out against the bill.
2. Engage the White House, along with DOJ, in vocal opposition to the bill.
3. Ask House Democrats to introduce the DOJ alternative as a substitute on the floor.
4. Continue with the “hands-off” approach we have taken thus far.

We would recommend Option 2. We believe that the White House and DOJ jointly could take a principled stand against the expansion of gambling. This would allow us the opportunity to reach out to those persons who want to protect children from the dangers of gambling. While we believe we should take a strong stand, we should also recognize that it may be an uphill battle and that we may have a difficult time prevailing, given the history of this issue. Nonetheless, we believe this is a political battle worth having.

Subject: Internet Gambling Legislation

----- Forwarded by Eric P. Liu/OPD/EOP on 05/10/2000 01:23 PM -----



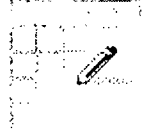
Bruce N. Reed
05/10/2000 01:20:30 PM

Record Type: Record

To: Mary L. Smith/OPD/EOP@EOP
cc: Eric P. Liu/OPD/EOP@EOP
Subject: Internet Gambling Legislation

let's set up a mtg.

----- Forwarded by Bruce N. Reed/OPD/EOP on 05/10/2000 01:20 PM -----



David W. Beier
05/10/2000 10:04:55 AM

Record Type: Record

To: Bruce N. Reed/OPD/EOP@EOP
cc:
Subject: Internet Gambling Legislation

This topic came up this morning at John's meeting before you came into the room. In essence, John agreed with your recommendation to have the WH get more aggressively involved.

I talked briefly off line with Karen and agreed that I would work in collaboration to help you in any way we can. It seems that we could probably benefit from meeting in your office with DPC staff, communications, WH House legis staff, and E Commerce staff. perhaps we should also arrange a staff level meeting with the groups opposed to the bill to get intelligence and perhaps coordinate our efforts. Thanks.

----- Forwarded by David W. Beier/OVP/EOP on 05/10/2000 10:00 AM -----



Anna Richter
05/09/2000 09:20:48 PM

Record Type: Record

To: David W. Beier/OVP/EOP@EOP, Sally Katzen/OMB/EOP@EOP, Andrew F. Schneider/OVP/EOP@EOP
cc:
Subject: Internet Gambling Legislation



Internet Gambling Options Memo.0 This is the memo given to Podesta to discuss at the 8:30 tomorrow.



Get the Internet Gambling
click here

LAW NEWS
NETWORK.com

LegalTimes
.com

The Daily Online
Service for Lawyers
In Metropolitan D.C.

Bruce/Eric
FBI
Mony

A *law.com Site

March 13, 2000

Monday Edition

[HELP: FAQ](#) | [ADVERTISING](#) | [CLASSIFIED ADS](#)

Rolling the Dice on E-Gambling

Internet Gaming Foes Bet on Odd Coalition. But Will it Pay Off?

10/20/00
GWS

By Ron Eckstein
Monday, March 13, 2000

The business of gambling over the Internet is hitting the jackpot: Some 200 companies around the world operate at least 700 online casinos. Roughly 14.5 million players spent \$1.2 billion on virtual gaming last year, and the industry projects revenues of more than \$3 billion by the year 2002.

And Congress wants to shut it down.

In the next few weeks, the House Judiciary Committee will mark up the Internet Gambling Prohibition Act, which would bar gambling businesses from using the Internet to place or take bets. A similar bill has already passed the Senate, and observers on both sides of the debate say the legislation has a decent chance of passing this year.

Supporters say they want to keep living rooms from becoming video blackjack dens where children and addicted gamblers run up huge debts. But a strange brew of family morals politics and the murky world of Internet public policy could undercut the effort even if it's enacted. Thanks to some swift lobbying, the proposed ban carves out some big exemptions for online gambling by any state-regulated industry.

4 FREE ISSUES
of Legal Times



Point Spread: The National Council on

Translation: The bill that aims to rein in online gambling would nonetheless allow online versions of some of the most popular gaming attractions - horse racing, dog tracks, state-sponsored lotteries, and jai alai.

The bill's backers say the exemptions are driven by Congress' respect for state sovereignty. Foes say it's campaign politics through

Point Spread: The National Council on Problem Gambling's Keith Whyte fears the Internet Gambling Prohibition Act might expand "in-the-home gambling." (Patrice Gilbert photo)

campaign politics through and through - lawmakers protecting big businesses back in their home states. They point to Rep. Bill McCollum, a Florida

Republican now running for Senate who supports the bill but whose name is absent from the list of co-sponsors. The exemptions will exacerbate the social problems the bill claims to correct, they add.

"We applaud the concept of the federal government getting involved on this issue, but we are very concerned about the carve-outs," says Keith Whyte, executive director of the National Council on Problem Gambling. "We are concerned that what is termed an Internet prohibition bill will have the result of expanding in-the-home gambling."

All in the Family

When a version of the legislation was first introduced by Sen. Jon Kyl (R-Ariz.) in December 1995, it was quickly trumpeted by a coalition of family values organizations, the National Association of Attorneys General, professional sports leagues, and the National Collegiate Athletic Association.

Lobbyists for the horse- and dog-racing industries had to work hard and fast to make sure their interests were protected. Once they successfully convinced members of Congress to respect the states' right to regulate these issues, they became a wealthy - and unlikely - ally for groups like the Family Research Council, the Presbyterian Church, and the Southern Baptist Convention.

But the bedfellows may have proven too strange for the family values groups, some of which are now abandoning their support for the bill. As a result, the NCAA and attorneys general are left to couple with the racing and jai alai interests as the top advocates for the Internet gambling legislation today.

The opposition to the bill is led by the Interactive Gaming Council, the National Indian Gaming Association, and charitable interests that don't want to be shut out before they can launch their own casinos on the Web.

David Safavian, a lobbyist from Janus-Merritt Strategies, leads a coalition of opponents to the bill. He, in turn, has hired lobbyists from podesta.com.

The state attorneys general claim Internet gambling is one of the few issues where pushing for federal regulation actually enhances state sovereignty.

"Gambling has always been a state issue," explains Wisconsin Attorney General James Doyle, a Democrat. "State gambling policies and laws differ more widely than in almost any other area of the law. From complete gambling prohibitions in Utah and Hawaii to huge commercial casinos of Nevada, Atlantic City, and the Mississippi Gulf Coast, each state has chosen to draw the line on gambling based

on local and state interests.

"The Internet threatens to disrupt each state's carefully crafted choice on gambling policy. . . . It doesn't matter that a person's home state has chosen to prohibit this potentially harmful activity, because the Internet crosses jurisdictional boundaries."

Curiously, the same states' rights argument is used to justify the exceptions in the bill for online horse racing, dog racing, and jai alai; those industries are state regulated. While opponents claim that political muscle secured what some call the "sweet-heart carve-outs," congressional staffers say that their bosses are simply sensitive to issues of federalism.

The American Horse Council, the government relations arm of the equine industry, retains the services of Thomas Davis, of Davis and Harman. YouBet.com, the largest global online horse betting establishment, gets its lobbyists from the stable of Hopkins & Sutter. Henry Cashen, a partner at Dickstein Shapiro Morin & Oshinsky, has represented the American Greyhound Track Operators Association for years. No representative of the parimutuel industries returned phone calls.

In 1998, the American Horse Council's PAC - the Committee on Legislation and Taxation (COLT) - gave \$43,550 to Republicans and Democrats. So far this cycle, they've given \$18,350 to candidates and PACs from both parties.

The motives of the NCAA may seem more pure than those of its accomplices in this fight: The nonprofit athletic association fears a proliferation of gambling could affect the integrity of its games - as it has at Northwestern and Arizona State University in recent years. The NCAA also sees the potential for college students to get sucked into huge gambling debts.

The NCAA has not hired any outside lobbying help, focusing instead on grass-roots efforts. In addition to meetings on Capitol Hill, the NCAA has arranged for college presidents to call their members of Congress to stress the dangers of online betting for athletes and students.

NCAA Assistant Director of Government Relations Daniel Nestel says his group would have preferred a more restrictive bill, but working with the horse- and dog-racing lobbyists has its advantages.

"In a perfect world, we would like a bill with no exemptions," he says. "But we would not have a bill without the exemptions because these [parimutuel] interests are not going to allow themselves to be shut out of the Internet."

The exemptions for race tracks, jai alai, and state lotteries may have been too much for the family values crowd, however. A spokeswoman for the Family Research Council says the group is no longer supporting the Internet Gambling Prohibition Act, but refuses to say why. The Christian Coalition was another early supporter that is now questioning the bill, according to Christian Coalition lobbyist Jeff Taylor.

"I do have concerns about all the carve-outs - the exceptions for this and exceptions for that," he says. "We are definitely re-evaluating our support."

Hill staffers and lobbyists speculate that working on the same side with any gambling interests makes the family values groups uneasy. After all, the family values groups unsuccessfully tried to defeat gubernatorial candidates in the South in 1998 - races where the implementation of state lotteries were the central issues.

The exemptions have become a target for the U.S. Department of Justice, which opposes the bill.

"The department does not understand why the parimutuel wagering industry should be allowed to accept bets from people in their homes, when other forms of gambling have rightly been prohibited from doing so," says Deputy Assistant Attorney General Kevin Di Gregory. "The same concerns we have expressed about children and compulsive gamblers having unfettered access to gambling via the Internet is true whether the betting is on horse races or casino games."

Tribal Opposition



Good Bet: The NCAA's Daniel Nestel says the legislation isn't perfect, but it's a step in the right direction. (Patrice Gilbert photo)

The exemptions have also raised the ire of the the National Indian Gaming Association. The group feels it is discriminatory to allow state-regulated gambling to expand to the Internet while not making the same provisions for gaming run by Indian tribes.

"We're just asking for the same rights as the states to regulate their gaming - no more and no less," explains Jacob Coin, the group's executive director.

Until the tribes are granted a similar exemption, Carlyle Consulting's Thomas Rodgers, who represents the National Indian Gaming Association, is working with Safavian to oppose the bill, which is sponsored by Reps. Robert Goodlatte (R-Va.) and Frank LoBiondo (R-N.J.).

But since the Interactive Gaming Council has the most to lose, it remains the most staunch opponent of the Internet Gaming Prohibition Act. Its 80 member companies are the operators, software suppliers, and vendors servicing the Internet casinos.

Council Chairwoman Sue Schneider argues that the public would be best served if the government chooses to regulate legal gambling sites, rather than enacting a ban that could lead to a black market.

"If you are concerned about the fairness of the games, honest payouts, and the prevention of underage gambling, what you need is a regulatory process - not a prohibition," she says.

The council has set up a Web site, www.profreedom.com, to mobilize online gamblers into a grass-roots political force. Schneider says players sent 40,000 letters to their members of Congress through the site last year.

The most interesting lobbying on the issue, however, is going on in the private sector. Representatives of the software companies involved with casinos are making the case to other high-tech firms that this legislation threatens them too.

Because the bill would obligate Internet Service Providers to disable gaming Web sites, opponents say it pushes ISPs into a gatekeeper role that should make them uncomfortable. They contend that the ISPs could be drawn into investigations of individual sites - setting a dangerous precedent.

But unfortunately for the online gambling community, the high-tech presence in Washington has chosen to keep a low profile in this debate. Afraid of projecting a rogue image of the Web as an open frontier where anything goes, the high-tech establishment is, for now, willing to risk a crackdown on Internet gambling.

Ron Eckstein is a reporter at Legal Times. His e-mail address is reckstein@legaltimes.com.

To order call or visit our web site law.com Books, Software, and More for Lawyers	 COREL <i>Go further</i>	WordPerfect LAW OFFICE 2000		coming soon!
--	---	--	--	---------------------

© 1999-2000 law.com Inc.
© 1999-2000 NLP IP Company
Terms and Conditions of Use

DRAFT

H.R.3125 – Internet Gambling Prohibition Act of 1999 (Goodlatte (R) Virginia and 12 others)

The Administration supports amending existing federal gambling statutes to provide for a prohibition on new types of gambling activities made possible by emerging technologies, such as the Internet. The Administration opposes enactment of H.R. 3125, because it would: create an overlapping, confusing, and conflicting statutory scheme for gambling activities conducted on the Internet; provide broad exemptions for certain gambling activities, such as wagering on horse or dog races or jai alai games; and allow individuals, including children and compulsive gamblers, to use the Internet to engage in activities that would be prohibited in the “real world,” such as placing wagers from their homes. The Administration believes that Internet gambling would best be addressed by amending existing federal laws to ensure that a technology-neutral and comprehensive prohibition of Internet gambling is achieved.

4/16/2000 – DOJ

H.R. 3125, "Internet Gambling Prohibition Act of 1999"

H.R. 3125, the "Internet Gambling Prohibition Act of 1999," would add a new section, § 1085, to Title 18 of the United States Code. The bill purports to prohibit a "person engaged in a gambling business" from knowingly "us[ing] the Internet or any other interactive computer service" to "place, receive, or otherwise make a bet or wager" or to "send, receive, or invite information assisting in the placing of a bet or wager." The bill expressly does not apply to several categories of gambling:

authorized state lotteries, so long as the bets are placed at a public lottery facility and not a private residence;

betting on horse racing, dog racing, and jai alai, so long as the bet is authorized and regulated where the bet is received, placed on a "closed-loop subscriber-based service, is legal both where the bet is initiated and received, and is made in accordance with the Interstate Horse Racing Act of 1978 or with agreements similar to those called for the by that Act;

otherwise lawful bet or wager placed wholly intrastate, so long as the activity is authorized and regulated by the state and placed on a closed-loop subscriber-based service; and

otherwise lawful bets placed on a closed-loop subscriber-based service or private network that is received by a federally recognized Indian tribe, so long as the gambling is conducted in accordance with the Indian Gaming Regulatory Act, and so long as each person placing or receiving a bet or transmitting information is physically located on Indian lands when they place or receive the bet.

The penalty for violating the statute would be imprisonment for not more than four years and/or a fine of up to \$20,000. The bill also makes provision for injunctive relief against violators that may be initiated by the federal government or state authorities. The bill provides immunity to internet service providers (ISPs) under certain circumstances and requires ISPs to disable or deny access to a site when the ISP has received notice from federal or state law enforcement that such site is in violation of this law.

The Department of Justice strongly supports amending existing federal gambling statutes to provide for a prohibition on new types of gambling activities made possible by emerging technologies. That being said, the Department is troubled by H.R. 3125, which would both create an overlapping and conflicting statutory scheme for gambling activities and provide broad exemptions for certain gambling activities and allow individuals, including children and compulsive gamblers, to bet from their homes.

The Department is concerned that H.R. 3125 might overlap with and create inconsistencies in the gambling laws, especially since existing laws already prohibit most Internet gambling. In addition, the creation of an Internet-only prohibition may quickly become obsolete as new technologies are developed. This would result in a continual need to enact a new statute with each advance of technology, which might increase the inconsistencies in the federal gambling laws. In addition, H.R. 3125's limited technological approach to prohibiting Internet gambling may threaten the strength of existing laws, including 18 U.S.C. § 1084, which currently prohibits the use of a wire communication facility to transmit bets or wagers. For example, it is unclear whether sections 1084 and/or 1085, which set forth different prohibitions and penalties, would apply to various Internet technologies.

The Department is also concerned that H.R. 3125 exempts several gambling activities from the prohibition on Internet gambling. For example, wagering on horse and dog races and jai alai games would be permitted over the Internet under H.R. 3125. Indeed, the Department believes that certain betting activities that are currently illegal (i.e., interstate wagering on parimutuel events) would become legal, at least over the Internet, under H.R. 3125 (although such activities may well still be illegal under existing law).

The Department is also concerned that allowing individuals to bet in interstate commerce from their homes may raise serious social issues, including providing children and other vulnerable populations unsupervised and 24 hour-a-day access to gambling activities. While this concern was addressed in H.R. 3125 as it relates to state lotteries by requiring that the bet be placed at a public lottery outlet and not in a private home, no such limitation was placed on the other excepted categories of gambling, thus allowing gambling on horse races, etc., from the home.

In addition, the Internet provides individuals with the ability to hide or make anonymous their identity and the origin of their communications. The Department does not believe that H.R. 3125 adequately assures that identities or locations can be authenticated.

Last, the Department is concerned that H.R. 3125 includes various definitions that are inconsistent with existing laws, raise Constitutional concerns, or are circular or overly expansive in nature.

Given these concerns, the Department of Justice believes that Internet gambling would best be addressed by amending existing laws to ensure that a **technology-neutral and comprehensive prohibition** of Internet gambling is achieved.

TALKING POINTS --draft
FOR INTERNAL USE ONLY
Revised November 1, 1999

6 MRS LNB -
Autent

TALKING POINTS ON INTERNET GAMBLING BILLS

*While promoted as Internet gambling prohibition bills,
Senator Kyl's bill (S. 692) and its companion bill, H.R. 3125, actually expand Internet
gambling beyond what is legal under current law.*

S. 692, sponsored by Senator Kyl, and H.R. 3125, sponsored by Senator Goodlatte, ignore the findings of the National Gambling Impact Study Commission.

The National Gambling Impact Study Commission recommended:

- That the Federal Government prohibit, without allowing new exemptions or the expansion of existing federal exemptions to other jurisdictions, Internet gambling that was not already authorized;
- That states not permit the expansion of gambling into homes through technology and the expansion of account wagering; and
- That all legal gambling should be restricted to those who are at least 21 years of age.

S.692 and H.R. 3125 claim to prohibit Internet gambling, but both bills would actually expand the types of gambling activity permitted under federal law. The Administration proposal does not expand the types of gambling activity permitted under federal law.

- Both S. 692 and H.R. 3125 would permit the interstate transmission of parimutuel bets on horse and dog races over a closed-loop subscriber system. H.R. 3125 would also permit the interstate transmission of wagers on jai alai. Current law prohibits this type of betting and wagering.
- The Administration proposal does not contain exemptions for pari-mutuel wagering or jai alai.

The Kyl-Goodlatte bill provides more opportunities for children to gamble in their own homes, while the Administration proposal seeks to protect children.

- By allowing bets or wagers on closed-loop subscriber systems, the Kyl-Goodlatte bill provides more opportunities to children to bet, particularly in their own homes. The Administration proposal does not allow betting on closed-loop subscriber systems.

The Kyl-Goodlatte bill is not technology neutral, and creates inconsistencies with current law.

- Both S.692 and H.R. 3125 create a new section of criminal law, section 1085, to prohibit certain forms of gambling over the Internet. A statute pertaining solely to Internet gambling would create inconsistencies with existing federal gambling statutes. For example, the Internet as it now exists is a wire communication facility. New section 1085 would permit the interstate transmission of parimutuel wagers over the Internet, yet current law, section 1084 or the “Wire Act” of 1961, would prohibit this same activity whether conducted over the Internet or over the telephone.
- The Administration proposal would not create a new law, but amend existing law, thereby avoiding any inconsistencies.

While both the Kyl-Goodlatte bills and the Administration bill contain an exemption for fantasy sports leagues, only the Administration proposal provides safeguards to protect children and to prevent unscrupulous businesses from billing themselves as “fantasy sports leagues.”

- The Administration proposal seeks to protect children by not exempting fantasy sports leagues that allow the participation by persons under the age of 18.
- The Administration proposal only exempts fantasy sports leagues that provide to each participant the rules governing the conduct of the fantasy sports league.

▪ **KYL-GOODLATTE BILLS**

--Ignores the findings of the National Gambling Impact Study Commission Report

--Allows access to gambling for children in their own homes

--Contains exemptions for pari-mutuel wagering, and in the case of the Goodlatte bill, also an exemption for jai alai

--Changes the status quo with respect to Indian gaming

ADMINISTRATION BILL

--Follows the findings of the National Gambling Impact Study Commission Report

--Does not sanction gambling by minors in their own homes

--Contains no exemptions for pari-mutuel wagering and jai alai

--Recognizes the Indian Gaming Regulatory Act (IGRA) and preserves the status quo with respect to Indian gaming