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Sports Betting: Coming to a Jurisdiction Near You

Moderator:
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Speakers:
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Kate C. Lowenhar-Fisher: Practice Group Chair, Gaming, Dickinson Write, PLLC
Richard McGuire: Executive Chairman, Sportech PLC

Ms. Wendy Davis: Good morning.

Ms. Wendy Davis: I'll do just a couple —

Mr. Alex M. Waldrop: Okay, I'm sorry. I'm not in charge.

Ms. Wendy Davis: Just a couple housekeeping notes.

I just wanted to welcome you to Day 2 of the conference and, again, thank our sponsors. They are up here on the board, NYRA, Del Mar Thoroughbred Club, American Teletimer, and Roberts Communications Network.

Without these great sponsors, we couldn't bring this program to you.

This morning, we are delving into sports wagering, and we've got two complementary panel sessions, I hope you're here for both of them, to lead the discussion.

In our first session this morning is President and Chief Executive Officer of the NTRA Alex Waldrop. I think he's no stranger to any of you in the room.

He certainly keeps us abreast of all the issues and happenings in our industry. I'd like to let Alex get right to his discussions, since I cut his initial comments a little short, and then turn this right back over to Alex.

Thank you again for doing this panel session for us this morning.

Mr. Alex M. Waldrop: Thank you, Wendy.

It's my pleasure to be here.

Our topic is Sports Betting: Coming to a Jurisdiction Near You.

Let's start with a little remembrance from last year. One year ago, today, I moderated a panel discussion.

We were discussing whether the Supreme Court would rule in favor of New Jersey and Monmouth Park concerning the constitutionality of the Professional and Amateur Sports Protection Act, which we call PASPA.

We had a lively discussion based upon the oral arguments. One individual had come just from D.C. the day before and had heard the oral arguments.

We surmised that the Supreme Court would do something.

We weren't sure whether it would be a partial or a full repeal. But, sure enough, several months later, the court did rule in New Jersey and Monmouth's favor, and the race has been on since then to get up and running, both in New Jersey and in Delaware, to get sports betting going in those two jurisdictions.

Later, Mississippi; West Virginia, which now includes Charlestown; and just recently Mountaineer Park with facilities.

New Mexico has approved it; Pennsylvania, where Penn National Racecourse has a new facility; and Rhode Island have followed suit since that time, so it's moved quickly.

We now have three tracks in the U.S. that have run the better part of a race meet, with sports betting occurring at Monmouth Park, Delaware Park and now Hollywood Casino in Charlestown, and I would say with some mixed results, and we could talk about that as we go today.

What's next in sports betting?

What tracks, and states are on deck next year?

Will racing be the winner?

Will it be a loser?

What's happening in Congress?

There're some late developments just as early as this morning — as recently as this morning that we'll discuss at some point in time.

Here to help me with this discussion we have three distinguished speakers who have a lot to say about the business of sports betting and its actual, as well as its potential, impacts on horseracing.

Our first speaker will be Chris Krafcik. Chris is the managing director and political — the managing director of political and regulatory markets for Eilers & Krejcik Gaming LLC.

He'll look at the issues of sports betting as a research analyst. He'll provide us with an up-to-date information about the state of affairs in state legislatures and regulatory bodies across the country.

Next, Kate Lowenhar-Fisher with the practice — and she is the practice group chair for gaming at Dickinson Write in Las Vegas.

Kate will give us her insights from years representing sports-betting businesses in Las Vegas.

As she describes it, she's going to give us the reality of the sports-betting business.

Our third speaker is Richard McGuire, who's the executive chair of Sportech PLC.

He has a vast amount of experience in the business, including as the operator for Connecticut OTB, which could very well be seeing some form of sports betting next year.

Richard will give us his insights into the best ways to integrate sports betting and horseracing in a single location.

With that, Chris, I'll invite you to come forward, or you're gonna — they're gonna remain, and we'll have a discussion after each of them give us their remarks.

Chris, you're first.

Mr. Chris Krafcik: Thank you. Is the volume okay for everyone?

I sound Darth Vader-ish up here, but I'm hoping that everybody can hear me. Thumbs up?

Good.

Okay.

My name is Chris Krafcik, and I'm the managing director of political and regulatory markets at Eilers & Krejcik Gaming.

I head up the firm's coverage of sports betting and online gambling policy, and I also co-author our market research reports on sports betting and online gambling and work directly with our private — and public-sector clients on questions of sports-betting development.

Before joining Eilers & Krejcik, I was a journalist first for four years at *iGaming News* and then for seven-plus years at Gambling Compliance, where I was that firm's U.S. research director.

I'm glad to be with you all this morning and thank you for having me.

Just a brief introduction touching on some of the points that Alex had already made, across America, as many of you know, sports betting is expanding at a very rapid clip.

Since a 1992 federal sports-betting ban was overturned by the U.S. Supreme Court in May, seven states — those are Delaware, New Jersey, Mississippi, West Virginia, New Mexico, Pennsylvania and Rhode Island — have joined Nevada in offering single-game sports wagering.

That means about 11 percent of the U.S. adult population now has access to regulated sports-betting products.

Next year, we anticipate that the number of states with legal regulated sports betting will meaningfully increase.

Arkansas, where voters last month approved a constitutional amendment authorizing sports betting at four to-be-built casinos, and New York, where sports betting at select resort casinos is lawful but not yet regulated, are among the states we believe sports-betting implementation is most likely in the near term; however, it would not surprise us at all if the regulated sports-betting market encompasses 13 states or possibly more by this time next year.

For this panel, I wanted to start by briefly reviewing the policy approaches various states have taken to sports betting and then shift to a discussion about salient market trends that we've observed to date.

Finally, I'll wrap up by providing four key takeaways for the racing industry.

So, let's start by quickly running through a few core policy questions and how those questions have been addressed in states where sports betting is now legal and regulated.

On the all-important question of who gets to operate, there is strong initial consensus among states.

Without exception, and I'll say that again — without exception, land-based incumbents, such as casinos and racetracks, are being given exclusivity over sports-betting operations, making them the newly regulated industries' de-facto gatekeepers.

In Pennsylvania, for example, the state's casinos, including its racetrack casinos, are the only entities eligible to operate land-based and online sports betting.

In New Jersey and West Virginia, meanwhile, casinos, racetracks and/or racetrack casinos have exclusivity over land-based sports betting and also enjoy a form of semi-exclusivity over online sports betting.

Looking ahead, we think most states that authorize sports betting will similarly grant operational exclusivity to their land-based gaming-industry constituents, be those casinos, racetracks, cardrooms or the like.

Next, on the question of whether online sports betting is allowed, there is actually little consensus among states so far.

Only four, Nevada, New Jersey, Pennsylvania and West Virginia, currently permit some form of online sports betting.

Still, legislative trends this year strongly suggest that online sports betting, which enjoys clear support not only from the country's professional sports leagues but also from a growing number of the country's gambling-industry constituents, could form part of future regulated sports-betting markets in Missouri, Iowa, Kansas, Illinois, Indiana and potentially many other states.

Moreover, the early success of New Jersey's online sports-betting industry, which, in handle terms, is currently outperforming the state's land-based sports-betting industry by a factor of two, is unlikely to go unnoticed by states in which sports-betting expansion is under consideration.

I'll discuss early takeaways from the New Jersey sports-betting market momentarily.

On the more niche but still important question of whether online sports-betting operators are permitted to offer multiple brands under their licenses, there's no consensus.

Only New Jersey and West Virginia actually allow what we're tentatively calling the multiple-brand model for online sports betting.

In both states, online sports-betting license-holders, and those, again, are casinos, racetracks and/or racetrack casinos, may offer up to three discreet online sports-betting brands under their licenses.

An example of a multiple-brand arrangement is the Meadowlands partnership, of course, with FanDuel, under which FanDuel offers online sports-betting in New Jersey and likely pays the Meadowlands a share of its monthly online sports-betting revenue in addition to an up-front fee.

We understand that under a typical multiple-brand arrangement in New Jersey, the online sports-betting license-holder receives between $2 million and $4 million in up-front fees, plus a monthly revenue-sharing rate of between 5 percent and 25 percent from a partner brand.

In populous Tier 1 online sports-betting markets like New Jersey, we believe multiple brand models could provide racing with access to an incremental or potentially larger source of new revenue.

Now, on the question of how tax rates and licensing fees are being set, there is, again, little to no consensus among states.

Tax rates range from as low as 6.75 percent of gross gaming revenue in Nevada to as high as 51 percent in Rhode Island.

Meanwhile, licensing fees, and these are prior to investigative costs, range from as low as $500 in Nevada to as high as $10 million in Pennsylvania.

We believe that this absence of consensus is likely to persist actually as regulated sports-betting expands.

Each state is unique.

Some states like Pennsylvania will attempt to impose high taxes and fees on sports-betting operators in an attempt to fill budget gaps, while other markets like West Virginia will carefully study sports betting and impose fee and tax regimes that're proportional to on-ground market realities.

On the whole, actually, we expect that states that take a golden-goose approach to sports betting, that is a high-tax, high-fee approach, are likely to host markets in which levels of operator participation, competition, product quality and even black-market recapture are depressed by supply-side cost pressures.

Finally, on the question, which I think is particularly relevant for this audience, of whether revenue-sharing between sports-betting operators and racing is being statutorily required, there's no consensus there among states, either.

Some like Delaware mandate that a certain percentage of sports-betting revenue is shared with racing, while others like New Jersey do not.

We anticipate that in many states there will be friction between sports-betting operators and racing on the question of revenue-sharing, and we further anticipate that such friction, particularly in states like California, where racing enjoys special political clout, could slow or even stall the development of sports-betting policy.

Other key policy questions, which I don't have time to discuss in full but would still like to mention in passing, include how severely or if at all states will limit betting markets.

Some states, for example, have already restricted wagering on certain amateur sporting events, including collegiate events, and that, of course, could have an adverse impact on market size; secondly, whether states will, at the behest of U.S. professional sports leagues, impose royalty or integrity fees on sports-betting operators.

Good news for all industries involved so far: No states have enacted such fees — third, whether states will route a portion of sports-betting proceeds to problem-gambling research and treatment.

Surprisingly, only a few states have elected to do this so far, and I think other panelists may touch on this issue in greater depth — and, finally, whether states will lay the statutory groundwork for interstate sports betting ahead of potential changes to the Wire Act of 1961.

Some states have already done this.

Having touched on how states have so far addressed key policy questions, I wanted to shift to a brief discussion of salient market trends that we've observed so far.

The first trend is undeniably that online distribution is key.

In the New Jersey market, the current split between online and land-based sports-betting handle is 67 to 33.

We anticipate that this split will actually settle closer to 80/20 in favor of online, as more online supply enters the market over time in accordance with the state's multiple-brand model and as consumer behavior, in line with other commercial sectors, continues to shift online.

In our view, the early months of the New Jersey experience are clearly signaling to the market that the online channel again will be absolutely critical to sports-betting operators, including racetracks, in their efforts both to penetrate state-regulated markets and to recapture customers in those markets who are currently wagering with illegal online offshore sports books.

The second trend is that out-of-state play appears to be a major difference marker in some markets — maker, mark — anyway, it appears to be a major difference-maker in some markets.

The number-one land-based sports book in each of Delaware, West Virginia and New Jersey, and these're the only states currently reporting sports-betting revenue on a by-operator basis, is notably positioned near a bordering state or states in which sports betting is not yet operational.

This unambiguously suggests to us that those sports books are benefiting to some extent from out-of-state play, and in the market's early stages we believe regional exclusivity will provide a meaningful boost to land-based sports books situated near bordering state population centers, with the caveat that such exclusivity could be relatively short-lived, especially in the Northeast, the Mid-Atlantic and the Midwestern regions, where sports betting could expand at a potentially very rapid clip.

The third market trend that we've observed, and this will probably surprise no one in this room, is that football is the product around which sports betting is going to be built.

Historical Nevada data shows and data from newly regulated markets echoes, that NFL and NCAA football will be the principal drivers of handle on the regulated sports-wagering industry.

The fourth and final trend is that daily fantasy sports brands have shown early dominance.

In fact, we estimate that DraftKings and FanDuel, which are the daily fantasy sports giant I'm sure many of you have heard of, currently account for about 85 percent of online sports-betting revenue in New Jersey.

DraftKings is operating under a multiple-brand arrangement with Resorts Atlantic City Casino, and FanDuel, as I mentioned a few minutes ago, is operating under such an agreement with the Meadowlands.

We think the early dominance of DraftKings and FanDuel in New Jersey offers a few low-hanging but important lessons for U.S. sports-betting market aspirants.

The first lesson is that being first to market matters.

DraftKings, for context, was the first brand to launch in the New Jersey online sports-betting market, and it alone currently controls about 58 percent of the market in revenue terms.

The second lesson is that marketing matters.

DraftKings and FanDuel, which are perhaps best known for spending hundreds of millions of dollars on their daily fantasy sports ad campaigns, are promoting themselves with undiminished vigor in New Jersey.

This appears to be paying major dividends in the form of market share.

The third lesson is that player databases really matter.

We believe that DraftKings and FanDuel are likely succeeding in cross-selling their daily fantasy sports players to real money online sports betting.

Having briefly addressed how states are approaching core policy questions and having then discussed some of the salient market trends that we've observed on the market to date, I'd like to shift now to offering four key takeaways for racing.

The first is that racetracks and racetrack casinos, as incumbent land-based gaming stakeholders, will have a seat at the U.S. sports-betting table.

Tracks and trackside casinos are positioned to serve as venues for land-based sports betting and to operate online sports betting.

In newly regulated markets, the right to operate sports betting has once again gone exclusively to land-based incumbents, and that is certainly a trend that we expect will continue.

The second takeaway is that there is no consensus yet around whether racing will widely or more narrowly benefit from sports-betting revenue-sharing.

Some states, again, such as Delaware, require revenue-sharing between sports betting and tracks, and some states don't.

We anticipate that racing, again, will have the best chance to secure statutory revenue-sharing agreements in states where the industry enjoys particularly good political clout.

The third takeaway is that the multiple-brand model for online sports betting could provide racing again with a way to capture incremental or potentially greater revenue from sports betting.

Tracks and trackside casinos in some states will be able to benefit from partnerships with non-endemic or out-of-state brands.

The revenue generated by those partnerships, however, will depend on factors, including the strength of the partner brand, the marketing budget for the partner brand and the supply-and-demand characteristics of a particular market.

The fourth and final takeaway is that online sports betting will be critical to racing's ability to wring maximum value out of the regulated U.S. sports-betting opportunity.

The New Jersey market is clearly signaling that online sports betting, where permitted, will become the dominant delivery channel, as it is in other highly competitive markets around the world, including the United Kingdom.

With that, I'll yield back to Alex and the panelists. Thank you for your time.

Mr. Alex M. Waldrop: Thank you, Chris.

That's some great stuff.

I appreciate all those comments, and we'll come back to you perhaps at the end with a couple of questions.

Next up we're going to talk about Las Vegas and what's happening on the gaming front there.

Ms. Kate C. Lowenhar-Fisher: Thanks so much, and I am sitting here smiling to myself because I'm wondering if I'm gonna be the bummer from Las Vegas' perspective.

Thank you for having me here.

My background is I'm a Las Vegas gaming lawyer.

I have been for 17 years, and I — also licensed in California, so I also chuckle about the political dynamics in California and how you can actually try to get some traction there.

But my perspective just comes from the — being from the state that has for decades had a legal, regulated sports-betting market that has permitted single-game sports betting and the actual representation of legal sports-betting operators in the United States.

I think, for me, what has always hovered over all of this — I like the term golden goose, pie in the sky, discussion about sports betting in the United States is that the economics of a sports book are no mystery.

We have a lot of history and evidence about how a sports book can earn money in the regulated marketplace and how a sports book can be murdered because of unreasonable taxes, fees and so forth.

The sports book operations are an amenity.

They're an amenity to our patrons.

They're not a big money-maker, never have been.

I would argue that Nevada sports books, in terms of the United States, are pretty efficiently run.

Sports betting, unlike just about every other form of gambling, doesn't have any theoretical win, so there's a lot of art involved in managing lines and creating a profitable sports book.

Because there's no theoretical win, because there's a lot of art involved, there's a lot of risk.

In Nevada, where we have some of the most experienced — or, I would say the most experienced sports-book operators in the United States that are — you can tell are being nabbed up by some of the other companies, the most efficiently run books typically have between a 4.5 and a 4.9 percent hold.

That's it.

Then we look at assumptions around the country that suggest that sports books are going to do much, much better than that, I guess I would take that with a grain of salt because my question would be, why?

Why is another sports book going to do so much better?

What assumptions are you making?

Where is that coming from?

Are you basing your model on another country, or are you basing it on our experience in this country?

In Nevada, I always think it's worth having a history lesson.

In Nevada, the tax rate on sports books is — there's a sliding scale, but it's 6.75 percent on gross gaming revenue, not handle, revenue in excess of $134,000 a month.

Of course, we also have the federal wagering excise tax, which levies a quarter-percent on handle on top of that.

That's the model we have in Nevada.

You have your 6.75 percent on revenue.

You have your 0.25 percent on handle to the feds, and in that marketplace, we have sports books that run with very slim margins that are an amenity to the players — or the patrons in Nevada.

Good example: During the Super Bowl — actually, I never know if I'm allowed to say that.

During the NFL championship — I'm not an IP lawyer.

During the NFL championship, the hold was 0.17 percent because of all the proposition betting and the inability to balance the lines.

With a 0.17 percent hold, we had to pay employees, and Las Vegas got killed.

That's what can happen because, again, there's a lot more art to it, and it's a very slim-margin business.

If you go back a little further in time and history in Nevada, when we had a lot of sports books that were open, and the federal wagering excise tax used to be two percent on handle, so two percent on wagers placed turnover, and when that happened, all the sports books shut down.

You couldn't make any money with a two percent on handle tax.

When it got lowered to a quarter-percent, the sports books reopened.

There was no magic to it.

If the taxes and fees get too high, it just doesn't work.

I think I find it remarkable sometimes when we're having all these conversations about the burgeoning sports-betting market in the United States.

I mean, I'm a fan.

That's where I come from, but there's just not a lot of reference to — those models that work financially and those models that don't.

There's this golden-goose thing going on.

I think that if we could draw some lessons from that, separate and apart from ideology or the tension between the federal government and states' rights and all those kinds of things, we can put that aside and just talk money, economics, there are basic things that kill profitability in the sports-book arena because it is a slim-margin business that requires a lot of art, not a lot of science in some ways, although skilled players can do better than unskilled players — is if you have taxes and fees that exceed the Nevada model, you might be in trouble.

If you have taxes and fees that are levied on handle rather than revenue or win, you're likely to have a problem whenever we talk about — I love it when I hear these estimates, $170 billion industry in the United States.

That's the illegal market, so who the heck knows?

But that $170 billion isn't revenue.

It's the amount of bets placed.

What does that have to do with profitability?

Actually, not that much.

It's important not to have these pie-in-the-sky notions.

Taxes and fees that are bigger than Nevada model or use handle, you're probably gonna have a problem.

Again, layering on things like integrity fees, and I know the states have backed off of that, but it's being repackaged, and I think Alex will mention the federal bill, whether it's a royalty or a license fee or an integrity fee.

Whatever it is, if it's levied on handle, again, it's probably gonna be more challenging.

Number two, as soon as you start layering on more fees getting paid to third parties, you're going to make the model much more expensive.

You're going to diminish state revenue.

You're going to diminish the availability of funds for, perhaps, problem-gambling programs.

You're going to probably create a product that's too expensive for the consumer.

Why go to the legal market if the illegal market is so much better because if it's an expensive business to run, it's not gonna be that attractive to bettors.

I think the final economic lesson I would suggest that we learned in Nevada is that — I think it's an economic lesson we all know is that the more efficiencies we create, the better.

From Nevada's perspective, for example, we talk a lot about global risk management, where you can have a remote global risk manager, potentially somebody based in Nevada because those — that's frankly where most of the really experienced people are in the United States, and from Nevada really be able to manage nationwide the book in terms of its risk, in terms of its betting lines, in terms of its odds and so forth because as soon as we have individual risk management all over the United States and we don't have the economies of scale and those efficiencies that can be created, again, we have a much more expensive product.

We make it much more high-risk because there's not that liquidity, and we create some real challenges for ourselves.

I think one of the things that everybody also can keep in the back of their mind is that the federal Wire Act, even un-amended, would allow for that type of global risk management and already does because, of course, although the Wire Act prohibits the interstate transmission of bets, the Wire Act has a safe harbor that allows for the transmission of information assisting in the placement of bets or wagers from one jurisdiction where it's legal to another jurisdiction where it's legal.

That kind of information management is already permitted.

I think what the takeaway perhaps should be from my perspective and Nevada's perspective is we have to be really mindful of all the business killers that we can inject in here and all the ways in which we can create a profitable sports-book model that is efficient, that has integrity, the money is going to all the right places in terms of drawing the operators in and drawing the patrons in and seeing if we can cannibalize from the illegal market because it's the point, and that state revenues get really supported.

I think from the racing industry's perspective, I defer much more to the experts in the room, but I'm listening to those trends in terms of that is the — those tracks can really be the locus for those sports-betting operations, account signups.

I think there're a lot of states that're never gonna allow remote account signups, that we're really going to have to have some kind of brick-and-mortar connection.

Also, I would put a little note at the bottom about using maybe the para-mutuel system for sports betting.

Nevada already has regulations, has had them for a long time, that allow for pari-mutuel sports betting.

There are some operators that do — do that, and, again, for maybe those operators or those folks that are necessarily comfortable in the management of a sports book from an artistic perspective, you can see the advantages of a pari-mutuel system.

I think there can be some real expertise brought in there as well.

I would say that that's the kind of sum total of the economic lessons we have in Nevada that we'd love everybody to be really thinking about a bit more.

Mr. Alex M. Waldrop: Great. Thank you, Kate. That was an excellent — now to Richard McGuire with Sportech.

Richard?

Mr. Richard McGuire: I hope you can hear me okay in the back.

I'm getting over what my partner calls man-flu.

If Chris was worried he sounded like Darth Vader, I'm sure if I drop into my dulcet Scottish tones, you'll all be thinking either Sean Connery or maybe Shrek, but I'll leave you to decide on that one.

Listen, it's my honor and privilege to be chairman of Sportech PLC and to be here with all of you this morning.

My own history goes way back in sports betting, from pressing my nose up as a kid at an OTB back in the U.K. to securing my very first sports-betting license back in 1987, again, in the U.K., I hasten to add.

We've seen quite a bit, personally, through the sports-betting market and clearly with Sportech and how we operate in this particular space.

But just before diving into the key topic here, I thought I'd just bring some of you up to speed on Sportech and who we are and what we do, obviously.

I'm also very worried to be sitting next to a lawyer to be talking about sports betting in this country, I have to say, but it's a much easier platform right now.

Sportech is global tech provider. We have 400 clients, little over 400 business clients across this globe.

We operate already in 38 countries across the globe.

We provide basically gaming and gambling services to our clients.

We’re an enabler for our clients to conduct regulated, legal and approved betting businesses around the world.

We’ve got a retail experience here in the U.S., obviously.

We have a successful business in Connecticut, where we operate their pari-mutuel horseracing betting business there.

We have 16, maybe 24 — with the license to go to 24 venues.

We have a bump 50/50 business, which is very popular, obviously, and many of you know that business from attending sports venues across the U.S. and Canada.

We also in the U.K. owned until last year one of the most successful retail pool-betting, sports-betting businesses, the U.K. football pools.

This business had 10 million playing — paying players every week, 10 million players a week paying nice money into a pool system.

Then things changed a little bit with the introduction of the national lottery.

Last year, those 10 million players have dropped to about 280,000.

That was over a number of years, clearly, so I think part of this discussion you will have heard yesterday and today is just to be aware of the opportunities and the threats to your business, clearly.

Before you know it, you’re running an incredible operation, you have a threat from left field, and unless you grasp that threat and engage with it, you’re gonna be in a lotta problems, quite frankly.

We’re also local here in the U.S.

As many of you know, I see a lot of our clients across this room.

Surprised so many of you made it this early in the morning, but it’s great to see, and a lotta Sportech colleagues in the room as well, which has gotta be the first time I’ve seen many of you guys before 9:00 a.m.

That’s for sure.

We operate here in the U.S.

We are licensed across 37 states, so we know a little bit about what’s going on in the U.S. We bring a global experience.

We bring a real retail experience.

We know about sports betting, and, of course, we're already engaged across 37 states. We have a government policy group based here in the U.S. that works clearly with us in Connecticut and clearly with our clients going forward, should they need to engage with us and understand the kind of actions and behaviors and working with the regulators and working with professional, independent consultants, too, both from here in the U.S. and from markets where sports betting has been prevalent for many, many years and bring their experience to play.

That's enough about us and a little, brief sales pitch.

Let's get on to sports betting.

Quite frankly, in my view, I think sports betting, as we all know, it's here.

It's here.

It's now.

I believe this is the single greatest opportunity for many of you in this room, but as Kate said as well, it's also the single greatest threat to your business going forward.

Let's not mistake this.

We'll get into a little bit more detail.

As Chris stated earlier, clearly the U.S. map is changing dramatically.

We only have six states currently operating, did you say?
Seven.

My apologies, seven.

I forgot about Rhode Island for some reason.

Apologies.

Ms. Kate C. Lowenhar-Fisher: It's very small.

Mr. Richard McGuire: It's very small, and it's a 51 percent tax, so it's really a joint venture, I guess, with the state, which is nice way of them to put it because a 51 percent tax would basically have no operators wanting to go there.

But let's call this a joint venture.

But sports betting, as you all know, is obviously not new, and in the opening speech yesterday, Jack Anderson noted that the illegal market is vibrant.

I’m now a little reticent to put a number on this following Kate’s speech about worrying about how big that illegal market is.

Who knows?

We all know it’s huge.

We all know people who play in this illegal market.

Kate has their names, quite frankly, and are very aware of it as a lawyer.

But we know it’s huge.

Estimates would put this probably at 10 to 15 times — I would think it’s about 15 times the U.S. Thoroughbred horseracing handle.

That’s the illegal market right now.

It’s not new, and if you look at New Jersey already, you don’t grow a market in four months from nothing to the kind of scale that that market already is.

I mean, they’re on line now to probably be a $2 billion, maybe $2.2 billion handle market annually.

How they perform when New York comes online, if New York comes online, clearly is gonna be very different.

But you have a $2 billion market in New Jersey per annum already.

It’s happening for a long time, and if we look at the illegal market, I mean, if we take on average the volumes and bets going through the illegal market that people would estimate, people a lot smarter than me, I hasten to add, during the symposium the last two and a half days, there’ll be approximately $1 billion of bets placed in the illegal market.

During this one-hour session this morning, it’s probably gonna be around $17 million to $18 million of bets.

That’s a staggering number.

I know I would like a piece of that action, quite frankly, going forward, and I’m sure many of you would like to be part of that, too.

What have we learned from the rest of the world?

I think it’s a little early to take too many lessons from the states, the operational states in the U.S. Everyone will talk about the success of New Jersey, clearly, but it’s early days.

The other problem about being the third speaker on a panel is you find most of what you're gonna say has already been covered.

I can just click through this a little quicker for many of you.

I know you're thinking, "He doesn't look like Sean Connery," but we'll get back to that in a second.

He does look a lot like Shrek, so moving on.

Globally, distribution is key, really, to go forward.

I mean, if we look at some of the successful countries, the U.K. obviously is a leading country in terms of sports betting.

It's got a vibrant sports-betting market, and we'll come back to that in a second.

But you will have heard obviously today and yesterday that online is key.

The market is gonna be 70 percent.

We had numbers of 70 to 80 percent going forward for online.

That's definitely gonna be the growth market.

New Jersey in October alone — Chris talked about the average, but in October I think it was 74 percent/26 percent online to retail.

That markets moved to where established global countries are for sports betting already. That's gonna be one way.

Therefore, you obviously need a digital market or an online market to compete.

The most successful offering, we think, in any state will be an omni-channel solution, bricks and mortar clearly for various reasons, plus the full digital capacity of online, mobile apps, etcetera.

But we think mobile will be the fastest-growing vertical by far, no question.

We touch on tax.

I'm a little reticent, but I am British, to say the market is more efficient than the IRS here. There's no doubt about it.

As Kate touched on, clearly as soon as you overtax, you lose your market share quite quickly.

It's very easy to tax so many people, but a tax on turnover clearly affects the odds.

The mass-market participants therefore either bet less or more likely will head to the illegal markets.

Very simply, they can pick up this little device here — sorry, it's a phone, and go onto one of the offshore accounts, clearly, and bet very simply.

Overtaxing will create minimal tax actually in the long run, to elaborate Kate's point.

We actually believe that the New Jersey market of a tax which is higher than Vegas — I think it's 8.5 percent for retail and 13 percent for online — is probably about the right level.

Much more than that, you're really gonna start to have some serious problems.

Much less than that would be fantastic, but that seems to be about the right level.

In just a few months in New Jersey, they've created $6 million of tax revenue for the state purely on sports-betting tax.

We're pretty sure that many of your regulators will be looking to sports betting to create this incremental tax revenue, and we would fully advocate that.

But if you look at countries who have failed, Portugal and France have very, very high turnover taxes, and their illegal market activity relative to their legal activity is through the roof.

If there're any regulators in the room, don't overtax.

You'll just kill the goose, and nobody will have a marketplace, clearly.

Looking at regulation just briefly, safer gambling, we feel, can be delivered in a safe, legal and fun environment, obviously.

We believe restricting the number of licenses to a state is probably optimal. I 100 percent agree with comments from both the previous speakers that bricks and mortar and having an established business in a state already that's licensed, that employs people, that has a great gaming ethos, an incredible culture in their particular state are the obvious pioneers to secure licenses going forward.

That's basically you guys.

That's the racing industry.

It's a casino.

It's OTBs.

Beyond that, I think it's gonna be very difficult for someone to come in unless they wave an incredibly large check to state regulator to be part of that process.

But all of you have the infrastructure ready to take on sports betting right now, and we would encourage you to do that.

Just looking at the product, we've heard a little bit about various regulators wanting to limit activity.

We've heard certain states may only be bricks and mortar, not a great idea.

I don't mean that just from our perspective and from a volume perspective, but we'll get back to that in a second.

One has to have online.

One has to have in play.

One has to offer all of the prop bets that are available, clearly, to even consider being able to take on the illegal marketplace.

Mobile is king, clearly, and when we look at the home team, should you be allowed to bet on your own local home-team sports franchise?

Well, if you don't in your state, quite clearly your players or your gamblers will just go to the offshore market.

It's there. It's vibrant.

It's trading, so one should allow, in our opinion, very clearly to allow in state the ability to bet on your sports franchise team.

I'm not gonna get into it because I'm not qualified enough to talk about should you have college sports, but all I would say is if you don't, people betting on college sports will go to the illegal market.

It's just too easy for them to access that.

The framework for us must allow clearly an online and mobile across all sports to provide all of the operators with the necessarily tools to take on the challenge of the offshore markets.

But, more than that, I think any regulator can seriously only monitor and evaluate a marketplace if they have access to the data, access to your online data.

If someone wants to bet cash, they can go to a number of venues, and there's no way of tracking that particular volume.

If you have an online account, and as we all know this, every single click of that mouse can be tracked and can be covered.

Someone said to me it’s almost like trying to look at someone who has a problem gaming.

You only really know if they’ve got a problem gaming if you know their behavior patterns, if you know how they conduct themselves, if you know how much money they’re winning or most likely losing.

If they are just trading cash anonymously on a regular basis, it’s very difficult for an operator to spot anyone who may have a problem in that area.

A full online digital offering is an absolute must, not only for the operator, but in our view for the regulator, too.

Mr. Alex M. Waldrop: Richard, two-minute warning.

Mr. Richard McGuire: Thank you, Alex.

We might just slide past the next couple, then.

This is gonna be a key one.

How will sports betting impact racing?

I think in our view there’s a huge risk.

Consumer spending will quickly move away from horseracing, unfortunately.

Fixed-odds volumes we know are excessive.

We’ve heard the illegal market size; however, in our view, quite clearly, racing and sports betting can coexist so long as you have an engaging, interesting offer on your product and you can bring in new customers to look at sports betting and also look at your horseracing offer.

In our venues in Connecticut, every day we have people coming in to our horseracing venues, I hate to call them the New Millennials but younger people who are asking, “When can we bet on sports here?

When can we look at sports?”

Then they’ll hang around, and they maybe have a couple bets on Saratoga or whatever.

They’ll get involved in it.

Sports betting and horseracing can coexist quite simply.

We get onto this clearly in the questions section.

I think we've covered a little bit of this.

My apologies. What will the new world look like?

License is not a privilege — sorry, it's a privilege; it's not a right.

You have to stand up if you want sports betting in your state.

I'm sure all of you are.

You have enough people along this row here and many other speakers today who can help you with that.

One has to push for a full digital and online offering.

We would urge you to speak with your regulators and ensure you have access to all the sports with your online offering.

If you don't, you just can't compete, quite frankly.

You need an omni-channel, and you need to make this exciting.

Horseracing is exciting.

Sports betting is exciting.

Putting the two together I think will create a phenomenal opportunity for everyone in this room.

The time to act is now.

If you don't move — this is history in the making, folks.

This is an incredible opportunity to diversify your business.

You are in the best position.

You have the infrastructure.

You have the license to conduct betting.

You have tellers.

You have terminals.

You have everything in place ready to move this forward, and you need to act now to be involved. I think that's all I have, Alex, given that two-minute warning and there's no more time-outs.

Thank you all.

Mr. Alex M. Waldrop: Thank you, Richard.

We've talked almost exclusively about state law and regulation this morning, but there are events that're occurring at the federal level as recently as last night and this morning that I think warrant some mention for this audience because of its potential impact on all sports betting in every state.

We've been monitoring the situation closely in D.C. for some time, and by and large we felt like at the NTRA there was no real chance for anything to occur in the lame-duck, even though we knew it was — it is a ripe situation because you have legislators who are leaving who have some interest in helping out their friends, such as the NFL.

We know that the leagues have been very active in the last couple of weeks.

We also have a change that's going to occur in the House when the new Congress is impaneled next year.

Frank Pallone, Representative Frank Pallone, who is the ranking member of the House Energy and Commerce Committee, which is the committee of jurisdiction over any gaming bill, he will move from ranking member to chair of that committee.

I think it's fair to say that Congressman Pallone, who's very close to the gaming interests in New Jersey, including Dennis Drazin, who we've mentioned many times, in some ways is the father of all of this growth because of his efforts in New Jersey, they will have a great deal of say.

I think the leagues are interested in doing something.

In fact, just this morning or late last night Orrin Hatch dropped a bill — I'm sorry.

Let's talk about discussion draft.

I will say right now I'm relying on GamblingCompliance.com because I haven't seen the bill.

It's not a bill.

It's a discussion draft, and it's so big, and you probably have seen it, but —

Mr. Chris Krafcik: Thirty-seven pages.

Mr. Alex M. Waldrop: Yeah.

I’ve not seen it because it’s not supposed to be widely distributed.

Here’s what it says.

We know that he can’t get it through the Judiciary Committee.

Grassley there has said he doesn’t want any federal regulation.

He believes in pure state regulation.

Grassley’s a problem.

He wants to attach it probably to the funding bill that has to pass by the end of the year sometime in the last week of — before Christmas.

There’s a must-pass piece of legislation.

He maybe wants to attach this and see that bill go through House and Senate and then be a major piece of legislation, a stretch.

Not saying it’s a done deal by any means, but that’s what’s occurring.

Let’s talk about it just a minute.

It’s lengthy.

It’s complicated.

We think that because it significantly limits what the states can do, it’s gonna be a nonstarter with state governments, to say the least, and of course with gambling interests.

The American Gambling Association has been very much opposed.

We do think this is an effort by the NFL to take control, to some extent, of what happens across the country and use their significant power at the federal level to get something done.

The bill mandates the use of, quote, “authorized league data” by sports-betting operators through 2022.

After that, there can be other data sources, but they have to be approved by the federal — at the federal level by the Department of Justice, which really will have approval rights over every aspect of state gaming laws nationwide.

The proposal amends the federal Wire Act to permit certain layoff wagers across state lines.

It also allows states and tribes to enter into compacts.

It's looking at some of these interstate issues that some are concerned about.

It also reallocates, and perhaps there's a tax in there as well — I don't know.

It also reallocates excise taxes now being collected at the federal level for gambling-addiction issues and as well as enforcement issues.

We'll see what happens.

We're gonna continue to monitor this.

Obviously racing has to have a say in all this. I just put that out there.

It's so new that I can't really comment any further than to say we're watching it.

We're making sure that racing's interests are protected.

I got a couple of questions that I want us to discuss at the panel because I think one of the most interesting discussions — I think everyone has hit on this to some extent is this concept — Chris, you talked about multiple brands.

Help me understand what you mean when you say multiple brands.

What does that look like?

Give us a little more.

We saw a picture of Sportech and what they were doing online, but what does that mean for the business, and why do you think that's important for states to have that ability and to do multiple brands?

Mr. Chris Krafcik: Well, multiple-brand model is a pretty simple arrangement.

You can think about it as a hierarchy, right, between a master license-holder, which in a state could be a racetrack, and its partner brands.

Let's say in a state the state law says you must be a master license-holder to operate sports betting.

But also, as a master license-holder you can offer up to X number of discreet brands under your license as part of your online sports book.

This is the model that New Jersey and West Virginia are offering for online sports betting, and this is also the model that New Jersey, incidentally, is using for online casino gambling.

As I mentioned in my prepared remarks, in certain markets we think that the going rate for partner-brand partnerships with master license-holders is quite high, and this reflects, I think, the magnitude of the sports-betting opportunity and the interests in that opportunity, not only from domestic, traditional gambling brands, but we're also talking about international gambling brands.

We're talking about media companies, potentially, and we're also hearing that — names that you would often hear associated with Silicon Valley and technology are interested in getting into this space.

All of this, of course, is driving up prices, and for markets like New Jersey that're Tier 1, they're populous.

They're competitive.

We really do think that multiple-brand models are excellent ways for master license-holders to extract additional, non-ancillary revenue from the sports-betting opportunity.

Again, not all states are created equal.

In this respect, would there be such demand in Rhode Island, definitely not.

But if we're thinking, New York, Texas, California, Florida, Illinois, Missouri, populous states in which we know that there's gonna be strong interest in sports betting, again, we think that the multiple-brand model could be a real opportunity for master license-holders in those jurisdictions to generate additional non-ancillary revenue.

Mr. Alex M. Waldrop: Kate or Richard?

Ms. Kate C. Lowenhar-Fisher: Yes.

One of the things that always strikes me when we do have those conversations and especially as there are certain DFS brands that we have all heard of is there's some trickiness about letting the genie out of the bottle on some of those relationships.

From a Nevada standpoint, for example, those casinos that have what we call non-restricted gaming licenses in Nevada, the giant casino companies — because they have those licenses, they are extremely sensitive to their business associations and much like casino licensees in New Jersey, for example, and so forth.

What I mean by that is you're obligated under Nevada regulations, and a lot of other states as well, to police or self-police your business associations to make sure that those companies with whom you contract, with whom you have any relationship, particularly if it's facing the patron, that you are associating yourselves with suitable people that have been well-vetted through your compliance system and so forth.

The importance of that, of course, is not just to maintain the integrity of the people that're involved in gaming but to ensure that from the public's perspective that it appears to have integrity, that it's not just fair but it looks fair.

As people are signing these kinds of agreements left and right and white-labeling things and throwing their skins over things and so forth, it's very important from a casino or a gaming-licensee perspective that they're really, really monitoring those relationships.

Mr. Alex M. Waldrop: Richard, what — speak a little bit about share of wallet.

I mean, how do we get — one of the big concerns about racing is that, yeah, we may be on the platform, but to bet on a horse race you have to go to a different platform, and you gotta go over here and put your money in there.

You can't get a credit card to cover it. I mean, what about combining all this in one platform, where all your money, all your bankroll, can be used for any online bet, including horseracing?

Mr. Richard McGuire: It's coming, Alex.

I think that's the easiest way to say.

I don't know what happens in Las Vegas right now, but clearly, it's coming.

The consumers will demand this, and a simpler, easy-to-use platform is clearly gonna be our goal.

I can see our CTO there shaking his head and saying, "Oh, my goodness.

What've you got for me?"

But clearly a shared wallet across sports betting and para-mutuel betting is gonna be the way forward to make it easier.

It's coming.

It's not here now, obviously, because we're just in the early days of sports betting.

I would just like to touch on just the first question very briefly, though, in terms of competition and additional platforms within a state.

I'd love to be a monopoly operator in a state, but, actually, consumers want some level of competition.

They wanna look around for the best prices, just human nature.

If I'm running a monopoly in my state, it's gonna be me, and it's gonna be the illegal operators still.

I agree.

I think we absolutely need within the states some level of competition.

It’s good for consumers.

It’s great for the regulator.

It’s great for the consumers from terms of a pricing point of view, but there has to be some limitation.

I think if we see all of the skins in New Jersey, which could be 42 skins and 14 venues, that’s probably at the absolute upper end because it’s gonna be unwieldy then for a regulator to really monitor those.

Finally, just on that, as an operator the key for us is don’t rush into this with a sports-betting provider that will essentially own your customer.

Whatever you do, make sure you own that customer base.

These are your customers.

These are your retail clients.

These are your retail consumers.

Whatever deal you do, make sure they still are your customers going forward rather than signing up a deal with anyone who I won’t name right now who will then own that customer going forward in a major way.

Don’t lose sight of your customer in the long term, obviously, but multi-brands are clearly beneficial for everyone.

Mr. Alex M. Waldrop: Let me pick up on that and talk about the revenue-share model you mentioned, Chris.

Horseracing loves revenue shares.

We revenue-share all over the place: horsemen, track, all sorts of money shared up and down the line.

How is that gonna work in the sports-betting world?

Would you say it’s better to be an operator than a revenue-share participant?

You said it would slow things down.

Flesh that out a little bit for us and get everyone else to comment.

Mr. Chris Krafcik: Sure. On the slowdown comment, that was more a reflection of what I would consider to be an issue that could divide stakeholders in a particular state.

You may have sports-betting operators on one side that say, as Kate has mentioned already, “Sports betting has been a historically narrow-margin business.

We don’t really wanna share because there’s not a whole lot to go around to begin with.”

I think that’s going to be a major point of friction, in fact, between sports-betting operators and racing going forward, especially on this question of statutory revenue-sharing.

In other words, is it codified in state law that a sports-betting operator must share revenue with a track?

What we’ve seen so far, just to reiterate the comments from my prepared remarks, is that there’s no consensus on this issue yet, and it’s really too early to tell which direction I think that this particular policy issue is heading.

Again, I can only emphasize, not knowing the racing industry top to bottom as you all do, that in certain states where racing enjoys a considerable amount of political clout, we would only assume logically there that those interests would have a better chance of codifying some sort of statutory revenue-sharing agreement in those states versus a state in which racing is not as influential.

That’s as best as I can do on that.

Does anybody else have any other?

Ms. Kate C., Lowenhar-Fisher: I just always like to add this little wrinkle that in Nevada, for example, if you participate in revenue from a licensed gaming operation, you need to get your own license.

I used to joke that if the NFL, for example, wanted to levy an integrity fee on Nevada sports books, then they have to come and get a Nevada gaming license.

I’d love to see that happen.

Nevada’s not the only state that has that model.

You can’t participate in revenue from gaming without us figuring out who you are.

That’s how we got organized crime out of gaming.

I think there definitely could be those kinds of tensions there that everybody needs to be aware of.

Mr. Richard McGuire: Yeah, just briefly, Alex, falling on echoing both of the comments here and — revenue share's fantastic, but the elephant in the room is risk, and Kate touched on this risk.

It's a very thin-margin business.

Volumes are incredibly large.

I'm pretty sure the sports-book operators up and running had a dreadful weekend again.

If you're having revenue share, again, speak with the operator.

Speak with your sports-betting partner to understand the risk, and we would, again, advocate that minimizing the risk in the early days for yourselves is gonna be key to take this forward.

Before you just focus on the revenue, absolutely focus on the risk.

None of you, I'm sure, wanna be woken up in the middle of the night to hear Aaron Rodgers threw a hail-Mary in the last second, and you dropped a couple million bucks.

But that's the real world.

It's the real world clearly in Nevada.

It's clear world where you have sports betting.

But focus both on the revenue-sharing but also seriously address the risk issue here, too.

Mr. Alex C. Waldrop: All right, well, we have time for one question, not to put any pressure on anyone, and I'm looking at Wendy.

I'm taking that prerogative.

It better be a good one, but you got one question.

Seriously, though, if anybody has a question for this panel, I really appreciate the perspective that you have.

There's so many takeaways.

I hope somebody was taking good notes.

This is a lot to digest.

Anyone?

I don't know that there's a microphone.

If you have, now is your time to speak.

I don’t see anybody asking questions, so, with that, I think — sorry, we have one question here, Mr. Curtain.

Mr. Curtain: I’d just like to pose the question of, how do you feel racing for the sports book should deal with the offshores and the illegals?

Do you have any opinions about that?

Mr. Chris Krafcik: I think, to echo Richard’s point, maybe the best approach to this would be by making the track sports-betting offering as competitive as possible.

I think that, as Richard said, involves both the retail component and a really well-thought-out online component, where it’s mobile.

It’s online.

It is feature-rich.

Only in that way is a track going to meaningfully compete with the current black market.

Anything else to add?

Ms. Kate C. Lowenhar-Fisher: I would just say, I mean, I don’t work for the Department of Justice, but it’s — I mean, might also help to have one big, giant indictment.

That might send a chilling effect because, of course, there’s theoretically a jurisdictional predicate.

If they’re taking bets from people in the United States, there’s a crime happening here.

I mean, seems to me that we saw that that’s exactly what happened with PokerStars back in the day.

That might be also tactically a way to deal with them.

Mr. Chris Krafcik: I think there’s also a — sorry?

Ms. Kate C. Lowenhar-Fisher: Pardon?

Mr. Curtain: It would have to be written into state law*?*

Mr. Chris Krafcik: I think one of the things that we’ve noticed, and to frame things in the negative space a little bit — no states, at least according to our research, have dedicated funds or created funding for black-market enforcement.

We find this surprising, actually.

A future lesson that I didn’t include in my remarks was that — or would be that racing could consider asking state legislatures to dedicate a portion of sports-betting proceeds or other funds to black-market enforcement.

Mr. Alex C. Waldrop: That may be one reason for federal intervention, actually.

There is money dedicated for that enforcement, and also, he mentions in the Hatch bill that there’s a bad-actor’s clause, meaning if you’re engaged in any interstate or offshore betting, you cannot get licensed under any circumstances in the United States.

That’s probably part of the issue.

Obviously, as we’ve said, competition is what’s gonna ultimately do them in.

I’m not advocating federal intervention, but there may be a role for the federal government to play here in being more aggressive.

Any other questions?

I think we’ve taken our time and then some.

Wendy is saying good.

With that, I appreciate everyone’s attention, and thank you very much, and y’all have a good day.