



Research Brief: U.S. House Hearing on Sports Betting September 27, 2018

Today, The United States House of Representatives Judiciary Committee held a hearing entitled “Post-PASPA: An Examination of Sports Betting in America.” The subcommittee on Crime, Terrorism, Homeland Security, and Investigations, chaired by Representative Jim Sensenbrenner (WI-5), heard testimony from five stakeholders related to sports betting. This included, in the order presented:

- Jocelyn Moore, Executive Vice President, Communication and Public Affairs with the National Football League
- John Warren Kindt, Professor with the University of Illinois
- Sara Slane, Senior Vice President of Public Affairs with the American Gaming Association
- Jon Bruning, Former Nebraska Attorney General and Counselor to the Coalition to Stop Online Gambling
- Becky Harris, Chairwoman of the Nevada Gaming Control Board

Each witness provided a brief overview of their written testimony to the committee, which was then followed by a robust question and answer period on a host of issues surrounding sports betting, online gaming, the Wire Act, the Unlawful Internet Gambling Enforcement Act (UIGEA), and overall integrity issues to the game.

HIGHLIGHTS FROM THE HEARING

Ms. Moore from the National Football League (NFL) kicked off with her [testimony](#), asking for Congress to be a partner with the NFL in creating a federal framework for sports betting. Among the highlights of the NFL’s federal framework include the following pillars:

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- Ensuring a legal, regulated sports betting framework with substantial safeguards for consumers
- Provide adequate monitoring and enforcement tools for federal and state law enforcement to protect NFL Fans and penalize bad actors here at home and abroad
- Protect league content and intellectual property.

These points were further highlighted when the NFL discussed its desire to establish key criteria for state regulatory entities to protect the integrity of sporting contests with strong state regulatory bodies and enforcement. The NFL also seeks a prohibition on wagering for persons under the age of 21. It would seek to require sports betting operators to use official league data as a further method to ensure the integrity of the game; to preclude “risky” betting on in-game bets on topics such as how many flags are thrown in a game; as well as to prohibit insiders from betting on contests that may involve an athlete, coach, referee, other staff member, or employee. Responsible gaming measures and resources were also suggested by Ms. Moore.

Professor John Warren Kindt was the second witness to testify, representing the National Stop Predatory Gambling Coalition. While there was not an available link to Professor Kindt’s testimony at the time of this research brief, he provided an antigaming perspective to the Committee. Highlighted by his desire to have any legal gaming entity to act responsibly, he further expressed his desire to stop gaming, as he viewed it as “a big con game,” and to “stop turning people into habitual betters.” The witness did raise some concerns that other markets have experienced, such as the United Kingdom, with regard to advertising during contests and the sponsoring of teams as well as exposure to underage individuals. He also claimed that that gaming industry knows more about their players than Google.

Sarah Slane, from the American Gaming Association, provided [testimony](#) to represent the commercial and tribal gaming perspective. Ms. Slane highlighted, as GMA has pointed out through its research on the sports betting market, that sports betting is a low profit margin business. The existing regulated market that has operated for over five decades in Nevada, and the recent expansion in Delaware, New Jersey, Mississippi, and West Virginia, continue to create a highly regulated environment that has to be held to the highest standards and work with both state and federal regulations. The AGA continues to advocate to transform the existing illegal market in to a transparent, open market through five policy goals:

- Promoting responsible gaming and responsible advertising through the expansion of existing programs, research, and codes of conduct in the industry



- Protecting sports integrity through communication between the gaming industry and sports body, and further use of technology to track legal wagering and identify suspicious activity
- Discouraging the enactment of legislative preference for specific business interests that should not be held in statute, but can be covered and already has been developed through private contracts through the marketplace
- Empowering state and tribal regulations that are a core for the existing gaming market and can be the cornerstone for further and strict regulation for sports betting
- Placing consumers first in the marketplace by producing convenience to the customer while having protections to preserve the integrity of the game.

Former Nebraska Attorney General Jon Bruning delivered his [testimony](#) from a law enforcement point of view, although he currently serves as counsel to the Committee to Stop Online Gambling. The committee has been an advocate against online gaming for several years and is backed by Las Vegas Sands Chairman and CEO, Sheldon Adelson. Bruning focused on three major points in addressing the expanding sports betting market that he referred to as the “wild west.” The first of these points was that the U.S. Supreme Court decision on the Professional and Amateur Sports Protection Act (PASPA) created an opportunity for criminal organization and potential exploitations of individuals. Congress needs to act on the issue to provide federal guardrails that would work in conjunction with states to put in protections, while allowing states to earn revenue from legal online sportsbooks and gambling. He continues to advocate that the Wire Act needs to be restored, as well as the enforcement of other federal acts including UIGEA, to combat the illegal market. The Department of Justice (DOJ) issued an opinion through a 2011 memo that has been used as the current interpretation for online wagering. Bruning highlights this by stating:

Even though the Supreme Court tossed the federal sports betting ban, online sports betting is still illegal. The Wire Act applies to all forms of gambling and even under DOJ’s current interpretation, the Wire Act applies to sports betting. This means sportsbooks wanting to hedge their risk by establishing a national pool, creating interstate compacts, or laying off bets across state lines – all would do so in violation of the Wire Act.

Chairwoman of the Nevada Gaming Control Board, Becky Harris, concluded the hearing with her [testimony](#) highlighting the regulations and performance of sports betting of Nevada over decades. By utilizing the most detailed information provided to the committee, she emphasized the consumer protections and stop gaps that continue to be in place through a strictly regulated environment in Nevada. This includes the ability to track every bet that is placed, having auditing



measures that allow regulators to view transactions, and the ability to address any grievances that exist head on. She disputed the notion that betting today in Nevada allows for the “one off” exotic bets (such as will a kicker miss the kick wide left or wide right) or other measures that organizations continue to bring up as subterfuge in the debate. States are in the best position to regulate sports betting. Additionally, existing operators and the regulators in Nevada have been the ones to identify any nefarious activities that have occurred through the years. She also discussed the effort to create an organization with the University of Nevada, Las Vegas (UNLV) that would allow all operators, leagues, regulators, and other interested parties to voice their concerns and share information.

Following the testimonies was a question and answer period that focused on a host of issues. There were a significant number of questions regarding the existing illegal market and how to challenge this group of operators that do not pay taxes or provide consumer protections amongst many things, such as problem gaming. This also led to questions on the current enforcement of UIGEA and the Wire Act. Through a letter that was jointly submitted by the professional players associations from several leagues, concerns were raised on how to protect players, staff, and families. Additionally, questions were raised on how to protect student-athletes at the collegiate level. All of the witnesses provided wide ranging opinions on how best to address these concerns through existing federal and state legislation, as well as the desire to expand the reach of the federal government into the sports betting marketplace.

POTENTIAL IMPACT ON THE EMERGING SPORTS BETTING MARKET

Global Market Advisors continues to remain steadfast that universal Federal Sports Betting Legislation remains unlikely as it would be in direct conflict with the sovereignty of states that already provide the regulation of gaming, as well as the principles of overturning of PASPA. The only thing that would be agreeable amongst all of the witnesses testifying today is to go after the illegal, off shore books that have been operating for years. While there are other issues of enforcement that come into question with regards to the Wire Act and UIGEA, those issues have been held up by interpretation over the years within the bureaucracy of the federal government. The other caveat for federal legislation may be how states have the jurisdictional ability to follow illegal activity that may be occurring within their own jurisdiction that is traced back to an operator outside of the United States.

The subcommittee as well as the witnesses offered a variety of opinions and suggestions as it related to other measures to federally regulate sports and online betting. The committee did conclude that they will be taking this issue up again in the future. This is further cemented by Senator Chuck Schumer’s (NY) comments a few weeks ago regarding federal legislation in support



of the professional leagues, which remain his constituents in New York City. Additionally, Senator Orrin Hatch (UT) has stated that he will be providing a federal framework on the issue, although he is retiring from the U.S. Senate at the end of this year.

GMA believes that any complete package on federal legislation would take years to pass considering the existing political environment in Washington, D.C. The gaming industry in the early 2010s was not able to find consensus with Congress on how to implement a Federal framework to regulate online gaming. It will be more challenging for that to occur now, not only because of the environment, but also because of the division within the gaming industry and the addition of other stakeholders including the professional leagues and the NCAA. While some of the witnesses have suggested the implementation of federal guardrails, this may interfere ultimately with state sovereignty with their existing gaming regulations. However, modernizing the existing Wire Act and UIGEA may still be considered. There will continue to be differing views as to how those will best be addressed to bring further compliance and ability for sports books to continue to act with integrity. However, it is clear that Congress will continue to debate this in the months and years ahead.

While states have the ability to regulate sports betting, they also could put measures in to combat illegal sports betting that occurs within the borders of their state. Former Attorney General Jon Bruning discussed how his home state of Nebraska needed protections against sports betting. However, sports betting occurs today in Nebraska, as can be seen by comments raised by former Nebraska Football Coach Tom Osborne in an interview shortly after the ruling by the U.S. Supreme Court on PASPA. He discussed how he was frequently approached by fans that had a wager on the game for not scoring enough, or too many points. GMA, like the AGA and other key stakeholders in the industry, believes that this is just another prime example of why the sports betting market needs to be legalized in order to bring it out of the shadows of the alleys and to the forefront through proper regulation.

Over 30 states and territories are actively having discussions on what sports betting may look like within their jurisdictions. Each state and territory provides a unique environment on how they regulate their own market between brick and mortar casinos or other gaming, tribal, lottery, and horse racing. Integrity first and foremost occurs in the laws and regulations set forth by these states to address their individual needs. This continues to remain the best form of action against the illegal sport betting activity that goes on today.

GMA has released a series of information pieces on sports betting including a white paper titled, [“An Examination of Sports Betting in America & Forecast of Revenues by State”](#) highlighting the opportunity as well as research briefing discussing the [“Economics of Sports Betting.”](#) GMA estimates the market potential between \$29.2 billion to \$138.0 billion in wagers. However, it



has noted that in order for the market to succeed, it must be regulated and taxed properly while addressing the existing illegal sports betting market. GMA continues to stay at the forefront of the sports betting issue and will be releasing additional research briefs and insight as states legalize and bring integrity to the marketplace.

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