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Net Gambling: Why Wait?

Traditional casino companies could find paradise in offshore betting after all.

Last summer, the Nevada legislature gave the state gaming commission permission to consider licensing and regulating online casinos. That's great... but at least one casino doesn't care to wait.

During the past five years of Internet gambling debate, advocates and opponents held one belief in common: the big U.S. casino companies wouldn't launch online casinos without the blessing and backing of U.S. authorities. If Las Vegas was to get into the business of virtual betting, it'd be on American turf and American terms.

Last year that changed. Now it seems that U.S. companies could cut their teeth in the offshore cyber-casino business without jeopardizing their assets at home, long before online betting is legal here. As other jurisdictions move toward sound regulation and consumer protection -- and technology allows companies to verify the locations and identities of customers -- offshore servers are a more appealing draw.

So far only one Las Vegas casino has embarked on that path -- hardly a mass exodus -- but if that venture succeeds, others will surely follow.

The root of this (potential) trend is frustration with U.S. gambling law, which is no more hospitable today than in 1997.

Since then, many states have explicitly banned Internet gambling, while most others have declared it illegal based on existing state and federal law. Even in Nevada, state gaming authorities are just starting the study stage.

On the federal level, Rep. Bob Goodlette (R) is still trying after five years to block Internet casinos. This year's bill to "modernize the prohibition against interstate gambling" would amend the Wire Act of 1960 to forbid the transfer of information or funds into any jurisdiction where online gambling is not allowed.

Another bill, filed by Rep. John Leach (R) would target financial companies by prohibiting the use of credit cards, electronic transfers and checks in unlawful Internet gambling. Debts accrued using credit cards would be unenforceable, and companies that knowingly allowed these transactions would be fined.

"Unlawful" is a key word in both bills; ostensibly, they would not apply to states that authorize online gambling in the future. Many industry observers predict that neither measure will survive unless attached to other bills pertaining to terrorism or money laundering.

Some say it's a moot issue anyway, since credit card companies are voluntarily doing what Leach wants to mandate by law.

According to a widely read Jan. 21 article in the *New York Times* (A Credit Crisis for Web Casinos), a growing number of credit card companies are refusing to deal with cyber-casinos because customers often deny that they gambled or fail to pay their losses.

According to a compilation of news reports, U.S. companies that won't work with online casinos include First USA, Wells Fargo, Chase, American Express, Discover and Providian. In the *New York Times* story Visa and MasterCard don't have blanket bans, but Visa closely audits gambling transactions and MasterCard forbids any transactions through third-party processors, which are more easily masked.

An executive with one third-party processor said that last year 25 percent of the transactions he attempted to process for online casinos were rejected by credit card companies. As a result, gambling sites that allow U.S. wagers have seen a steep drop in revenue, sometimes resulting in closure.

Without credit card companies, it's a lot harder for online casinos to deal with U.S. customers. Electronic funds transfers and checks are alternative options, but far less convenient. The other choice is to use dishonest processors that deceive credit card companies about the nature of gambling transactions.

Right now this predicament shouldn't matter to cautious online casinos, which wouldn't be targeting U.S. customers anyway. But will credit card companies continue to shun cyber-gambling if it becomes legal here?

The courts have actually been split on the enforceability of online gambling debt. In two California cases, courts wiped away tens of thousands of dollars in credit card debt racked up at online casinos.

But in February 2001, a federal district judge in Louisiana dismissed the consolidated cases of gamblers from several states who'd sued Visa and MasterCard to escape their online gambling debts.

Judge Stanwood Duval declared that the Wire Act of 1960 applies to sports betting, not online casinos.

"Internet gambling in connection with activities other than sports betting is not illegal under federal law," Duval wrote in his opinion. "At this point in time, Internet casino gambling is not a violation of federal law."

In one sense the ruling turns conventional wisdom upside-down, leaving a doorway to prosecute online sportsbooks (the more widely accepted form of online gambling) but not online casinos.

Apparently that ruling has done nothing to assure credit card companies that they're on firm ground. It's extremely unlikely that they'll accept cyber-casino transactions while Internet gambling is still unwelcome in the U.S.

Meanwhile, the profitable business of online gambling licensing and regulation is spreading in jurisdictions outside the U.S.

In September, MGM Grand became the first major U.S. gambling enterprise to plunge into online gambling. It received one of three licenses granted by the Isle of Mann, a British dependency which intends to offer tightly regulated and secure Internet gambling.

Operators will be forbidden to serve locations where online wagering is banned, to allow underage players, or accept credit-based bets. Players will set limits for themselves, and each casino will keep approximately $3 million in reserve to guarantee winnings in case something happens to the business.

MGM is taking a bold and possibly revolutionary move. The reward could be a great advantage in experience, technology, and branding over big-name rivals. If successful, MGM's adventure could also pave the road for acceptance among leery regulators traditional casino executives who don't believe regulation is possible.

That success relies upon technology that promises to shield MGM's site from U.S. players. Due largely to demand from other industries and governments, today's high-tech security companies are peddling solutions ranging from fingerprint recognition devices to geolocation services. Some companies claim they can identify countries of origin with a 98 percent accuracy rate; conservative reports put the accuracy rate at 70 percent to 90 percent.

But is 98 percent accuracy -- or even 99.9 percent -- close enough?

Thus we come full circle to U.S. lawmakers and courts. For casino companies with properties and licenses in the states, not even good technology and a foreign license offer complete security.

Hostility at home means less lenience for casinos when U.S. users deliberately commit fraud or outwit location systems to place bets -- which is bound to happen from time to time.

It also means that the deep market of U.S. gamblers could remain off-limits to law-abiding enterprises for years to come. There's much profit to be made from gamblers in other nations, but eventually cyber-casinos like MGM will want to tap the eager American market -- even if their servers stay offshore.

For these reasons, U.S. operators should continue to watch -- and participate in -- legislative debates and court cases affecting online gambling. Domestic Internet gambling policy is still important, if not as directly as before.

The process of proving that online gaming regulation can work is also important. Today's online leaders have the chance to develop the technologies, payment systems and business practices that make lawmakers, consumers and colleagues snap to attention. Remember that we are building a system, not fighting one.

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