

Internet Gaming: Is Payment Blocking an Adequate Solution?

Comments about the USA, France, and Norway.

The *significant majority* of this interview is continued on-line. Go to www.publicgaming.com to see this interview in its entirety.
By Sharie A. Brown, Robert A. Burka and Philippe Vlaemminck

In a recent discussion with a European based gaming operator, the question was raised whether it would be possible to block the transfer of money related to Internet gambling services. The operator quoted his Minister who had declared that “if the USA can do it, why would we not be able to do the same”. This statement requires indeed an analysis of the issue from different angles. Does it work in the USA and/or can it be working? In Europe the question is even more complex, as internal market rules do also need to be taken into consideration. Rules regarding so-called “information society services” are subject to a notification procedure (managed by the European Commission) prior to their entry into force. If the assessment made by the EU Commission leads to the conclusion that the proposed legislation affects the EU internal market rules in an unacceptable way, the concerned EU Member State is not allowed to put the system into place without the necessary adjustments. In the absence of adjustments, the concerned EU Member State can face an infringement case.

But, let's start with the USA.

In October 2006, just before mid-term elections in the United States, President George W. Bush signed the Unlawful Internet Gambling Enforcement Act of 2006, 31 U.S.C. §§5361 et seq. That statute did not make Internet gaming illegal, as that was already the position of the United States Department of Justice for many years. Rather, the statute sought to choke off the transmission of

funds between Americans and Internet gaming sites, regardless of where the gaming sites are located. The statute attempts to prohibit acceptance of credit cards, funds, bank instruments, or proceeds of any other form of financial transaction in connection with unlawful Internet gaming.

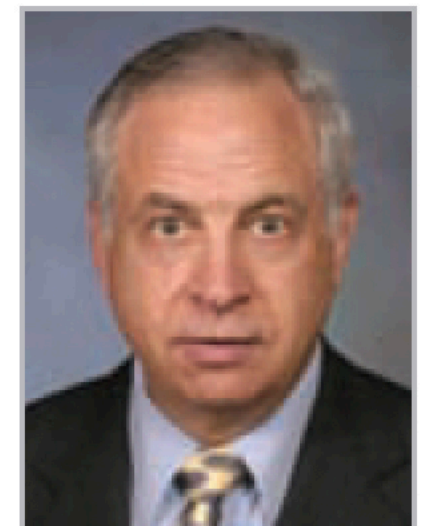
As one of the statute's principal sponsors, former Rep. James Leach (R-IA), stated when the statute was enacted, “Basically, we are shutting down the payment system for Internet gaming.” By making it “illegal to use a financial instrument to settle an Internet wager,” Congress is “putting responsibility on the financial community” to choke off the funds that drive Internet gaming.

The thrust of the UIGEA statute is that internet gaming, considered illegal in the United States even though many Americans participate, cannot be directly stopped by American law enforcement authorities. That is because internet gaming hardware is located offshore and in locations where it is legal. Thus, the belief that if internet gaming funds transfers can be stopped, so will the underlying activity. The statute should have no effect on existing lotteries in the United States since, in general, the interstate sale of lottery tickets is illegal – and federal law enforcement authorities would have little difficulty locating and prosecuting operators attempting to cover too broad a market.

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Sharie Brown



Robert Burka



Philippe Vlaemminck

Sharie A. Brown is a Partner and Chair of the White Collar Defense & Corporate Compliance Practice at Foley & Lardner LLP. Ms. Brown represents multinationals and conducts investigations and merger due diligence worldwide in the areas of the Foreign Corrupt Practices Act, OFAC compliance and export controls, corporate ethics and compliance, World Bank procurement frauds, Economic Espionage Act, and USA Patriot Act anti-money laundering. She previously served as Compliance and Ethics Officer with Mobil Oil Corporation, and was a federal prosecutor in the Eastern District of Pennsylvania.

Robert A. Burka, Partner, Foley & Lardner LLP; J.D. Harvard University, M.Sc[Econ.] London School of Economics and Political Science, and A.B. Dartmouth College. Mr. Burka counsels corporate clients on federal regulatory and antitrust issues, and he previously served as an Acting Assistant Director and Deputy Assistant Director of the U.S. Federal Trade Commission's Bureau of Competition.

Philippe Vlaemminck is the managing partner of Vlaemminck & Partners, a Belgian law firm specializing in EU & WTO law and for more than 20 years substantially involved in defending the cause of lotteries at all levels (Internet, privatizations, regulatory approaches...). His email is Ph.Vlaemminck@Vlaemminck.com.