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Fantasy sports industry willing to allow state regulation

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ALBANY – The daily fantasy sports industry dispatched representatives to Albany Tuesday to send signals to lawmakers that they would be willing to have their operations regulated.

Still, after several hours of testimony during a hearing called by three Assembly policy panels, the speakers representing fantasy sports giants DraftKings and FanDuel were non-committal about what they might accept in the way of regulating how they do business with millions of New York customers.

“We’d like to work with you to define what games and contests work and what don’t” and whether there should be “boundaries so these games are fair to everyone,” Peter Schoenke, chairman of the Fantasy Sports Trade Association, told Democratic and Republican Assembly members.

“You have the right to regulate, and that’s what we’re here for today. ... We want to be a part of that process ... to get it right, because this is legal. Daily fantasy sports games are legal,” said Randy Mastro, a Manhattan attorney who is part of the legal team retained by DraftKings.

With several lawmakers admitting they were not knowledgeable about the workings of daily fantasy sports, the industry representatives uttered the word “skill” dozens of times in an attempt to blunt Attorney General Eric Schneiderman’s claims that fantasy sports is based on chance and therefore, under state law, illegal. Schneiderman is in court trying to shut down the industry, saying it preys on compulsive gamblers and boasts of big payouts on wagers on everything from professional football to college basketball.

A spokesman for Schneiderman declined to comment when asked why the attorney general declined an invitation to speak at the Assembly hearing.

That left the task of representing an opposing view to two gambling opposition organizations and one statewide group that represents gambling treatment providers.

Stephen Shafer, chairman of the Buffalo-based Coalition Against Gambling in New York, said daily fantasy sports companies maintain customer loyalty by giving small payouts to most players, much like slot machines. He said fantasy sports offer “great potential for harm” and that to “legalize illegal activities and regulate them is not the solution.”

The lawyers for the industry appeared during much of their testimony to be repeating claims previously made in court. They stressed the skill involved in putting together a fantasy sports contest submission, which they said explains why such a small fraction of customers win during the weekly or daily games.

Gary Pretlow, chairman of the Assembly Racing and Wagering Committee, reminded the lawyers that the judiciary will decide the legality question and that lawmakers are more interested in examining whether and how the industry might be regulated. FanDuel stopped doing business with New York residents while the legal case goes through the courts but DraftKings continues to operate in the state.

Lawmakers raised questions about how the companies ensure no one under 18 is playing the game, what they do to dissuade problem gamblers from being lured to their sites, how players’ account money is protected, and whether fantasy sports sites should be taking money from players wanting to wager on tennis matches and horse races as compared with the performance of fantasy teams that players make up using from six to 10 pro football players during a day of games on Sundays.

Several lawmakers sided with the fantasy sports companies in their fight with Schneiderman. Assemblyman Dean Murray, a Long Island Republican who said he is a DraftKings account holder, said the more research a player conducts, the better is the chance of winning – thereby helping to make it a game of skill. “It’s nothing more than day trading for sports fans,” he said.

The representative of a national anti-gambling organization mocked that notion, saying fantasy sports will be looked upon by some gamblers as a way to build a fortune in the same way the state lottery sells its games to New Yorkers.

“This is a ‘Hail Mary’ investment strategy perpetuated by state government, and it’s wrong,” said Les Bernal, national director of Stop Predatory Gambling.

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