RESPONSE TO NCLGS REQUEST FOR PUBLIC COMMENT ON THE DEVELOPMENT OF AN INTERSTATE POLICY FRAMEWORK FOR THE REGULATION OF INTERNET GAMING

(January 31, 2014)

NCLGS is seeking public input on the following specified issues, however, comments addressing other issues not included here are welcome. In addition, comments addressing some but not all of the issues will be accepted. Please feel free to include sample legislative language, if you wish, where it would be responsive to the questions below. NCLGS may seek further rounds of public comments in the future.

1. Does your group, entity, government, or regulatory body support, oppose, or remain neutral on the legalization of Internet gaming, in whole or in part, and if so why?

   The Council on Compulsive Gambling of New Jersey, Inc. remains neutral on this issue and on expansion of gambling generally. This is a matter of organizational policy. Our focus is on assisting and advocating for problem gamblers, their families, and other affected by this addiction.

2. What types and forms of gaming (casino-style games, peer-to-peer poker, lottery games, etc.) does your group, entity, government, or regulatory body believe should be permitted or restricted for play over the Internet on an intrastate and/or interstate basis, and why? [Please do not address wagering on sporting events.]

   We do not take a position on this matter, but we believe that there should be careful attention to the impact and potential risks associated with all forms of gambling.

3. What issues (uniform technological standards, problem gambling protections, legal compliance, etc.) are a priority for your group, entity, government, or regulatory body in any future multi-jurisdictional Internet gaming agreement, and why? [Please list in order of most to least important.]

   We are most concerned with problem gambling protections, and secondarily with legal compliance/enforcement.

4. If states, and potentially other governmental entities, seek to enter into multi-jurisdictional Internet gaming agreements or compacts, what federal legal concerns does your group, entity, government, or regulatory body have, including but not limited to, compliance with the U.S. Constitution, the Unlawful Internet Gambling Enforcement Act, 31 U.S.C. §5361 et seq., the Indian Gaming Regulatory Act, 25 U.S.C. §2701 et seq., and the Illegal Gambling Business Act, 18 U.S.C. §1955?

5. What are the best and worst regulatory models for intrastate Internet gaming, and why? [Please indicate if (a) there are multiple models that your group, entity, government, or
New Jersey has recently implemented legislation and accompanying regulations that include a number of key protections and policies to address problem gambling issues. These rules should be viewed as a work in progress, as some issues are emerging and will likely continue to emerge in the course of implementation. The process has allowed for ongoing dialogue between the problem gambling community, regulators, and the industry on responsible gambling issues. This is a definite strength and a model that should be considered by other states.

6. What are the best and worst regulatory models for interstate Internet gaming, and why? [Please indicate if (a) there are multiple models that your group, entity, government, or regulatory body support; (b) if there are regulatory models that your group, entity, government, or regulatory body do not support; (c) if there should be differing regulatory models depending on the gaming product being offered; and (d) if there are particular models that are better or worse depending on the size and experience of any jurisdiction that wishes to participate in Internet gaming.]

7. If states, and potentially other governmental entities, seek to enter into multi-jurisdictional agreements or compacts, what are some potential legal impediments in current and proposed state laws (restrictions on server location and/or bet location, differing suitability determinations, etc.), and how could such issues be addressed in any multi-jurisdictional agreements?

Enforcement is a critical issue, particularly as it applies to under-age and problem gambling concerns. The jurisdictional boundaries should be delineated up front, especially with respect to operators who hold licenses in multiple states.

Additionally, because fines and penalties on operators are often directed toward support of problem gambling services, there could be significant impact upon an individual state’s funding and services if fine monies are allocated in a different manner.

NJ has imposed annual assessments on on-line operators for problem gambling services. A reduction in the number of licensed in-state on-line operators would serve to reduce statewide funding for PG services, without a concomitant reduction in need or demand. Inter-state agreements could well reduce the number of in-state licensees or allow for shopping among states for the lowest tax rates or most permissive regulatory structures.

A related issue is how revenues in the inter-state pool will be divided across states. There is variation in tax rates among states and the potential for some to lose revenue in an inter-state competitive environment.

8. What suggestion or recommendations does your group, entity, government, or regulatory body have regarding the appropriate balance of legislative authority and
regulatory authority required to effectively regulating Internet gaming on both an intrastate and interstate basis?

Our observation is that statutory language will usually be broad in scope and that the detailed requirements will need to be addressed during rule making. The statute should be enabling in nature and include an upfront mention of problem gambling and player protections. Statutes should not preclude the regulatory agency from addressing issues that were not anticipated or spelled out in the statute or that are necessary for public protection.

9. What suggestions or recommendations does your group, entity, government, or regulatory body have regarding the inclusion of bad actor clauses (i.e. clauses prohibiting or limiting market access by certain companies, individuals, and/or assets based on past actions) in any intrastate Internet gaming legislation or any interstate Internet gaming agreement?

10. What suggestions or recommendations does your group, entity, government, or regulatory body have regarding how any Internet gaming legislation should be structured to appropriately account for future technological innovations and advances?

11. What suggestions or recommendations does your group, entity, government, or regulatory body have regarding the inclusion of problem gambling protections in any intrastate Internet gaming legislation or any interstate Internet gaming agreement?

Interstate agreements will need to address self-exclusion and forfeiture of winnings by prohibited persons. It is recommended that persons excluded by any participating state be included in a consolidated self-exclusion list.

Limit setting, time outs, and other protections that are applicable to in-state residents should be extended to out of state play by those residents. It is not clear at this point how differences in rules might be resolved.

Advertising and marketing messages should contain a help message and helpline number. We recommend that the existing numbers and messages required by individual states continued to be used within those states. Readability and effectiveness of messaging is critical in reaching problem gamblers who need help; it is essential that these requirements be stated clearly up front and that there be appropriate enforcement actions and penalties for non-compliance.

12. What suggestions or recommendations does your group, entity, government, or regulatory body have regarding the inclusion of geo-location, age verification, and identity verification, in any intrastate Internet gaming legislation or any interstate Internet gaming agreement?

Age and identity verification are critical components of any Internet gambling program and may be difficult to verify across state lines.

Submitted by:
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