

## An Interview with Kevin Mullally

General Counsel & Director of Government Affairs for Gaming Laboratories International, Inc. (GLI)

*(The majority of this interview is continued online. Please go to [www.publicgaming.com](http://www.publicgaming.com) to see this interview in its entirety.)*



Kevin Mullally

Kevin Mullally is the General Counsel and Director of Government Affairs for Gaming Laboratories International, Inc. (GLI). Formerly the executive director of the Missouri Gaming Commission, Mr. Mullally helped create Missouri's reputation for strict but fair regulation as well as developing a number of innovative practices that are being used in regulatory jurisdictions around the world. Mullally now serves as GLI's primary liaison to

elected officials at the state and federal level, regulatory agencies, key organizations devoted to developing gaming and casino policy as well as senior level executives of gaming equipment manufacturing companies.

As the worldwide leader in testing and certification for the gaming industry, GLI offers their services around the clock from eight laboratories on four continents, working to advance the science of testing gaming, but also working to advance the science of service. As technology transforms the gaming industry, the role of GLI to help integrate the agendas of legislators, regulators, gaming operators, and commercial suppliers, is more important than ever.

**Paul Jason, Public Gaming:** *Your clients are primarily governments, gaming operators and regulators who depend on you to test the equipment and systems to ensure that they meet a set of specifications, correct? What other consultative services do you provide to them?*

**Kevin Mullally:** GLI works for regulators to ensure regulatory compliance. We are a full-service technical and regulatory resource for our government clients. The regulator is the client while we look at manufacturers and operators as consumers of our service. However, we are careful to always protect our independence and keep firmly in mind that our mission is to independently test gaming hardware and software to evaluate compliance with standards established by government regulators. In addition, GLI views itself as an essential communication link between the manufacturer and the regulator. GLI's worldwide presence allows it to keep abreast of developments in gaming technology and communicate with our clients about regulatory issues that may arise because of new technology. As such, we are able to keep them ahead of the technology curve and allow them time to consider and plan for the implementation of new technology. Moreover, GLI has an extensive offering of training services to

provide regulators with an economical way of learning about new technology as well as other compliance related issues. GLI has separate departments for training, quality assurance, technical compliance, development (customer service), communications (that organizes GLI roundtables and training events) legal and government relations, as well as a highly specialized engineering groups having expertise in devices, systems, math, communication protocols, software programming and forensics. As a result, our regulatory clients have access to highly trained and specialized professionals who are very knowledgeable about how regulatory issues are being addressed around the world. Finally, GLI plays an important role in assisting its regulatory clients in dealing with instances where technology goes awry. Our dedicated forensic team can be dispatched instantly whenever a technology glitch or customer complaint requires the regulators immediate attention and investigation.

**Public Gaming:** *To what extent do regulators invite your input on the development of regulatory standards and restrictions?*

**K. Mullally:** GLI's technical compliance department fields dozens of calls daily from our regulatory clients around the world who seek advice on the development, interpretation, and implementation of a wide variety of technical standards. The GLI standards series is the most well-known library of technical standards in the world and has been used as a template by hundreds of regulatory jurisdictions. The standards now cover 14 subjects ranging from hand held bingo devices to lottery monitoring systems to server based gaming and wireless handheld devices. Currently GLI is in the process of updating the standards for Internet gaming systems at the request of some of our international clients, particularly in Europe and in Canada.

**Public Gaming:** *So GLI is highly focused on rendering assessments and appraisals and evaluations in a concrete and scientific way. But regulatory standards and restrictions sort of by definition seem to overlap with less measurable and quantifiable public policy questions. Are you ever asked to consult on questions or concerns that aren't easily quantifiable and shoved into the scientific method?*

**K. Mullally:** While it is ancillary to GLI's core mission of providing independent technical testing resources to regulators, it is certainly part of the package of services that we offer to our regulatory clients. Based on demand from our clients, we occasionally provide some non-technical regulatory consulting on issues relating to ensuring the integrity of gaming. It's not something that we specifically market or look at as part of GLI's core business. However, since the GLI staff includes former regulators

who have experience dealing with public policy issues, we are able to assist regulators with these types of issues if they request GLI's assistance.

**Public Gaming:** *Could you give me an example of a situation where a regulator has requested GLI's advice regarding non-technical issues of public policy?*

**K. Mullally:** Sure. Keep in mind that in all our dealings with our regulatory clients, we generally do not advocate a specific public policy. What we try to do is inform the client about strategies that have been used in other jurisdictions and what the outcome has been and let them ultimately make the policy decision. We are very clear that we are a resource for the regulator and ultimately the regulator sets the standards; the regulator determines what devices are approved in their jurisdictions. The regulator sets the public policy, not GLI. GLI just serves as a technical expert, a lot like an outside legal counsel, for instance.

A specific example that I personally have been involved in relates to the challenge that regulators have in performance measurement. It is one of the more difficult areas for regulatory policy because how do you measure the impact of the deterrent effect? How do you measure how many violations were avoided because of effective regulatory practice either through good communication and education about what is required or the proac-

tive presence of a regulator? A key regulatory skill is the clear conveyance of expectations and responsibilities to gaming operators and manufacturers with the goal of attaining high levels of compliance. Because of my experience managing a gaming regulatory agency, I am able to appreciate and understand the various complications our clients face in trying to deal with these issues. We must keep in mind that every jurisdiction is different and they all have their own unique historical, political and cultural issues. The challenge is to take what we have learned from our experience in jurisdictions throughout the world and communicate it in way that allows the regulator to make good, informed choices that are appropriate for their particular circumstances. Regulators often turn to a variety of GLI personnel who have experience not only as former regulators but who also have experience helping regulators solve important problems all over the world. In essence, we become a communications resource that adds value to the GLI array of technical services.

**Public Gaming:** *Well, let's take something like casino security and personal identification cards - whether and how to implement measures to secure the physical premises as opposed to the more typical thing you do with respect to the technology of the machines and the boxes themselves, do you ever get involved in areas like that?*

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**K. Mullally:** I think that's a very good example because it is clearly an area where the regulator needs to make some policy decisions. We can assist by advising them what technology is available to achieve the objective they choose establish. We have the technical expertise to help them sort out and clarify the options and we can advise them what other regulators are using to address similar policy issues. We can advise how a particular technology can be tested to ensure that it meets their expectations and discuss the standards the regulator puts in place for the implementation of that technology.

**Public Gaming:** *I'm thinking that a question that might come up would be the notion that players might be reluctant to have the veil of anonymity pierced by having personal identification cards. How do you deal with that kind of issue?*

**K. Mullally:** What we generally do in those instances is try to provide our regulatory clients with some understanding of what other jurisdictions are doing, while focusing on letting the regulators speak for themselves. So if that question were to arise, we would say, okay, here's how they dealt with that in Illinois. And here's how they handle it in New Mexico which has a different nuance to its law — that sort of thing. We will then provide them names of contacts with those regulatory agencies. Our preference is to let the regulatory bodies speak for themselves as to what the pros and cons of the implementation were. GLI's focus is to provide information about specific technical issues; to explain the ramifications and potential regulatory issues relating to the implementation of a specific technology.

**Public Gaming:** *So GLI has a brain trust, has knowledge and information that can be so helpful to many people, and yet it seems to me that it's a challenge to free up that resource in ways that do not compromise or interfere with your mission to stay focused on objective measurable data and to avoid conflicts of interest and rendering opinions on things where the scientific basis for them isn't as strong.*

**K. Mullally:** We really look at it as a business decision to stay true to our core mission, which is to be an independent technical resource for regulators. We have grown because we have acquired people with many, many years of good experience in regulatory practice. As a consequence, the fact that we can add value to our core mission on occasion by offering additional knowledge and the advantage of our staff's experiences to our regulatory clients is simply a value added benefit.

We also look to regulators to help set the agenda as to what type of information they need from us. GLI's resources are so vast; sometimes it is difficult to grasp it all. That is why we ask regulators to participate in setting the agenda for our annual Regulators Roundtables so that we are able to focus on issues that are of interest to them.

**Public Gaming:** *Games of skill versus games of chance. The business of testing equipment seems to be so objective, measurable and concrete in process. Conversely, the business of determining what level of skill qualifies something as being a skill game seems, well, to be subjective, fuzzy, and not so concrete. For instance, I read that GLI advised the Arkansas Racing Commission that Keno could be considered a game involving skill, and therefore legal within the Arkansas regulatory framework. And to some of us Keno would seem to have a very small skill component and a much more predominant component of chance. So how is that determination made? How do you draw the line? What portion of play must involve skill for it to be considered a skill game?*

**K. Mullally:** Actually, we are very careful to point out that GLI does not "approve" anything. We certify to standards established by regulators. The Arkansas Keno game has a skill element and our report describes the level of skill by analyzing the expected return for the ultimately skilled player versus a totally unskilled player and a player of average skill. Based on our report, the regulator makes a determination as to whether the game meets the minimum legal requirements. North Carolina also has approved a version of Keno with a skill element as a game of skill.

I would tend to agree that there are a wide variety of legal opinions based on statutes and court decisions in the various jurisdictions, but our role in that process is really very simple. GLI's role is to examine the device and provide a detailed report as to how the device functions. This may involve a discussion of the features of the device that require decisions or actions by the player. However, ultimately it is up to the regulator and their legal advisors as to determine whether those player actions or interventions involve the level of skill meeting their jurisdiction's legal threshold for skill. Quite simply, GLI's role is to examine the machine and report on its functionality.

**Public Gaming:** *So, Arkansas would ask you to determine if this is a game of skill or a game of chance. And then you would reply that we have to get a little more specific - we have to concretize this discussion a little bit more. I still have a hard time understanding how that discussion would go?*

**K. Mullally:** GLI will examine the device and write a report and explaining in detail how the game functions. What elements require player input and what determines game outcome? The regulator then evaluates which of those elements they believe to be skill and whether that is sufficient to render the game legal in that particular jurisdiction. Again, our role is very clear and very defined.

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