

Following is an edited synopsis of the panel discussion held at PGRI SMART-Tech on March 22, in New York. You can view a video of the complete presentation at PGRItalks.com.

Edited by Jim Acton
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Panel Discussion

Moderator:
Gordon Medenica
Executive Director,
Maryland Lottery

Panelists:

Mark Hichar
Partner and Head of
Gaming Law Practice
Hinckley Allen Law Firm

Bill Murray
Vice President &
General Counsel
Northstar New Jersey
Lottery Group

Lynne Roiter
Acting President and CEO
Corporate Secretary and
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Affairs at Loto Québec

Philippe Vlaemminck
Managing Partner and Head
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ALTERNATIVE FACTS: ROUNDTABLE ON REGULATORY ISSUES

On March 20, the time of this discussion, exactly two months had passed since Inauguration Day. There was a lot to discuss as to the direction of federal actions as re internet gambling and states' rights to determine regulatory and taxation policy. And where the rubber-hits-the-road: How can government-gaming as an industry fight back against the countless Alternative Facts (e.g. DFS and skill-based gaming are not gambling, legalize and tax commercial operators is a good alternative to government-lottery for channeling economic benefit to society/good causes and protecting the consumer in the games-of-chance sector, iLottery cannibalizes land-based sales, etc.). How can Lottery combat special interests which are influencing the media and legislators at federal and state levels to shape the regulatory dialogue with Fake News?

There are few issues that unite all lotteries, in all countries, than the power of government regulation to determine the future of their business. Regulation is the cornerstone mission-critical issue for government-sponsored gaming. Lotteries need the freedom to operate like a business yet they are constrained to even lobby in the interests of their stakeholders by virtue of their role as government agencies. The growth of gaming on the internet has only complicated matters. As illegal operators are offering access to players through the internet,

individual lottery directors and leaders who reach out to legislators, and others are working tirelessly to protect the interests of lottery stakeholders. Every year in New York, PGRI hosts presentations and panel discussions with some of the key actors in these regulatory battles.

The regulatory panel was a reunion, of sorts, from a year ago and as the participants stated, much has changed in that year. Leading the way was the election of a new U.S. president and the naming of a new

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from poker to Daily Fantasy Sports, lotteries now need to compete on an uneven playing field. The battles are many, on varying terrain, and are critical to the continued growth of lotteries' revenue streams.

Fortunately for the lottery industry, there are dozens of professionals monitoring the situation and fighting for the rights of states and their lotteries. Trade organizations like NASPL and WLA, state Attorneys General,

attorney general, both of whom appear to have strong opinions on gaming. President Trump, of course, has owned land-based casinos and his candidacy was supported by Sheldon Adelson, chairman and CEO of Las Vegas Sands, who wants to prohibit all online gambling, including the entry of lotteries into online gaming. Trump's attorney general, Jeff Sessions, has gone on record stating that

he will review the Department of Justice's 2011 opinion that clarified the Wire Act and determined that the Wire Act does not prohibit states from legalizing and regulating online gaming (except sports betting). U.S. Attorney General Sessions may or may not prioritize his agenda to revisit this USDJ opinion. If he does, however, this could have dramatic impact on the rights of states to enable their own state lotteries to make their products available online.

A veteran of this fight is Bill Murray. Formerly general counsel of the NY Lottery, Bill was at the NY Lottery as it advanced from a mail-in only subscription program to allowing people to register online. At the time, he assumed that was step one towards making a variety of lottery products available for purchase online. But the U.S.

while newly appointed Attorney General Jeff Sessions, who said he was "shocked" by DOJ's 2011 opinion, has promised to give "careful study" to the possibility of a policy reversal even without new legislation, all with the support of casino billionaire Sheldon Adelson.

Mark Hichar is likewise concerned about the impact that actions of the current administration could have on US lotteries. "As the most prominent supporter of the RAWA bill, Sheldon Adelson has famously vowed to spend whatever it takes to get the U.S. Congress to impose a nation-wide ban on internet wagering. It's been reported that Adelson has donated \$100 million to Republican causes, in part to influence legislation banning internet-gambling,"

appointee – without any debate in the U.S. Congress."

Much of the recent discussion around internet gambling has been sped up by the meteoric rise in Fantasy Sports gaming, particularly Daily Fantasy Sports (DFS). DFS is different from Fantasy Sports in that it does not last a whole season. Rather, it lasts a day – you draft your players in the morning, and by the time the games are over in the afternoon or evening, you know who won. In other words, DFS is much more like "gambling" than Fantasy Sports. Another difference is that while regular Fantasy Sports typically focuses on playing year after year in a league with your best friends, Daily Fantasy Sports is usually played more online with random competitors you're matched against. But as Gordon pointed out, the discussions haven't been so much about DFS as about gambling online.

"We all thought that DFS was really just a way for people to legally engage in sports betting," Gordon said. "Recent research has shown that DFS has taken some share from the lottery industry. And the bigger point is that DFS has also pushed the major sports leagues to look more closely at the sports-bettor. The NBA, MLB and MLS have softened their positions on gambling, and seem prepared to accept it under effective regulation. The big gorilla – the National Football League – isn't there yet. But I think they'll come around."

The best defense against those who might want to abrogate the rights of states to allow their lotteries to sell online is to already be there, to have your online presence be a fait accompli that your stakeholders, especially your own in-state legislators, will fight to preserve.

Department of Justice had other ideas and told the New York and Illinois Lotteries that "any intrastate transmission across state lines...is a violation of the Wire Act." Fast forward to 2009 and Bill and others were finally able to meet with the DOJ to state their case as to why U.S. lotteries had a right to sell products on the internet. Two years later, the DOJ released a revised opinion stating that the Wire Act only applied to betting and wagering on sporting events, not lotteries. All settled, right? Well, not exactly. Enter the Restoration of America's Wire Act (RAWA) and other bills that have been proposed in recent years. Senator Lindsay Graham of South Carolina and Representative Jason Chaffetz of Utah (who just announced he is leaving Congress) have urged passage of RAWA to force a return to the previous federal policy of prohibiting internet lottery sales,

Mark said. "Donald Trump voiced his support of internet gambling as recently as 2011, as did Ivanka Trump. One would think that would translate into support of each state's right to decide for itself whether to legalize and regulate internet gaming within its boundaries. But today the world has changed. While President Trump is now in a position where he can actually support states' rights regarding iGaming, he is also in a position where a whole raft of constituents – including Sheldon Adelson, who contributed \$25 million to help the Trump presidential campaign – are likely pressuring President Trump to step away from his prior endorsement of iGaming and now support an iGaming ban." Mark cautions that "We need to be concerned about this because the 2011 ruling of the USDJ could be rendered ineffective by the Attorney General – President Trump's

One of the largest barriers to legalized sports betting, and the barrier that separates the United States from the rest of the world, is the National Collegiate Athletic Association (NCAA). College sports, as overseen by the NCAA, are a ratings behemoth for television and a lucrative revenue source for legal and illegal land-based gambling. Due in large part to the fact that the games, for the most part, are played by 18-22 year-olds and are considered amateur athletes, the NCAA has long fought against legalized sports gambling.

Absent the anti-betting actions of a college athletics association like the NCAA, Europe has been able to grow sports-gambling, thanks in large part to lotteries. Philippe Vlaeminck has followed the progress as it has grown from basic pari-mutuel betting to the more-popular fixed

odds betting. Margins on sports gambling are much tighter than in traditional lottery games. Online gambling and sports-betting are an important part of the portfolio of products, but mainly to position Lottery as a full-service games-of-chance destination and to attract players from other game

your own in-state legislators, will fight to preserve. Retailers are a valuable stakeholder and powerful politically as well, so addressing their concerns and overcoming opposition from distribution partners is a rather important first step.”

after all, an asset owned by the government of the people. Elected officials owe it to their constituents to at least consider the input of their own lottery directors in their quest to formulate the policies that serve the best interests of their constituents. Eliminating illegal gambling, channeling economic

Eliminating illegal gambling, channeling economic benefit away from criminals and towards the support of good causes, is an agenda that should be supported by responsible legislators. Enabling their lotteries to stay connected to their customers in the online world is the way to do that.

categories over to higher margin traditional lottery games. “With payouts up to 95%, the payout in online gambling is substantially higher than lottery,” Philippe said. “Players do respond to the higher prize payouts and the easy access of online gaming. That is why it is important for the lotteries in the United States to make their products available online. Traditional lottery products continue to hold tremendous consumer appeal. But if you combine the higher prize payout of other online gambling products with a lack of presence of traditional lottery in the online universe, traditional lottery is vulnerable to losing market share. *It is vital that traditional lotteries do whatever can be done to minimize attrition to online gaming categories.* Once players migrate to higher prize payout online games, it is quite difficult to get them back. Conversely, the digital market-place is a fabulous platform for traditional lottery operators to refresh their connection to the consumer and augment the overall value proposition of lotto and instant scratch-offs to their players.”

The sentiment was echoed by Lynne Roiter. “Given the brand recognition of U.S. lotteries and the stability of the lottery monopoly model in the U.S, it is clear that right now is a crucial window of opportunity for state lotteries to establish their online presence and connection with the consumer. The best defense against those who might want to abrogate the rights of states to allow their lotteries to sell online is to already be there, to have your online presence be a fait accompli that your stakeholders, especially

Retailers are not only a vital stakeholder, they have power to interfere with lottery’s ability to move online. Insofar as they believe lottery’s initiatives to sell online compromise their own financial interests, they are inclined to oppose such initiatives. The impact of retailers was evidenced recently in Virginia where a bill to allow iLottery products has been delayed at least partly as a result of the vocal opposition of retailer groups.

“There is so much data from all around the world, from the Canadian lotteries as well as WLA members in Europe and Australia, that must be shared with American lotteries,” Lynne said. “The data shows that online sales have not negatively impacted the sale of traditional lottery products at retail. That empirical fact applies not just to some lotteries and markets, but to almost all. The whole world can’t be wrong! The American markets and the markets in other countries aren’t that different. We sell in the same kind of stores, we pay about the same commissions. We offer similar products. I hope that this reality, the years and even decades of real-world data, can help the U.S. lotteries make the case for online gambling, or at least iLottery.”

“It’s no secret that the U.S. is the country with the strongest sports betting market on the internet, in spite of being illegal,” she added. “I know it can be difficult for lotteries to exercise influence on the process of formulating regulatory policy. But their cause benefits society, their aim is true, and hopefully shapers of public policy appreciate the value of their concerns. The lottery is,

benefit away from criminals and towards the support of good causes, is an agenda that should be supported by responsible legislators. Enabling their lotteries to stay connected to their customers in the online world is the way to do that.”

Gordon pointed out that it is not just sports betting that operates on very low margins. All online gambling, including Fantasy Sports and DFS, operates on very low margins. The issue is not so much about increasing sales and funds to lottery beneficiaries. It is about staying relevant to the existing base of players, making lottery available to the next generation of players who rely on digital commerce, positioning lottery with the tools to combat illegal gambling, and channeling economic benefit to society.

There is one important benefit to the delayed entry of U.S. lotteries into the online world. They now have the benefit of real-world data to support their argument that making their products available online augments retail sales and is mission-critical to the long-term sustainability of lottery. And they have the benefit of colleagues from around the world who can provide insight and guidance on how to make the case to our political stakeholders who determine public policy. These experts will be invaluable resources as lotteries decide which path they want to take towards ensuring that they are positioned to compete and win in a highly competitive games-of-chance market-place. ■