

Following is an edited synopsis of the panel discussion held at PGRI SMART-Tech on April 7 in New York. You can view a video of the complete presentation at [www.PGRItalks.com](http://www.PGRItalks.com).

Edited by Paul Jason, PGRI.

# HOW REGULATORY CHANGES ARE CONVERGING WITH TECHNOLOGY, THE INTERNET, AND CHANGING CONSUMER BEHAVIOR TO UP-END THE GAMES-OF-CHANCE AND LOTTERY MARKET-PLACE

## PANEL DISCUSSION

### Moderator:

**Gordon Medenica**

Director of the Maryland Lottery & Gaming Control Agency

### Panelists:

**Mark Hichar**

Partner, Hinkley, Allen Law Firm, Chair of Gaming Law Practice

**James Maida**

Co-Founder, Chief Executive Officer & President, Gaming Laboratories International (GLI)

**Lynne Roiter**

Corporate Secretary and Vice President of Legal Group, LotoQuébec and General Secretary of the World Lottery Association (WLA)

**Philippe Vlaemminck**

Managing Partner, Pharumlegal Group, Legal Counsel to Lotteries on Matters of European Union Regulatory Laws

**Gordon Medenica:** Our discussion today is not just about the current state of regulatory issues. Our real purpose is to look at how new game concepts are challenging the conventional legal definitions of gambling, how new distributional models are disrupting the barriers that control the way consumers access new and different games, and what this all means to state government lotteries.

We are all wondering what the impact of Daily Fantasy Sports (DFS) will be. Is this an audience that comes from the unregulated markets and so does not affect Lottery? Even though that may be the case, won't it open the door to further regulatory change that could impact Lottery? And how might it alter the play-style of twenty-somethings who will eventually become thirty-somethings who have traditionally been the ground floor for our customer base?

Let's start by asking Mark to give us an overview of the legal and regulatory environment and perhaps his thoughts about how the role of DFS fits into the larger picture of sports betting in general, and also its potential impact on Lottery.

**Mark Hichar:** I think it would be helpful to start with some statistics and put things into proper context and perspective in order to understand the impact that DFS has had in the U.S. market. During the first three or four months of the NFL (National Football League) season, fans could not escape the relentless advertising of DFS. The televised games were inundated with DFS commercials. Beer used to dominate TV advertising and it was completely overshadowed by DFS. I commute sometimes into the Boston South Station where the entire train station was draped with advertisements for DFS. That might cause one to think that DFS is a huge industry within the United States, commensurate with the huge advertising budget it seems to have. Looks can be deceiving. In 2015 total wagers on U.S. lotteries was \$74 billion. By contrast total entry fees for DFS, based on the turnover of the two companies which dominate the DFS market (FanDuel and Draft Kings) totaled \$3 billion. So ... \$74 billion for total U.S. Lottery sales; \$3 billion for Daily Fantasy Sports sales. Illegal sports betting has been estimated by the American Gaming Association to be approximately \$148 billion in 2015, twice the sales of U. S. Lottery and some 50 times the annual sales for DFS. The Fantasy Sports Trade Association estimates that in 2015 there were 56.8 million Fantasy Sports players, of which less than 5% played DFS. The rest were participating in what's known as traditional fantasy sports. That is a season long variety which doesn't advertise, is not so much gambling as DFS, and is pretty much still a hobbyist's game. The debate over the issues and how to regulate the indus-

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try is not very clear on the distinctions between the different fantasy game categories. Legislators, attorneys general, regulators, and law enforcement seems to be treating DFS and traditional fantasy sports with equal vigor, or at least with inadequate understanding of the differences and actual market impacts.

Further, it has been reported that DraftKings lost an estimated \$280 million and FanDuel \$137 million in 2015. In light of everything that's happened since the insider betting scandal broke in October of last year, it's now estimated that the best case for the Daily Fantasy Sports market by 2020 will be approximately \$14 billion and the worst case could be where it is today which is between \$3 and \$4 billion.

It is not my intent to minimize the impact and relevance of DFS. It just needs to be understood and assessed in proper context and perspective. The volume being played in DFS is not nearly as large as the advertising of DFS might lead one to believe.

The regulatory environment is being shaped as we speak. At least ten states have come out with opinions on the legality of Fantasy Sports, and only two of those have found that the play of fantasy sports is lawful. Legislation is pending in another thirty two states.

**It might seem that the step from DFS to a market-place being disrupted by an invasion of highly sophisticated and well-funded operators based outside of the U.S. and selling all varieties of products, many of which replicate the lottery-playing experience, is a big leap and not likely to happen anytime soon in the U.S. It's not a big leap. That is exactly what happened in Europe and, I would submit, can happen anywhere including the U.S.**

—Jean-Luc Moner-Banet

*[Ed. Note: Since the date of this panel in April, 2016, legislation legalizing DFS has been enacted in Colorado, Indiana, Mississippi, Missouri, Tennessee and Virginia. In addition, the legislature in New York passed a bill legalizing DFS, and that bill awaits action by New York Governor Cuomo. DFS had already been made lawful in Kansas, and it is regulated in Massachusetts, although not legalized by statute.]* And the market for DFS has shrunk considerably since October 2015. Even so, Fantasy Sports still holds a level of excitement that has piqued the interest of lotteries, regulators, and other government agencies.

**Gordon Medenica:** One of the broader issues for the topic today is this intersection of regulation, technology, internet, and emerging consumer trends. As we know, what happens at intersections is collisions. Regardless of where DFS ends up, this is an example of industry disruption—new game styles and distribution methods that fall outside of current regulatory frameworks. How will these disruptions impact Lottery and what can Lottery do about it? Philippe?

**Philippe Vlaemminck:** First, I think it is important for us to nurture this dialogue between U.S. and Europe. We have much to learn from each other and I expect there will be quite relevant ways in which we can collaborate on initiatives to support the stability of the government-gaming industry in the future.

European lottery operators have been dealing with major disruptive forces for many years now. In fact, the internet has wreaked havoc on European markets in ways that the U.S. has largely avoided. Europeans have tended to feel that we are the only ones with these problems and so are encouraged to see that you finally have your own problems!

You are correct, Gordon, in pointing out that DFS is not the same phenomenon in Europe as in the U.S., probably because sports-betting is already a highly developed and growing market. The European consumer does not get excited about DFS because they can engage in whatever variety of sports-betting they choose, and have been able to do so for many years. The specific game of DFS is not a problem or an issue for us. The thing that is a problem and an issue for all of us is the inability of legislators and regulatory agencies to keep up with changes in the games, new technologies, consumer trends, the internet, and other forces that are disrupting the market-place. As Gordon points out, the intersection of these factors is creating a collision. The aftermath of the collision is a lack of clarity as to how existing laws apply. And that creates a fertile ground for further disruption. To make matters worse, the army of lobbyists employed by the commercial sector is more likely than government gaming operators to influence the way legislation and regulations get updated. That's why the trend in Europe is towards opening up the markets to borderless competition between multiple operators. The monopoly model is under severe attack. You think that will not happen here. And maybe your monopoly model will remain intact. What will happen in the U.S. as it is happening everywhere is that the market-place is being reinvented by new games, new technologies, and new distribution models. DFS is a very small example of the potential for a new game to have disruptive impact. It opens the way for a Pandora's Box of ongoing change that is likely to have far more dramatic impact on all games-of-chance operators including government-lottery. We may be having more issues than you are with the disruptive impact of the internet. Right now, you may be having more problems with the disruptive impacts of DFS or other entrants into the games-of-chance space. But the fundamental dynamics of disruptive forces are quite

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similar. I would propose that we need to work together to develop solutions and strategies for the global community of government-gaming operators to defend the interests of their stakeholders.

Jean-Luc Moner-Banet talked about these broader issues yesterday. It might seem that the step from DFS to a market-place being disrupted by an invasion of highly sophisticated and well-funded operators based outside of the U.S. and selling all varieties of products, many of which replicate the lottery-playing experience, is a big leap and not likely to happen anytime soon in the U.S. It's not a big leap. That is exactly what happened in Europe and, I would submit, can happen anywhere including the U.S. It does not take long for a small crack in the dam to cause the whole dam to crash under the weight of powerful forces. We owe it to our stakeholders to make sure our businesses are prepared.

**Gordon Medenica:** Let's get the Canadian perspective from Lynne ...

**Lynne Roiter:** First, I would suggest that a new game concept that goes from zero to \$4 billion in sales in the time that Fantasy Sports has done should not be regarded as insignificant. Granted, that may be just 6% of U.S. lottery sales, but it is still huge, it shows a potential for continued growth, it attracts the young adult demographic, and it reflects a shift in consumer play styles and preferences. I think Fantasy Sports represents a potential for major impact on the games-of-chance industry.

**Commercial operators are always pushing the edge of the envelope. Where there is a gray area, they can move forward and adjust course based on the reaction of the market-place and the legal system. If their actions are challenged by the courts, like DFS has been, it's easier to ask for forgiveness than permission. And that method has served them well.**

—James Maida

Second, like Europe, sports-betting is very popular in Canada. But so is Fantasy Sports betting. That may be partly because Canada is heavily influenced by whatever is popular in the States. But I have another theory. The University of Montreal looked at how people develop habits and behavioral patterns. They found that if smoking and drinking is not habitual prior to an early age, like late teens, it is highly unlikely that the person will develop a problem later in life. That could be relevant to the Lottery industry if we think that

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it doesn't matter if people play the DFS instead of lottery in their twenties because they have always started in with lottery in their thirties anyway. It may not have mattered so much in years past when twenty-somethings were not exposed to so many gaming options. Insofar as recreational gaming options like Fantasy Sports are attracting a younger audience, those consumers develop habits and behavioral patterns that may be difficult for Lottery to connect with. Are we hoping that twenty-somethings who play Fantasy Sports are going to migrate over to Lottery when they move into their thirties? New games may not affect us so much in the short term, but we should also think about the long-term potential impacts.

**Gordon Medenica:** Maybe a silver lining is that DFS is played over the internet. If legislators are considering the legalization of DFS, maybe they will be more receptive to the prospect of enabling U.S. lotteries to sell online. DFS could be the thin edge of the wedge that causes legislators to allow lotteries to offer games on the internet. James ...

**James Maida:** Commercial operators are always pushing the edge of the envelope. Where there is a gray area, they can move forward and adjust course based on the reaction of the market-place and the legal system. If their actions are challenged by the courts, like DFS has been, it's easier to ask for forgiveness than permission. And that method has served them well. By the time legislators get around to addressing the issues, they are dealing with a fait accompli which is much more difficult to unwind. Of course, lottery directors can't apply those methods without unwanted controversy. But it is important to recognize how these changes unfold; and to think about how lotteries might defend against it. At this point, for instance, after decades of pushing by commercial operators to open up the markets, European lawmakers must make policy decisions based not just on what is best public and regulatory policy, but what is the reality of the market-place. If the reality is that the underground market is so big that it is no longer practical to pretend

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**A London-based internet operator called theLotter.com sold an Oregon MegaBucks lotto ticket to a player in Iraq. Companies like Lottoland and Tipp 24 sell Powerball, Megamillions, Euromillions, Eurojackpot, and many of the jurisdictional games online and into markets where they are not licensed to sell.**

—Gordon Medenica

that laws against it are working, lawmakers are likely to regulate and tax it. Some people might say that sports-betting in the U.S. has passed that threshold. It is conservatively estimated that illegal sports-betting exceeds \$100 billion a year, that 97 percent of the \$4.1 billion bet on last year's Super bowl was illegal, and that millions of otherwise law-abiding citizens are betting on sports in the U.S. in spite of the illegality. At what point does it become impractical to continue to outlaw it?

Private operators building markets where the boundaries of the law are not crystal clear is the end-game of the "ask for forgiveness instead of permission" method.

**Mark Hichar:** The legal boundaries that depend on a precise legal definition of gambling are an example of that. Most may think that DFS fits state legal definitions of gambling. But, from a legal point of view, the relevance of chance versus skill and the ways to measure those are not precisely defined. We are talking not just about legality versus illegality. We are also talking about 'gambling' versus not gambling. Tax rates are higher and regulatory requirements more demanding for gambling than for other goods and services. So, DFS advocates want it to be classified as not gambling because then it falls under a different tax and regulatory framework.

Another problem is that nobody has a crystal ball to foresee the implications that current decisions will have on a future that will be much different than today. When legislators built a carve-out for Fantasy Sports into the UIGEA back in 2006, nobody could have foreseen that it could grow to the size that it became ten years later.

Of course, neither the UIGEA nor other federal legislation prohibits states from exercising their prerogative to enact laws that make DFS or Traditional Fantasy Sports or i-poker or other online games illegal.

**Gordon Medenica:** Doesn't the diversity of states' positions as regards the best regulatory policy for games-of-chance validate the position that the only way to respect the will and the interests of the people is to let them decide on a state-by-state basis, and not impose a federal decree like RAWA?

Mark Hichar: Absolutely. The regulation of gambling has historically been left to the states, with most federal laws specific to gambling intended to assist the states in the enforcement of their laws. A key area in which the federal government has acted independent of the states is in regard to sports-betting, which is prohibited in all but the four states where it was grandfathered in to the extent conducted prior to the time the 1992 federal sports betting law was enacted. Now we have a \$149 billion illegal and unregulated sport-betting market that benefits nobody except the criminals who are making money from it. Hopefully these counter-productive impacts of federal intrusion into gambling will inform the decision-making process of federal lawmakers such that states are allowed to retain control over gambling policy, along with the authority to clarify the definition of what exactly constitutes "gambling."

**Gordon Medenica:** James ... are today's rogue operators tomorrow's mainstream companies? And are there ways that Lottery can leverage the impacts of change and disruption to the benefit of its stakeholders?

**James Maida:** These gray area private operators would prefer to navigate a process that leads to them becoming mainstream. For example, enterprises like FanDuel and Draft Kings cannot go public, or at least not optimize their IPO, if they're operating in a legal gray zone. That's at least one of the reasons why they are attempting to operate transparently, remove ambiguity in the laws, and push for credibility in other ways. There is the problem, though, that your tenure as illegal operator can come back to haunt you. Companies which operated illegally in the past are being required to account for their past behavior when applying for a license to operate legally now. I would observe, though, that they seem to be successful at doing that. It's a classic example of a particularly edgy "ask for forgiveness instead of permission" strategy.

**Philippe Vlaeminck:** That's why European operators work aggressively on both fronts. They work tirelessly to make sure lawmakers at both the member-state level and the EU Commission level recognize, and hopefully appreciate, the role that lotteries serve in channeling economic benefit to good causes and providing the gold standard of consumer protection and Responsible Gaming. But they also vigorously compete in the market-place, applying technology and innovation in game development and distribution and every aspect of business and marketing operations.

I would emphatically concur with James' description of the "ask for forgiveness instead of permission" approach employed by illegal operators. And that approach has served them well in pushing lawmakers to evolve regulatory and taxation frameworks in ways that are not favorable to government lotteries. Lawmakers may decide, for instance, to allow Lottery to operate in all game-of-chance categories. That would seem to be good, right? But the quid pro quo is typically to also implement and regulate and tax model that allows private commercial operators to apply for a license to operate

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i-games. In the minds of politicians, that is a logical compromise that allows government-lotteries to compete on a level playing field. Unfortunately, the commercial companies applying for licenses had been operating illegally for years. So, they had the customer databases and the operational know-how to carve out a big competitive advantage. Further, as you can imagine, government operators are constrained to comply with a standard of advertising and marketing restrictions that is much higher than those applied to the commercial operators. Technically, the laws may apply equally to both. But in the spirit of “ask for forgiveness instead of permission” yet again, commercial operators can go to the edge and beyond, knowing that they can litigate when they cross the line, or eventually relent and comply if they are forced to do so. Government operators are not so free to do that. There is a partial solution to that last issue. Lawmakers could require that the new licensee closes its customer data-base and start from scratch.

This also brings up an area where we can collaborate as a community of government-lotteries. Presently, i-gaming operators are operating legally where they can get a license, and illegally where they can't. As a community of government-gaming operators, we could advocate with one voice for the requirement to operate legally everywhere as a condition for getting licensed in each individual jurisdiction. We are promoting that concept within the European Union now and it will become an even more effective deterrent to illegal operators once it is applied throughout the world, especially in the U.S. and Canada. It is a perfectly reasonable condition to expect that a business applying for license to operate legally in one jurisdiction not operate as a criminal enterprise in other jurisdictions. This would create a very compelling incentive for all operators to respect the laws of the land wherever they operate.

**Lynne Roiter:** We may all think that is a reasonable position, Philippe, but shapers of public policy do not seem to agree. As was pointed out, i-gaming operators who disregarded the laws of many jurisdictions do seem to be able to re-group, execute work-arounds, and find ways to legitimize their operation as soon as it becomes expedient for them to do so.

**Gordon Medenica:** Isn't that the history of technology and regulation—technological innovation that drives market-place change is always ahead of regulation. And to some extent, Lottery is always playing catch-up. I think our issue as an industry is much bigger than just getting on the internet because quite frankly, as we saw from some of the presentations this morning and yesterday, the revenue potential of new games is nice but it's not necessarily as good as a \$1.6 billion Powerball jackpot. Is there a way for Lottery to keep pace with these regulatory and market-place changes?

**James Maida:** It is very difficult to define gambling, to legislate the meaning of skill versus chance, to define specific levels of skill versus chance, and to measure those factors. And that's not the only issue that makes the job of creating a clear definition of gambling

functional in a legal sense. In my role of advising the U.S. House and Senate committees who are trying to sort these issues out, I tell them that the current status of outlawing all gambling at the federal level and allowing states to decide which forms of gambling to allow, permitting states to define precisely what they will allow and what they won't, is the best. This is not about passing the buck to states to wrestle down a thorny issue. It is about the fact that it is more legally do-able to define what you will allow rather than define what you will not. Of course, the federal government does not want to be in the position of legislating the broadest definition of what is permissible. That would mean requiring Utah to apply the regulatory model of Nevada. That is why the best solution is to empower the states to control the whole process.

**Gordon Medenica:** Thankfully, there is no discussion in the United States about altering the monopoly status of state lotteries. But, as Philippe points out, that was also the case for European lotteries some years ago. When we ask for the right to expand the portfolio of games and distribution channels, that can invite a wider discussion about the entire regulatory model. In Europe, the outcome of that discussion has not been favorable to government lotteries.

It's quite an old case now but it still serves as a good example. German lottery operators were basically given the option of keeping their monopoly and give up the right to advertise, or give up your monopoly and retain the right to advertise. They chose to keep their monopoly, and now their ability to promote the products is severely restricted.

**Philippe Vlaemminck:** That is correct. The result is not surprising. Revenues went down and the attitude of the political leaders is that it is fine for government-gaming sales to decline. Sports-betting in particular shifted almost completely from the authorized government operators over to gray market operators who are not licensed to offer sports-betting.

**Lynne Roiter:** The Canadian model is much like what James described. Everything, all forms of gambling are illegal until and unless specific forms of gambling are legalized and regulated at the provincial level, with very specific conditions under which they are conducted. Regulatory decisions are certainly not controlled by the lottery. We are accountable to our political and legislative constituents and so we communicate with them our positions on how best to minimize illegal gambling and social costs and problem gambling. It does appear that our political stakeholders have a clearer vision for how to best serve the interests of society when it comes to the regulation of gambling than politicians in Europe and the U.S. But making sure that legislators and our political stakeholders have the information to make intelligent decisions is key for all of us.

**Gordon Medenica:** Absolutely. Lottery still has a tremendous brand loyalty and strength. But that too needs to be protected. Last December a London-based internet operator called theLotter.com sold an Oregon MegaBucks lotto ticket to a player in Iraq.

Companies like Lottoland and Tipp 24 sell Powerball, Megamillions, Euromillions, Eurojackpot, and many of the jurisdictional games online and into markets where they are not licensed to sell. They buy insurance to cover the liability of getting hit with smaller jackpot prize-payouts. Then, when the jackpot exceeds a threshold where it can't be insured, they just use agents to buy the ticket from the operator, effectively outsourcing the risk back to the operator when the liability is too big. TheLotter.com had an agent in Oregon buy the lottery ticket in Oregon, so the person they sold it to actually received the legitimate lottery ticket. You might wonder how they make money that way unless they upcharge the player. For one thing, some of them do upcharge which is against the rules of many lotteries. The thing is, though, they make their profit on the sales that they self-fund by insuring against a jackpot win in the smaller amounts. Or, in the unlikely event that they sold the winning numbers for a super large jackpot and failed to buy the actual ticket, one would wonder if they would not just declare bankruptcy instead of honoring the \$1.6 billion jackpot, or even the \$100 million jackpot.

**James Maida:** If you have seen the movie *The Big Short*, you will recall the story of the financial crisis of 2007. The problem was that the vast network of derivatives created a lack of accountability and transparency which eventually caused the whole system to break down. These operators that you refer to are, in effect, selling a derivative product. They are legally licensed in one jurisdiction to operate betting. Betting can be on anything, like who will win the presidential election, would the UK vote to leave the EU or, in the case of Lottery, what will the outcome of the Powerball draw be. It is like a side-bet, a derivative investment, on the outcome of an event, like a lotto draw.

**Gordon Medenica:** How is it that these companies can violate the trademarks of Powerball and EuroMillions and our other products?

**Lynne Roiter:** Trademarks and other forms of intellectual property can be defended in your own country. But it is time-consuming and costly to register trademarks in every jurisdiction all over the world. That has not been done because we did not imagine that people in other countries would want to buy our products when lottery products are already provided by their own jurisdictional operator. We did not anticipate that a person living in Iraq would pay a premium price to buy an Oregon lottery product from an internet operator based in London. I still don't quite get that. But the Tipp24's and Lottolands are making a lot of money by violating our trademarks and selling illegally into jurisdictions where they are not licensed to operate.

**James Maida:** Another example of applying a derivative model to gambling: Indian tribes in the U.S. operate gambling within the boundaries of their sovereign reservation. The land is considered a sovereign jurisdiction with the right to operate games-of-chance. An enterprising company now has a website that enables players to log in and play from locations not on the reservation. This would

appear to be internet gambling which is illegal in the U.S. except where it is specifically authorized and regulated by the state. This operator, though, is claiming that the player is not gambling online. Instead, the claim goes, the player is giving authorization for a proxy who is physically located within the tribal land to play. Technically, the wagers are being placed legally within the tribal jurisdiction. But they are being placed at the direction of a person who is physically outside of the jurisdiction. The question is whether the internet operator who is enabling this kind of derivative wagering is acting legally or not. It is being litigated as we speak.

**Mark Hichar:** While Indian reservations are sovereign states, and thus the federal government has a role to play in matters related to gambling on them, states are usually in the best position to regulate conduct occurring on state lands and off tribal lands. As James said, states today prohibit all gambling and then, in all but two states, carve out those exceptions that they deem most appropriate for its local culture and public policy objectives, and the states regulate and tax those gambling exceptions in the way they deem best. This has proven to be the best regulatory framework, as each state can tailor its gambling policies to its own citizenry and its own policy objectives. For the federal government to get involved in the regulation of internet gaming would impose a one-size-fits-all structure that would likely not suit most states. Even if states could opt out, a structure in which internet gaming was only allowed pursuant to a federal regulatory infrastructure would be unlikely to satisfy the states or be consistent with their goals.

Imagine a commercial land-based casino in which a proxy was operating as James described. Would individuals outside the casino delivering instructions over the internet to this proxy be complying with the law or not? Regardless whether there was technical compliance, the main question would be whether the state wanted to allow this type of proxy wagering. And the state would be in the best position to address this. One thing is a sure bet: the rate of innovation of ingenious entrepreneurial internet gaming operators will outpace the ability of the U.S. Congress to react. That is why these issues must be adjudicated at the state level. States should retain the right to decide what is and is not gambling, what forms of gambling should be legalized and regulated, and under precisely which terms and conditions that should be done.

Massachusetts has a pending bill that would allow them to explore games of skill. This has the potential to redefine the precise definitions of what constitutes a lottery. Nevada, for instance, has passed a law that redefines the parameters of slot machines by allowing them to integrate a skill-based component to the game. I am not predicting what might happen with lottery, just pointing out that legislators do have the authority to redefine the parameters of gaming and regulatory laws and that applies to lottery as well as all other forms of gaming.

**Lynne Roiter:** The Canadian definition from the criminal code is exactly that. This code was written in 1969 before the internet

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and before all of these other mitigating factors and debates about what constitutes gambling, or lottery. It states that a “lottery” is any game of chance, regardless of the amount of chance or skill is involved. If there is even a small element of chance involved in the game, it is a “lottery.” This definition eliminates debate by putting the decisions of how to regulate and tax squarely in the hands of legislators instead of the courts. This is a model that works very well for us in Canada. You should try it sometime!

**Gordon Medenica:** James—how do you think the introduction of skill-based casino games will impact the broader world of gaming?

**James Maida:** It is moving into the Peer-to-Peer multi-player format. If it is just two players, then the outcome will always be, or almost always be, that the higher-skill player wins. That kind of predictability is not a good platform for engaging a mass audience.

Multi-player formats create a more dynamic environment, a wider variety of factors that can influence the outcome, and therefore a better chance for a player base with varying skill levels to compete with a hope of winning. Perhaps ironically, it is the increased element of chance that is key to enabling a broader audience of players to engage in skill-based gaming.

We know Millennials have been raised on Peer-to-Peer player games and they love that format. It provides the social gaming component that makes the games more fun to play.

**Gordon Medenica:** Lots for us to think about. Clearly, Lottery will need to understand how the whole environment of gaming is changing, how regulatory frameworks are changing to accommodate these new game formats and channels of distribution, and what we need to do to continue to engage our audience of lottery players. ■

## Tracey Cohen Interview ... continued from page 43

ing our understanding of the activity and behavior of commuters to help minimize the impact of these threats.

I think we all make our own party. We work hard to make it fun for everyone because that is what this business is all about. More fun for the players adds up to increased sales and revenue. In the midst of an election cycle that has electrified the nation, we are capitalizing on that excitement with our \$5 You Decide ticket. Now, in its second print run, this ticket is a hot seller and easily among the top five all-time scratch ticket performers at the \$5 price point. We're playing up on the '2016' concept big time. The Second Chance contest has a coffer of \$201,600 in cash prizes. The fate of that cash payout is in the hands of the players as they decide whether one winner takes all or if the prize money is shared among a selection of winners. At this time, it's a winner take all game. And, here's the November surprise—the second chance contest winner will be announced the day after the presidential election.

And, nobody knows DC like the DC Lottery. Another top performer in this year's scratcher portfolio is the \$5 Chuck Brown ticket, named for DC legend and music pioneer Chuck Brown, the Godfather of

Go-Go. Strategically, we like to embrace local culture and interests whenever possible.

*You are a big fan of licensed properties, attaching a pop culture brand to the Instant ticket. It's worth the small percentage you pay for the license?*

**T. Cohen:** Definitely and always with-in reason. There are different schools of thought. Some people think that the cost of the license can replace the cost of extra promotion—that the licensed brand attracts consumer attention so you do not need to promote it as much. I'm of the school that thinks if you're going to pay for a brand license then it makes sense to invest in promoting it aggressively as well. I believe that the benefit of availing licensed brands is that it helps create demand not only for that specific product but also energizes sales across the entire product portfolio. We have a formula that works for us. Why fix it?

*You share a media market with Virginia and Maryland. Have you explored the possibility of collaboration on a new tri-jurisdictional game, or perhaps a promotion for the games that you all sell, like Powerball and Mega Millions?*

**T. Cohen:** The Washington Metropolitan Area is one of the most expensive marketing areas in the nation. I believe we're

second only to New York. Sure, many hands make light work, right. So, we're looking into possible partnerships with our neighbors across the District lines for a new multi-state game for our region. And I hope something interesting results from those discussions. I definitely think it would be mutually beneficial for us to collaborate on a game and/or a promotion.

*Games like Fantasy Sports and Pokémon Go are capturing the imagination of the consumer. Is there anything we can learn about consumer game-playing preferences by studying what makes popular games appealing?*

**T. Cohen:** Always. Our marketing director relentlessly scouts player trends and the latest innovations in leisure and entertainment. He's determined to bring whatever is exciting the zeitgeist to the DC Lottery. I won't give all our secrets away, but yes there's pretty interesting technology out there and we want to be among the first—if not the first—to introduce those innovations to the industry.

The DC Lottery is in its 35th year of bringing the fun and excitement of lottery games to players in the District of Columbia. We've been tested for sure. A world-class lottery, we've come through the other side a stronger agency with the vigor and vision to take on the next 35 and more! ■