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PGRI Introduction: In December of 2009, the Deputy Director and General Counsel for the New York Lottery (Bill Murray) sent a letter to the U.S. Department of Justice requesting clarification of the Federal Wire Act. Better late than never, the U.S. DoJ responded on Dec. 23, stating that “the Department’s Office of Legal Counsel (OLC) has analyzed the scope of the Wire Act, and concluded that it is limited only to sports betting.” Coincident with this letter is a comprehensive memorandum by the OLC (view in its entirety at www.PublicGaming.com) that eliminates whatever confusion may have existed over the interpretation of the Federal Wire Act. By clarifying that the Wire Act applies only to sports-betting, this U.S. DoJ memorandum clears the way for states to implement a regulatory and taxation framework for internet gaming and internet distribution of lottery products. This opinion is a turning point in the lottery industry and also in the broader gambling industry.

The following interview is in three parts. First, Director Medenica addresses the implications of the U.S. DoJ memorandum. The second and third parts of the interview were actually conducted prior to December 23. We discuss the reasons why the internet will be as transformational for the gaming and lottery industries as it has been for so many other industries. Indeed it will be more so. And lastly, we discuss how NASPL has transformed itself into a genuinely relevant and impactful organization; and how NASPL will help its membership truly optimize what will be a most memorable year for state-sponsored gaming.

Gordon Medenica was appointed Director of the New York Lottery in September, 2007. As Director, Medenica serves as the chief ex-

ecutive officer of a \$7.9 billion organization whose mission is to earn revenue for education in New York State. Under his leadership, the New York Lottery has set new revenue records every year. The New York Lottery is the largest and most profitable state lottery in North America, generating a record \$3 billion in education funding in the past year. Before coming to the Lottery, Medenica had been a longtime executive at The New York Times Company, serving as a member of the Management Committee of the company, as head of strategic planning, corporate communications, and as Group Publisher of several of its sports magazines. More recently, he was the Executive Vice President of Philadelphia Media Holdings, LLC, an owner of the Philadelphia Inquirer and Daily

News. Prior to that, Medenica acted as an independent advisor to the Blackstone Group on newspaper acquisitions, as the President and CEO of DornaUSA, a sports marketing company, and as a Senior Analyst at the Marriott Corporation. Medenica earned his A.B. from Harvard College, where he majored in government, and his M.B.A. from Harvard Business School.

Paul Jason, Public Gaming: *What is the major implication for state lotteries of the memorandum from the U.S. Department of Justice that clarifies the meaning of the Federal Wire Act?*

Gordon Medenica: It simply clarifies what we have been saying all along – regulation of gaming is a state-level function. Each state can

now decide for itself how, or if, to pursue an internet gaming strategy.

It may be too early to reveal a detailed action plan, but what are the next steps that the NY Lottery will be taking to integrate i-gaming into its portfolio of products and channels, and what are the likely timelines for those steps?

G. Medenica: We're reviewing our plans now, but we're not ready to announce any specifics yet.

Scale and liquidity are actually not necessary for many i-games. But scale and liquidity are everything in the social game space. That is especially true in i-poker where the big get bigger and the small get marginalized. Even for the state of New York, won't it be to your advantage to collaborate with other states to create massive scale? And, can NASPL perform a role in coordinating a multi-state approach to i-gaming?

G. Medenica: It's one of the many issues that we look forward to answering in the near future.

Does this U.S. DoJ memorandum leave any loose ends, any unanswered questions that advocates for federalization will use as grist for pushing their campaign federalize the regulatory framework?

G. Medenica: It is such a clear statement that any changes would probably now require new legislation.

It would seem like the best way, if not the only way, to codify this memorandum into the firmament of gambling law is for states to take action, to implement i-gaming regulatory and taxation frameworks that demonstrate the willingness and ability of states to take control of this industry. Do you feel that it is important for states to move quickly to do that in order to prevent the well-funded Big Casino interests from trying to interfere and insinuate the federal government back into the business of regulating and taxing the states' gambling business?

G. Medenica: States clearly have an important window of opportunity now, and should decide for themselves how to react.

What is the next step for this U.S. lotteries as regards to i-gaming? In spite of all the public debate, U.S. Congressional action does not appear imminent.

G. Medenica: Yes, but it is imperative that we all remain vigilant, active, and vocal. Remember that Senator Reid attempted to slip a bill into the lame duck congress at the end of

2010. We barely dodged that bullet. Even the way that UIGEA was passed in 2006 is indicative of the way things can happen, under the radar, becoming a reality without anyone realizing that it was even being considered. We were concerned that the deficit-reduction Super Committee might look at the revenue-generating potential of internet poker. We sent letters to whomever we could to try to prevent that from being considered. So this is no time to relax.

That said, it does appear that we have a little time to rally support for defense of states' authority over gaming. This year is an election year and so it is not likely that candidates will want to tackle a controversial issue like this. But we need to be vigilant and actively engaged and continue to push the message out there. And we need to take full advantage of this period to educate everyone on the issues because the question of who determines i-gaming regulatory policy still needs to be addressed and will be answered at some point. We have just been focused on making sure that misguided legislation does not get passed at the federal level. That does not change the fact that there are millions of people playing i-poker. That's a fact of life. As is often the case in business and in gambling in particular, the legal and regulatory framework takes a while to catch up with the consumer. The next step is for states to take responsibility for implementing a regulatory and revenue framework that protects the players and channels economic benefits back to the public. Of course, some states, perhaps many states, will choose to prohibit i-gaming altogether, and that is fine, that is their right. But we need some states to move forward with a regulatory framework so that it becomes crystal clear to all states that they have the right to regulate and tax i-gaming. And, of course, the letter from the U.S. DoJ does clarify that states do have the authority to enable their lotteries to implement internet gaming. Now we just need a few states to implement an i-gaming platform to lock this in.

I attempted to quantify the impact of federalizing i-poker on states' lottery businesses. Our conservative projection is that there would be a minimum of \$4 billion in lottery spend that would be lost due to migration over to a new game offering like i-poker. And, as we emphasized in our response to those who contend that lottery players do not play poker, our projection is based on a relatively small percentage of lottery spend that migrates over to an exciting new game offering like i-poker. In your speech at NASPL you point out that the impact of i-gaming on lottery would in fact be much

greater than the direct loss of \$4 billion in lottery revenues. How so?

G. Medenica: We see internet gaming as being the next growth vehicle for the lottery industry. The lottery industry has always benefited from great waves of product innovation that may only happen intermittently but are the source of years of continued growth. Look at how cross-sell ushered in not only a period of growth but more receptivity to the concept of multi-state collaboration. That one innovation is spawning new ideas that are driving continued growth and additional innovation. The internet, though, will clearly be far more powerful than anything that has preceded it. Now that the confusion has been largely lifted by the memorandum from the U.S. DoJ, I think we can expect the pent-up demand for new and more exciting games and ways to access the games to cause a big spike of change and innovation. And we can be confident that there is a pipeline of innovation, new products, new games, new ways to deliver those games, just waiting to be launched to meet that demand.

Other industries have been absorbing the impact of the internet over the past fifteen years. The gaming and lottery industry has some major catching up to do.

G. Medenica: Exactly. The PGRI report on the impact of i-poker on lottery was good because it put some numbers to the direct impact that i-gaming would have as a result of migrating a relatively small portion of total revenues over to i-poker. But it underestimates the actual impact that the internet will have on this industry. It is, of course, difficult to quantify the impact of something that has not happened yet. We can expect that the internet will be an integral part of the gaming business just as it is in every other walk of life. Look at how it has completely reshaped the way business is done, the way consumers behave and engage in commercial activity. And look at the tremendous popularity of non-money internet gaming. No amount of consumer surveys or analyses of past consumer behavior can predict the impact of the internet on the gaming industry.

Lottery also has the benefit of a tremendously powerful land-based retailer network. Integrating this network into an i-gaming strategy will be a top priority for lotteries. Lotteries which have highly evolved i-gaming and distribution markets, as in Canada and Scandinavia, have shown that the internet complements and supports the retailer

channel. By accessing new consumer groups, bringing new players into the games, leveraging this access to cross-sell other product tie-ins and implement store-redemption promotions, the internet is used to drive store traffic and support the retailers' business objectives.

To what extent do you need to get the consensus of the entire membership to promote a political position? It must be more do-able when the position is one that everyone can easily agree on, like the preservation of a states' prerogative to regulate and tax gaming within its borders.

G. Medenica: It can be very difficult. As you point out, the issue of the federalization of internet gaming is one that everyone can agree on and in fact did galvanize us to take action. NASPL did take a position, articulated that position in a letter to members of U.S. Congress, and attempted to convey our concerns to all public policy stakeholders. The member vote on this was almost all in favor, with a few abstentions and nobody voting against it. And that is because everyone opposes the federalization of i-gaming; even though we may have very different reasons for opposing it. Some people are opposed to internet gaming altogether. They do not want the federal government to legalize internet poker or any kind of internet gaming because they prefer that i-gaming be prohibited everywhere, and especially in their own state. Others oppose the federalization of i-gaming for practically the opposite reason. They want the regulatory and taxation framework to be controlled by the state so that it benefits the in-state constituents instead of the federal government and private commercial interests. And I'm sure there are variations on those two basic positions. It is interesting, though, because it certainly is uniting some strange bedfellows with disparate points of view but coming together with the common objective of opposing the federalization of internet gaming.

It seems like this issue has elevated the role of NASPL, mainly because the need was so pressing for NASPL to take a stand.

G. Medenica: I think it has brought everyone together and revealed the more impactful role that NASPL can play. NASPL is a tremendous resource and it has been a learning experience to see how those resources can be applied. There were, for instance, strategic meetings a couple years ago in which we explored the ways in which NASPL can serve a more active role in

public policy issues. There were some who thought that NASPL ought to become a very aggressive lobbying organization, promoting an agenda consistent with lotteries and the good causes they benefit. There were lots of arguments for and against. On a very practical level we realized we could never compete with real lobbyists because we just don't have the money. Further, NASPL does have an obligation to each of its members to stay consistent with each lottery's state-specific policies and political positions. So there are limitations to what NASPL can do.

There are two fantastic things about the efforts to inform policy-makers about the implications of federalization of i-gaming. First, it has caused us to realize that our association can make a real difference - not that we were the decisive factor. The battle is not necessarily over for that matter. But we are contributing to the dialogue in a material way and that is very rewarding. Two, it has shown us that we are capable of overcoming our differences, honing in on the common ground to all of our causes, and then formulating and implementing an action plan. We can now really see that working together can produce results that we would not be able to accomplish on our own. The strength of lotteries will always lie in its local and grassroots level support. It is the connection with the consumers that reside in our own in-state market that drives the business and is the source of whatever influence we may have. But it has been very rewarding for all the directors to see the impact that their industry association can have in translating those local interests onto the national stage. Of course, the effort to stop federalization of i-gaming began with past NASPL president Ed Trees, continued with immediate past president Jeff Anderson, and will continue after my term ends in September. And it all is really a tribute to the willingness and ability of the entire membership to work through our differences and build a coalition that takes action to defend the interests of our good causes and all lottery stakeholders. Credit is also due to the vendor community for all of their tremendous efforts to lobby and exert influence at the federal level. Everyone has come together to defend the prerogative of states to determine regulatory and taxation policy in all sectors of gaming, gambling, and lottery, and to prevent the federal government from acting in ways that would damage the state lotteries. It's been rather a unique alignment of the sun and the stars, allowing us to take

this unified position that is fairly unusual in the history of NASPL.

It is thrilling to see how meaningful our industry association can be, how a membership that works together can make a real difference. What else is on the NASPL agenda for 2012?

G. Medenica: I think one of the most important roles that NASPL has is to facilitate communication. That applies not just to hot issues like i-gaming. NASPL serves as a great vehicle to disseminate information, to foster a dialogue about troubling issues, and to promote a best practices approach to improving our businesses. For instance, we all know we need to accelerate the rate of adoption of new technologies and progressive business practices. NASPL can help us all to learn from the experience of our peers so that we might replicate success and minimize mistakes. NASPL has always done a great job at bringing us all together, enabling us to talk among ourselves. However, i-gaming was an issue where we agreed that it wasn't enough that we talk with each other, we needed to reach out and get an important message out to everyone who has a stake in protecting the interests of states and their lotteries. While we don't have the apparatus for high-level lobbying, we have a level of grassroots support and in-state support that may be just as powerful. But only if we are all fully engaged in the business of getting this message across to the people that count. We have found, frankly, that there is a lack of knowledge and understanding about issues like federalization of i-gaming and other regulatory matters. Instead of thinking about it as "lobbying," we should just think of it as effective communication, making sure all constituents are fully informed.

So we are achieving some measure of success at getting our message out beyond the confines of the lottery industry and onto the agendas of policy-makers. How can we get this message into the general mass media?

G. Medenica: That again is a fortuitous aspect of the i-gaming issue. The nature of its being national and of widespread interest and importance to everyone, has perhaps freed us up to address it on a policy level. Many state lotteries are really not at liberty to speak out on state-specific issues of public policy. That responsibility typically lies with the elected officials and others in state government. But the regulation on internet gaming is an issue of such singular importance, and affects all states in somewhat similar fashion, that somebody had to take a stand in defense of states' inter-

ests. And that somebody clearly had to be us. Lotteries are the states' connection to the gaming industry and so lottery directors should be expected to contribute to the policy process in matters of such importance. The general media has taken an interest in the federalization of i-gaming because it is a national issue affecting everyone. And on a practical level, we're not really impinging on the turf of our in-state policy-makers.

Education has always been a vital component to the NASPL mission and service to its members.

G. Medenica: The participation at the professional development seminars has never been higher. And we are working hard to build on the tremendous success of 2011 to create an even more exciting professional education program for 2012.

What kinds of things are you doing to improve upon those past successes?

G. Medenica: The committee structure of NASPL has been redesigned. There were about a dozen committees and then maybe eight or ten subcommittees. It was not clear how all these groups should work together to accomplish the association's goals, one of which, for the subcommittees, is to set the agendas for the professional development seminars. We've decided to rename the subcommittees the "Professional Development Steering Groups". Functional business areas like accounting, audit, distribution, video operations, IT, legal, PR, sales and marketing, security, operate in ways that are not always similar to other businesses. Experience in other industries and higher education is not adequate to prepare our top managers to operate

in the lottery business. So we provide special lottery-specific training. NASPL is the perfect institution to consolidate the brain-trust existent within our leadership, and translate that into professional development seminars for the benefit of all our members. The ability to harness the experience and intelligence of the leadership of this industry and apply that to develop the next generation of leaders is a core attribute of NASPL. And, really, what could be more important than that?

We're also consolidating the main NASPL Committees to be more relevant and significant. For example, we used to have separate committees for awards, seminar break-out sessions, and conference site selection. All those things relate to the conference, so we grouped them together to create a Conference Committee which will now deal with all of the issues.

Any new committees, new areas of focus?

G. Medenica: We are placing a renewed emphasis on the product development committee. The next step after cross-sell was to differentiate the two super-jackpot games. That is happening with the \$2 Powerball change. Now the next step is to create a new national game, also called a 'premium game' because it might be a \$5 ticket. That committee has been led by Arch Gleason and Margaret DeFrancisco who have done a tremendous amount of work. We are very fortunate to have those two industry veterans and leaders on that project. At the same time, there is a WLA group, consisting of Camelot, FDJ (the French Lottery), and MUSL that's been working on a world game. And so you have these different multi-jurisdictional and even international game development ef-

forts. I would like to see NASPL take a little stronger role in helping that process along so that it's not viewed as necessarily a MUSL project or game or a MegaMillions project or game. NASPL is the one truly all-inclusive and national organization that could perform that role of coordinating the efforts of the different lotteries, consortiums and associations. I've asked Margaret DeFrancisco to chair that committee and she thankfully accepted. That's another example of a NASPL role that I'd like to see expanded through the redesign of the committee structure.

And the government relations committee has had a huge amount of visibility this year, hopefully to positive effect! NASPL will continue to work hard to influence the political process when it serves the interests of its members.

It sounds like you have a few things on your agenda for NASPL this year.

G. Medenica: It has been an evolutionary process. NASPL has always evolved with the marketplace and with the issues of the day, just as any vibrant organization must do. Fortunately, NASPL has a history of being supported by an enlightened membership that is focused on protecting the interests of lottery stakeholders, and pushing for progress as times and circumstances change.

Last year, for example, a change that has broadened our base of support is to create a more affordable associate membership to bring in the smaller vendor community. Delivering value to a broader base of constituents, and engaging their active participation and financial support, makes NASPL a stronger organization. ♦