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TESTIMONY OF FRANK CATANIA

BEFORE THE HOUSE SUBCOMMITTEE ON CRIME

HEARINGS ON H.R. 556 AND H.R. 3215

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Mr. Chairman and Members of the Committee, I would like to thank you for the opportunity to testify today on H.R. 556 and H.R. 3215. I believe I bring some expertise on gambling policy to this debate, having served as Director of the New Jersey Division of Gaming Enforcement from 1994 through 1999. Since leaving that position, I have established a consulting business to assist states, foreign governments, and companies establish strict regulations for the oversight of gaming. Among my clients is the Interactive Gaming Council (IGC), and it is on their behalf that I appear today.

The Interactive Gaming Council is an international non-profit trade association of over 100 companies around the globe that are involved with the interactive gaming industry. Members are operators of Internet gaming sites, software suppliers, e-commerce providers, information-providers or other companies involved in the industry.

The IGC is an advocate for regulation of the on-line gaming industry and comprises the portion of the industry that does not subscribe to a "Wild West" approach to on-line gaming, but instead adheres to an industry code of conduct, where players' rights are protected, sites operate in a

reasonably transparent fashion, and operators comply with the licensing and regulatory policies of the jurisdictions in which they operate.

I would like to present, for your consideration, my arguments with regard to licensing and regulating, rather than prohibiting, Internet gaming. My support for Internet gaming regulation is concentrated on the exact issues raised by opponents of Internet gaming and proponents of complete prohibition. It is my contention that the solution lies in a strictly regulated alternative aimed at ensuring the presence of harm minimization measures, not the least of which relate to the protection of children and compulsive gamblers. The key issues of such an approach are protection of minors, appropriate problem / compulsive gambling measures, protection of revenue and the integrity of products and probity of those involved.

In land-based gaming, jurisdictions devote significant resources to preventing minors from gambling. Obviously, the physical presence of minors helps to facilitate their identification. Yet, even with the opportunity presented by the physical presence of minors, no gaming jurisdiction is 100% effective in keeping minors from gambling. By contrast, many tools, including data cross checks and age verification software, are currently available to exclude minors from participating in gambling on-line. I contend that stringent computerized screening mechanisms implemented by Internet gambling operators, and monitored by regulators, will be more effective than existing land-based measures in preventing most minors from gambling. This is one of the areas of control that needs to be addressed by regulation and not prohibition. With new technologies there is the need for a stringent registration process for players wishing to participate in interactive gambling. Coupled with this should be equally stringent verification procedures for each time a person wishes to participate in any form of gambling. New technologies actually provide regulators with tools not previously available in most traditional forms of gambling, including the ability to provide an audit trail for each transaction, to limit players to total or individual amounts bet, and to block participation by specified players or classes of players, such as college athletes.

Similar arguments have been made regarding problem gamblers. That is, if they must be present in a casino to gamble there is more of a chance that they can be identified and assisted. But is this assumption accurate? How many problem gamblers are actually identified and assisted by casino personnel? It would appear that a computer-based system that allows a gambler to self-exclude or to establish loss limits stands a far greater chance of being effective than the systems in place in most casino jurisdictions today. In fact, computer technology provides an opportunity to

identify patterns of behavior that may lead to problem gambling, and offer intervention in a more timely and critical manner. Sure, a gambler who is determined to gamble can move from Web Site to Web Site, but a gambler who is determined to gamble could move from one form of land-based gaming to another, including government-run lotteries. While this does not justify on-line gaming it does highlight the inconsistency in some of the arguments put forward by prohibition proponents.

As I make my point for consideration of strong regulation of Internet gaming, there will be those who seek to prohibit Internet gambling based on a feeling that gambling is immoral, or has adverse consequences for the moral fiber of society. This is a fundamental question about the role of government, as to whether the state should protect the individual from himself by minimizing temptations. My only response to those who hold this position is that government-enforced morality has a consistent record of failure, and we need look no further than the March Madness pools in our own offices to understand why.

Another reason for prohibition debate is the one that drives the sponsors of these bills – the feeling that unregulated gambling creates societal ills for a minority of problem gamblers that outweigh its benefits to the majority who can enjoy it without adverse consequences.

Internet gaming already exists. The most recent statistics state there are as many as 1,400-1,650 gaming Web Sites currently operating, a significant increase from only one year ago. Billions of dollars are reportedly being bet over the Internet with little, if any, oversight or guarantee that the operators of these sites are fair and honest or that protections are in place to keep children and compulsive gamblers away. These revenue projections imply that a percentage of these monies are from our citizens and leave the United States with no subsequent benefit, directly or indirectly, to the U.S. or any state (including no dedicated funds for protecting children and problem gamblers through education or other programs).

The IGC believes regulation will do far more to restrict the social ills that attend problem gaming than will any attempt at prohibition. And unlike prohibition, strict regulation will work. I submit to this committee that the question before you is not whether or not you will have on-line gaming – you most certainly will, unless you ban the Internet itself, but the question is whether you will have well regulated, above-board on-line gaming or unregulated, underground on-line gaming. The bills before you opt for the latter.

There is also the question of means of prohibition: A fundamental question before you is the wisdom of deputizing financial institutions and others in seeking to prohibit on-line wagering. While technically it may be possible to limit Internet gaming through content controls, this solution would come at a great cost. Technical solutions, of which none would be 100% effective, could potentially degrade general Internet performance and most certainly would involve a significant intrusion into an individual's right of privacy. A complete prohibition by placing financial controls on this activity would "deputize" financial institutions as the "Internet police." This, in my view, would establish a bad precedent for control of Internet content and possibly hinder this medium's growth.

A clear distinction needs to be made between attempts to regulate the Internet and attempts to regulate gambling. If a type of gambling product is permitted within the jurisdiction then the nature of the medium should not affect the nature of what is being regulated. If gambling is lawful, the means of distribution should not affect the lawfulness. That being said, use of the Internet, as well as other forms of new technologies, in gaming, and in e-commerce generally, is undeniably a difficult and complex public policy issue. With the advent of new technologies, accompanied by an increasing acceptance by the public, there is greater incentive for jurisdictions, and industry, to work together cooperatively. Under this policy, I would not be at all surprised to see financial institutions charged with the collection of state sales taxes for e-commerce transactions in this scenario. This approach to Internet regulation could leave financial institutions enforcing a patchwork of regulations sufficient to make e-commerce unmanageable.

Finally, there is the important issue of money laundering. The initial claims, made in Congressional hearings and reports of the U. S. State Department and the Financial Action Task Force, were that Internet gaming could be used to launder tainted funds. Money laundering, inherently, depends upon stealth and on-line gaming can potentially, if effectively regulated, be one of the most watched and monitored forms of commerce. Some proponents of this legislation will argue that Internet gambling poses a major threat for money laundering by terrorists. No one at any level in law enforcement has ever alleged, asserted, or, as far as I know, theorized, that terrorist organizations have ever used on-line gaming to launder money. No one, terrorist or otherwise, has ever been indicted for using on-line gaming to launder money. The FBI says it has two investigations open into possible money laundering by on-line gaming sites. I would emphasize that these are only investigations, but if they yield indictments, it will prove that on-line gaming is a lousy way to launder money.

Mr. Chairman, I would like to end my testimony by commending the two authors of this legislation for their desire to minimize the social pathologies that attend problem and underage gaming. While those of us at the IGC have not supported their efforts, we continually respect their commitment, and we are sure that it is rooted in their experience of the harm that problem gambling can impart.

The membership of the IGC is eager to work with them, as we've worked with other governments to address these issues, but we must insist that the only appropriate or effective policies be based in licensing and regulation. I hope at some point, this debate can move beyond the question of how we can get rid of gambling – we can't – and move on to the question of how we can get rid of the problems that can accompany it.

Once again, thank you for the opportunity to testify. I look forward to the question period.