

Thank you for using our printer friendly story page.

[Return to story](#)

The Washington Post: Online bets are legal gray area

Gilbert M. Gaul
The Washington Post
December 1, 2008

By many measures, Neteller PLC was a huge success. Founded in 1999, the financial services company signed up millions of customers and saw its market value soar to almost \$2 billion.

But in 2006, Congress passed legislation that effectively banned the company from the U.S. market. Later, federal agents arrested the firm's two founders and seized their pricey Malibu beach houses and millions of dollars in other assets.

Neteller's crime: It processed payments for U.S. poker players and thousands of other Americans who were using Internet gambling sites.

Even as bettors around the world gamble millions of dollars online, confusion reigns about the legal status of those bets and the companies that handle them. According to the Justice Department, Neteller was "a colossal criminal enterprise masquerading as a legitimate business," violating a 47-year-old law aimed at organized-crime bookies. Prosecutors contend the law applies to any and all betting on the Internet, as well as the electronic money transfers enabling those bets.

For critics of online gambling, the Neteller case and a flurry of other high-profile prosecutions are welcome crackdowns on a murky and unregulated industry. "It's an underworld wrought with scams and schemes," said Kentucky Gov. Steve Beshear, spearheading a state effort to block online bets.

But to some legal scholars and Internet gambling proponents, the government's efforts highlight a widening disconnect between 21st-century technology and the 20th-century laws used to protect Americans from gambling. "Congress shouldn't be trying to make criminals out of people who have taken the game from the kitchen table to the computer table," said John Pappas, executive director of the Poker Players Alliance, a Washington lobbying group claiming just under 1 million members.

The alliance and other backers are pushing for the federal government to license and regulate Internet gambling. They say that the current ban leaves players vulnerable to abuse at loosely regulated offshore sites, as occurred in the AbsolutePoker and UltimateBet cheating scandals. Gambling is already widespread, with casinos, slots parlors and state lotteries. The government would be better off collecting tax revenue and creating strong laws to prevent cheating, they argue.

Until a decade ago, gamblers had limited choices. They could go to a casino or horse track in states with legalized betting, or find a private poker game. The Internet erased those borders: Players now can jump from site to site on the Web, bypassing regulators at home. When Neteller retreated from the U.S. market, Internet poker pro Serge Ravitch simply switched to another firm to handle his accounts. "It took two minutes," he said. Online poker players pay for their bets in a variety of ways, including prepaid debit cards, electronic transfers and bank wires.

Initially, most Internet gambling sites were sports books and online casinos based in Caribbean and Central American countries with low taxes and minimal regulations, according to a recent study by Canadian researchers Robert J. Williams and Robert T. Wood. In January 1996, an Internet casino in Antigua became the first to accept a wager, followed two years later by the first online poker room.

Today, there are thousands of gambling Web sites worldwide, from Antigua to Malta to the Philippines. Most are privately owned and have no connections to land-based casinos, which have been reluctant to jeopardize their U.S. licenses because of the uncertain legal status of online gambling.

A spokeswoman for the American Gaming Association, a Washington trade group, said about half of the casino companies would like to see Internet gambling legalized, while the remaining firms either oppose it or favor a federal study of the Internet's effect on compulsive gambling and other issues.

"It is doubtful whether an Internet regulation bill will ever be passed until Congress can point to an objective comprehensive study that would justify regulation," said Joseph M. Kelly, a professor of business law at the State University of New York at Buffalo, and a gambling industry consultant.

In May 2007, Rep. Shelley Berkley, D-Nev., introduced legislation that would authorize the National Research Council to study the effects of legalizing Internet gambling.

"Let us at a very minimum study it," Berkley said in an interview. "Do we have the software to keep people under the age of 21 from gambling? Do we have a way to identify problem gamblers? I think we'll find the answers are yes."

Horses exempt

Congress remains deeply divided over Internet gambling. Conservative lawmakers, backed by religious and family-values groups, have repeatedly introduced bills to ban or criminalize online betting, arguing that it feeds the addiction. The National Football League also has spent millions lobbying to block Internet gambling.

"Virtual betting parlors have attempted to avoid the application of the United States law by locating themselves offshore and out of jurisdictional reach," said Rep. Robert W. Goodlatte, R-Va., sponsor of several bills to outlaw online gambling. "These offshore, fly-by-night Internet gambling operators are unlicensed, untaxed, un-regulatable and are sucking billions of dollars out of the United States."

In summer 2000, Goodlatte came close to achieving a ban. A companion measure had cleared the Senate, and the House was poised to pass his bill. But lobbying and legislative maneuvers by Jack Abramoff, some of which became part of the federal corruption case against the Republican superlobbyist, left the legislation a handful of votes short.

Goodlatte is on record as saying he would ban all gambling "if I could ... but it wouldn't pass the Congress." Yet the lawmaker himself illustrates the contradictions in federal policy. As the former chairman and now ranking Republican on the House Agriculture Committee, Goodlatte has played a role in helping the horse-racing industry keep its exemption allowing Internet bets. In the past eight years, he has received more than \$20,000 in campaign contributions from the horse-racing industry, records show.

The Interstate Horseracing Act, first passed in 1978 and amended in 2000, includes a provision that allows betting parlors to cover bets on tracks in other states. The industry interprets that language to include Internet bets, and several large firms now accept millions in wagers

annually. The Justice Department contends that those bets are illegal but has not prosecuted any of the sites.

Goodlatte said he "mediated" between the Justice Department and the horse-racing industry to come up with language about horse racing in the 2006 gambling bill that affected Neteller. He said the wording "simply maintains the status quo in the dispute." In other words: a stalemate that apparently leaves a loophole for online horse racing bets.

Recently, Beshear moved to protect Kentucky's lucrative horse racing industry from the effects of offshore Internet bets by seeking to block 141 online gambling sites from serving customers in Kentucky. State officials estimate that Kentuckians bet approximately \$170 million online each year.

"Governor Beshear's main focus is to protect the industries already licensed and legal in Kentucky," said Jennifer Brislin, spokeswoman for the Kentucky justice department.

Rep. Barney Frank, D-Mass., the sponsor of a bill to legalize online gambling, said that even today, "you can't get a straight answer if horse racing is illegal. It's total hypocrisy and mishmash." He calls the ban on Internet betting "an outrageous interference in Americans' personal freedoms."

Jailed in Vegas

At the Justice Department, officials insist there is no confusion. They maintain that all online betting is against the law, including horse racing. "Internet gambling poses an unacceptable risk due to the potential for gambling by minors and compulsive gambling," Catherine L. Hanaway, the U.S. attorney for the Eastern District of Missouri, testified last year before the House Judiciary Committee. Officials also cite the potential for fraud, money laundering and organized crime.

The department's opposition to gambling is long-standing, said David G. Schwartz, director of the Center for Gaming Research at the University of Nevada at Las Vegas. "It goes back to (Attorney General) Bobby Kennedy and his war against organized crime. The department wanted to shut down their sports books to cut off their money supply."

So far, federal prosecutors have not gone after individual players and only a handful of states attempt to ban players from gambling online. Washington is the most prominent, listing Internet gambling as a Class C felony, equivalent to rape, said Kelly, the Buffalo professor. Most states simply ignore the issue.

To fill that void, federal prosecutors have turned to the 1961 Wire Act, which was passed during the Kennedy administration to intercept telephone communications between old-fashioned bookies. At least one federal judge has ruled that the 47-year-old law applies only to sports bets, while several legal scholars have argued that it was never intended to include online poker or other games of skill.

But Justice officials have used the measure to snare Neteller and several online sports betting operations.

One of the first such cases was brought against Jay Cohen, 27, a former options trader who in 1996 opened an online sports book in Antigua called World Sports Exchange. Within a year, the Web site was receiving thousands of bets from U.S. customers. Cohen and a partner were prominently featured in a Wall Street Journal article.

But by May 1997, the story had soured. That month, Cohen received a letter from the law firm Debevoise & Plimpton, which was representing the NFL and other professional sports leagues, threatening him with a lawsuit if he didn't remove links to the leagues' Web sites and stop accepting bets from U.S. customers, according to an account Cohen published online in 2002.

Cohen was indicted the following year. "Criminals cannot avoid responsibility for federal crimes by seeking refuge in offshore locations," then-U.S. Attorney Mary Jo White said at the time.

Cohen was convinced that the Wire Act didn't apply to the Internet, and he returned to the United States to fight the charges. He was convicted and sentenced to 21 months in a federal prison camp located in the shadows of the Las Vegas Strip and its multibillion-dollar casinos.

In June 2006, a federal grand jury in Missouri indicted BetOnSports PLC, a company traded on the London Stock Exchange that operated Web sports books and casinos out of Costa Rica. The government charged the company with accepting billions of dollars worth of bets from U.S. customers, and agents arrested chief executive David Carruthers while he was changing planes at the Dallas airport.

Carruthers was led into court in handcuffs at his initial hearing and was required to wear an ankle bracelet while under house arrest. He told a CBS correspondent that on any given Sunday, the site received about 60,000 bets on NFL games. BetOnSports pleaded guilty. Carruthers is awaiting trial.

The government's efforts haven't been limited to sports books. The Sporting News agreed to a \$7.2 million settlement to resolve claims that it had promoted illegal gambling by accepting advertising from Web sites. And last year, the Justice Department reached a \$31.5 million settlement with Microsoft, Google and Yahoo for accepting online advertising for sports books and casino-style games. None of the companies admitted liability.

Return to story

madison.com is operated by Capital Newspapers, publishers of the Wisconsin State Journal, The Capital Times, Agri-View and Apartment Showcase. All contents Copyright ©2008, Capital Newspapers. All rights reserved.