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QUESTIONS ON INTERNET GAMBLING AND KENO

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This report provides questions for a public hearing on (1) online gambling in the context of the recent U.S. Department of Justice (DOJ) ruling, (2) compulsive and underage gambling, and (3) keno.

BACKGROUND

In a 13-page [opinion](#), dated September 20, 2011, DOJ concluded that the federal Wire Act's anti-gambling provisions do not bar states from selling lottery tickets over the Internet because the act's prohibitions apply only to Internet transmissions that relate to "sporting events or contests." DOJ thus reversed its long-standing interpretation of the act that all forms of Internet gambling are illegal, contending that this new interpretation is more in line with congressional intent expressed in hearings and floor debates.

The new opinion came in response to requests by New York and Illinois for a ruling on whether the Wire Act barred them from selling lottery tickets over the Internet to adults within their own borders.

INTERPRETATION AND IMPLICATIONS OF DOJ OPINION

1. What is the practical effect of the DOJ opinion? What precisely does the DOJ opinion allow states to do that they could not do before?
2. Can the DOJ opinion be interpreted to allow interstate, Internet gambling, implicitly or explicitly?
3. Does the DOJ opinion have the force of law? If not, what do states or the federal government have to do to give it the force of law?
4. What novel legal issues does online gambling raise? What changes would be required in Connecticut laws to address them if it chooses to authorize such gambling?
5. Some commentators reason that the DOJ opinion could prod federal lawmakers to pass Internet poker legislation. Should the states or federal government take the lead in enacting legislation?
6. In light of the DOJ opinion, how should the state position itself to take advantage of the Internet, which some consider the new frontier in gambling?
7. If the state authorizes Internet gambling, what can it do to maximize benefits and minimize costs?

For a summary of the [opinion](#), read OLR Report [2012-R-0036.HTM](#).

FISCAL IMPACT OF ONLINE GAMBLING

Connecticut's gambling revenue, which plays a major role in balancing the state's budget, decreased from \$715.6 million in FY 07 to \$653.5 million in FY 11. The DOJ opinion potentially opens the door for a new revenue source.

1. How big is the online gambling market? What is the source of the estimate? What types of games make up this market?
2. If the state decides to authorize online gambling, what games should it legalize?
3. What is the potential revenue gain to Connecticut from online gambling?

4. How much of gambling revenue is currently subject to taxation? To what extent would existing taxes apply to online gambling? Should specific taxes be imposed on online gambling?
5. Aside from increased revenue, how else can the state benefit from online gambling?

For more information, read OLR Report [2011-R-0476](#).

REGULATION, OVERSIGHT, AND SECURITY ISSUES

If states choose to capitalize on Internet gambling, they will have to address many regulatory, oversight, and security issues.

1. Can online gambling be effectively regulated? If so, how? What should be the major goals of regulation? Is the state's current mechanism for regulating gambling adequate to ensure the security and integrity of online gambling?
2. The gambling literature suggests that Internet gambling, by its very nature, is particularly susceptible to fraud and criminal activity, including money laundering. What kind of oversight would be necessary to prevent or minimize these problems?
3. How do we ensure that online gamblers pay any required taxes?

COMPULSIVE AND UNDERAGE GAMBLING

The number of empirical studies on the social impact of Internet gambling is limited. But online gambling opponents argue that legalization could make problems like compulsive and underage gambling an even bigger social challenge than they currently are, given the widespread availability of the Internet.

1. How prevalent is compulsive gambling in Connecticut?
2. Is there any evidence that online gambling has increased the prevalence of compulsive gambling?
3. How much does the state provide annually to the compulsive gambling treatment program? How do we know if the program is working?

4. Should gambling operators have a duty of care to track the gambling patterns of frequent gamblers and aggressively intervene before severe harm occurs?
5. Is there any evidence that teenage gambling is a problem in Connecticut? Is there any data on the number of Connecticut youth who gamble on the Internet?

TRIBAL-STATE COMPACT ISSUES

Connecticut has two Indian casinos—the Foxwoods and Mohegan Sun casinos. Under separate agreements with the state, the tribes have agreed to pay the state 25% of their gross slot machine revenue “so long as no other person within the State lawfully operates . . . [any] commercial casino games.” It also prohibits the Connecticut Lottery Corporation from introducing or modifying any lottery games that would violate the Indian-state tribal compacts or any agreements the state has with the Mohegans and Mashantucket Pequots (CGS § [12-807](#)).

1. What does the DOJ opinion allow the tribes to do that they could not do before?
2. Given the revenue-sharing agreements, what actions is the state barred from taking with regard to Internet gambling?
3. What are some of the more popular games that, if authorized, would violate the agreements?

Read OLR reports [2002-R-0999](#) and [2011-R-0476](#).

KENO

In 2009, Governor Rell raised the idea of introducing keno as a way to help balance the state budget. Published comments suggest that both tribes would view state-authorized keno as a violation that would jeopardize their revenue-sharing agreements with the state. In a 2009 opinion, the attorney general said:

[T]here is no clarity in the statute, no ruling from our state courts, no unanimity in other state courts, and most important, no relevant specific facts as to the operation and structure of the proposed game or even what type is proposed. Because rulings are divided and details are lacking, and there are different types of keno games, we cannot predict what courts would conclude about the type of keno contemplated in

the Governors' budget revisions. . . . A court might conclude that the parties never contemplated the state operating casino games, including Keno, within the state while receiving 25 percent of slot machine revenue from the Tribal casinos. Similarly, the state could contend that Keno is not a 'commercial casino game,' but a court might disagree because clearly some types of Keno are prevalent in casinos, including the tribal casinos in Connecticut (Conn. Attorney General Op., June 1, 2009).

1. What is the basis for the claim that keno is a lottery game? What is the basis for the claim that keno is a casino game?
2. What states offer keno as a lottery game? Which of them have agreements similar to Connecticut's revenue-sharing agreements with the Mashantucket Pequots and Mohegans?
3. The attorney general in 2009 indicated that the state should amend its revenue-sharing agreements with the tribes before introducing keno. Have there been any concerted efforts to involve the tribes in keno discussions? What is the tribes' position?
4. What state entity or official is authorized to negotiate with the tribes? What leverage, if any, does the state have to compel negotiations?
5. What provisions should the state include in an agreement with the tribes? What would the state be willing to offer the tribes? What would constitute a binding agreement?
6. If keno is a casino game and the state approves it, what impact would this have on the state's revenue-sharing agreements with the tribes?
7. In the states that have introduced keno, how has the revenue from keno compared to revenue projections?
8. How have keno sales impacted traditional lottery sales in other states?
9. How does the revenue projection for keno compare to the slot machine revenue the state receives from the tribes?
10. What recourse would the state have if it approves keno and the tribes withhold slot machine payments?

11. Apart from withholding slot machine payments, what recourse would the tribes have if the state authorized keno? Could they seek an injunction against the state prohibiting it from offering keno?
12. Could either the state or tribe seek a declaratory judgment asking the court to declare whether state-authorized keno would permit the tribes to withhold slot machine revenue?
13. If the tribes withhold slot machine payments and the state sues them, how long might a court take to decide the issue? What court would have jurisdiction? Is this the type of case that could be “fast-tracked” through the courts?
14. If the state legalizes keno and the court rules that it is a casino game, would the revenue-sharing agreements with the tribes be nullified permanently even if the state repeals the law, thereby releasing the tribes from any future payments?

For more information on the Keno issue, see OLR reports [2010-R-0144](#) and. [2008-R-0441](#)

MISCELLANEOUS

1. How are other states responding to the DOJ opinion?
2. What does the DOJ opinion mean for tribal gaming?
3. How would online gambling impact older, established businesses such as pari-mutuel wagering on races?
4. What is the potential impact of online gambling on the state’s two casinos?
5. What is the proper balance between revenue generation and social responsibility?
6. How many people does the gambling industry in Connecticut employ?

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