



End the Unfairness and Inequality Created By
Government-Sponsored Casinos and Lotteries

May 10, 2016

The Honorable Michael Burgess
Chairman, Subcommittee on Commerce, Manufacturing, and Trade
Committee on Energy and Commerce
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Burgess:

When any reasonable observer soberly looks at the facts of almost 40 years of government-regulated gambling, there is one unavoidable conclusion:

Government's regulation of gambling has been a spectacular failure by almost any measure, and inevitably, online gambling will be the biggest failure of all.

No one needs to speculate what online gambling regulation will look like. Simply look at government's experiment with state lotteries and regional casinos, which has badly failed in at least five major ways:

- 1) It creates more inequality of opportunity than any other single act of government
- 2) It has shown over and over again that the almost singular focus of government-regulated gambling has been *on driving maximum sales and profits, not protecting citizens*: "Taxation By Exploitation"
- 3) It has led to higher taxes for less services for the 2/3 of citizens who rarely gamble and worse state budget problems over the long term: "You Pay Even If You Don't Play"
- 4) It has supremely failed to reduce illegal gambling
- 5) It has proven to be about granting monopolies and awarding regulatory advantages to favored firms and little to do with free market principles

Let us look at each of these failures in more depth.

1) No single act of government creates more inequality of opportunity than its promotion of gambling

Government's regulation of gambling has concentrated commercial gambling in economically-distressed communities, targeting citizens from the lower rungs of the income ladder. Low-income workers, retirees, minorities, and the disabled comprise a disproportionately large share of lottery and regional casino users.¹

Financially desperate citizens have become ensnared in these government-run gambling schemes as a way to try and improve their lives and help them escape their financial condition. It has become a Hail Mary investment strategy, doomed to inevitable failure. By targeting the least advantaged, government-sponsored gambling adds to the increasingly separate and unequal life patterns in education, marriage, work, and play that now are dividing America into haves and have-nots.

A mountain of independent evidence confirms that government's experiment of sponsoring lotteries and regional casinos is contributing to rising inequality of opportunity in our nation including.² It is harming health, draining wealth from people in the lower ranks of the income distribution, and contributing to economic inequality.³

2) The almost singular focus of government-regulated gambling has been on driving maximum sales and profits, not protecting citizens: "Taxation By Exploitation"

A fundamental and irreconcilable conflict exists between the interests of government-regulated gambling and the public good: the state is charged with protecting the public from the very business practices that generate more revenue for the state.

Such an entrenched conflict has allowed unfair and exploitative practices to be endemic to government-regulated gambling. It also explains why no research exists pointing to a single U.S. jurisdiction where commercial gambling regulation has successfully protected its citizens from being damaged financially, or from falling victim to gambling addiction, or both.

Only the uninformed and the willfully ignorant would suggest that government will promote online gambling in a different, more ethical manner than its track record with lotteries and regional casinos demonstrates. Some examples of the predatory and dishonest practices used by government-regulated gambling from across the nation include:

- Most industries and companies are subject to truth-in-advertising laws enforced by the Federal Trade Commission. According to these laws, advertising must be truthful and non-deceptive, advertisers must have evidence to back up their claims, and advertisements cannot be unfair. State-run lotteries, however, have been exempted from these laws. Because of this, state lotteries have wide latitude in how they can promote their product, exaggerate chances of winning, and aggressively lure more citizens to lose their money. Daily fantasy sports (DFS) already follows this state-approved model of misleading promotion.
- State lottery media plans blatantly state that lottery promotions should be timed to coincide with the receipt of government benefits, payroll and Social Security payments.⁴ If government authorizes DFS, one can predict with certainty that future promotions will follow this parasitic approach.
- Public records requests reveal lotteries openly target minorities and lure young people to gamble for the first time by explicitly developing lottery games and marketing efforts for these constituencies.⁵ Likewise, DFS marketing plainly aims at hooking young people.⁶

- Electronic gambling machines, a pillar of government’s regulated gambling program, are designed mathematically so users are certain to lose their money the longer they play.⁷ At the same time, the machines are literally designed so citizens cannot stop using them, exploiting aspects of human psychology and inducing irrational behavior.⁸ Every feature of a gambling machine - its mathematical structure, visual graphics, sound dynamics, screen ergonomics - is designed to increase a player's "time on device" – which means how long a person plays.⁹ Online gambling operators share the same aim.
- The image of “responsible gambling” promoted by government gambling regulators *is a sham*. The success of commercial gambling enterprises depends upon people not being able to follow so-called responsible gambling guidelines. MIT Professor Natasha Schull reported in her 2012 book *Addiction By Design* that people who follow responsible gambling guidelines *made up 75% of the players but contribute a mere 4% of gambling profits*.¹⁰ “They only bring in 4% of our revenues, the responsible gamblers,” the author of the study said. “If responsible gambling were successful then the industry would probably shut down for lack of income.”¹¹ The revenue model for “regulated” gambling hinges on getting citizens to lose control of themselves, ultimately causing harm to them and the people around them. DFS operators have the same financial motivation to use “responsible” gambling as a façade, while actually taking advantage of those who have become hooked.
- Lotteries invest in sophisticated market research to better target citizens and increase the amount of money they lose on lottery games.¹² Government-authorized DFS operators will employ the same kind of state-of-the-art market research to develop the “right” message to susceptible people so they lose even more money.
- Lotteries mail hundreds of thousands of households coupons for free Powerball and instant tickets to introduce gambling games to “infrequent players.”¹³ Likewise, DFS operators have openly and aggressively lured citizens to their gambling websites with offers that include a “\$200 bonus.”¹⁴ If allowed to partner with government, these types of DFS promotions incentivizing citizens to gamble will continue like we have seen with lotteries.
- Lotteries offer bonuses to retailers who increase year-over-year gambling revenues by getting citizens to lose more money.¹⁵ There is no reason to believe these kinds of lucrative incentives would be prohibited to DFS operators and their staff under a so-called “regulated” system.

3) Government-Sponsored Gambling Has Led to Higher Taxes for Less Services and Worse State Budget Problems: “You Pay Even if You Don’t Play”

An April 2016 report by the Rockefeller Institute of Government at SUNY Albany confirms what is becoming obvious to most Americans: "In the long-run, the growth in state revenues from gambling activities slows or even reverses and declines."¹⁶

That means higher taxes for less services for the 2/3 of citizens who never or rarely gamble. And their states end up with worse budget problems over the long term. Taxpayers who don't gamble are footing the bill. You pay even if you don't play.

This is because casinos and lotteries have proven to be a failed source of government revenue and have not delivered on their promises to fund education, lower taxes, or pay for needed public services. States generally expand gambling operations when tax revenues are depressed by a weak economy, or to pay for new spending programs. Yet income from casinos and lotteries does not tend to grow over time as rapidly as general tax revenue. Expenditures on education and other programs will generally grow more rapidly than gambling revenue over time. **Thus, new gambling operations that are intended to pay for normal increases in general state spending add to, rather than ease, long-term budget imbalances.**¹⁷

More troubling for taxpayers, gambling operators are not allowed to fail by the state. For example, when casinos come up short, states usually provide new infusions of money, reduced taxes, reduced funding for gambling addiction measures, or other concessions such as lifting smoking bans and loss limits, in order to sustain revenues and profitability.¹⁸ **Public tax dollars too often prop up and subsidize gambling operators.** Rhode Island, Delaware, and New Jersey, to just name a few, have all recently taken special steps to help operators that might otherwise fail.¹⁹

The push for more subsidies from taxpayers is going to intensify moving forward. Of the 47 states with gambling revenue, 27 states reported declines over fiscal 2014 with nine states reporting declines of more than 5 percent.²⁰

Allowing states to sponsor online gambling such as online fantasy gambling will only deepen this downward spiral, forcing the taxpayers who don't gamble to foot the bill.

4) Government-Sponsored Gambling Has Badly Failed to Reduce Illegal Gambling

No American jurisdiction has EVER documented a decline in illegal gambling after states began sponsoring gambling. In fact, illegal gambling tends to increase for a number of reasons. Untaxed illegal operators can offer better odds and tax avoidance that legal operations cannot. Once gamblers start betting legally, they become less averse to gambling in unlicensed establishments. Law enforcement in gambling states view illegal gambling as a state revenue issue rather than a criminal activity, making enforcement less of a priority. Lastly, when commercial interests gained control of the casino business from organized crime, [they obtained the ability and the license to abuse and destroy customers](#) to an extent that was not possible when casinos were run by criminals.²¹

It's inevitable that the amount of illegal online gambling will only increase if online fantasy sports gambling is authorized. If the illegal online gambling operators supposedly cannot be controlled, how can you control and regulate the ones you license? If you can't shut down the illegal operators, how would you possibly shut down licensed operators who don't follow the rules?

The criminalization of for-profit lotteries and casino-style gambling was successfully practiced for a large portion of American history. This does not mean illegal gambling was absent from society, but public institutions did their best to *contain* it. They did not incentivize citizens to lose their money gambling.

5) Government-Sponsored Gambling Has Proven to Be About Granting Monopolies and Awarding Regulatory Advantages to Favored Firms

When government sponsors gambling, it is not merely permitting private, consensual behavior. It is granting monopolies and awarding regulatory advantages to favored firms.²² This has little to do with limited government and free market principles. Like we have seen with lotteries and regional casinos, online fantasy sports gambling, if authorized, will be a public policy that benefits a privileged few at the expense of everyone else.

6) Nearly All of the People Who Run Gambling Operations and the Public Officials Who Lobby to Bring Them in, Don't Gamble Themselves

With the zeal of a teetotaler, there is one memorable and telling axiom that most gambling operators and the public officials they partner with have in common: they don't gamble.²³ Nearly every major casino operator, including Steve Wynn²⁴, Jim Murren²⁵, CEO of MGM, Sheldon Adelson of Las Vegas Sands,²⁶ and Gary Loveman,²⁷ the recent CEO of Caesars, *hardly ever gamble themselves*.²⁸

The people who make the slot machines that government sponsors don't gamble either. A *New York Times Sunday Magazine* reporter authored a cover story on slots which included a visit to the headquarters of International Gaming Technology (I.G.T.), America's biggest maker of electronic slot machines: "Most of the people I met inside I.G.T. told me they never played slot machines on their own time," he wrote. "When I asked one I.G.T. artist if he ever plays, he acted as if I had insulted him. **"Slots are for losers," he spat, and then, coming to his senses, begged me to consider that an off-the-record comment.**"²⁹

Not surprisingly, the axiom holds true for the founders of online fantasy gambling operators. One of the founders of Draft Kings told *The Boston Globe* that prior to starting the company, "I had never even stepped foot in a casino. The three of us have computer science degrees. We're a bunch of dorks that wanted to build something cool."³⁰

At least when it comes to the rank-and-file employees of fantasy gambling operators, they do gamble, apparently, but with the benefit of valuable inside information.³¹ Policies to bar DFS employees from acting on this inside information are effectively unenforceable, as they are easily evaded via use of spouses, relatives, and friends to place bets using the information not available to most citizens.

Conclusion

No great nation has ever built prosperity on the foundations of personal debt, addiction, and the steady expansion of businesses that produce no new wealth. Relying on gambling is a sign of surrender and defeat on the part of leaders who have failed to lead.

Government-sponsored gambling represents the absolute worst of crony-capitalism and big government. It pits government's interests against the best interests of its people. For government to win, its citizens must lose.

The alternative is to muster the courage to chart a path to true prosperity. An America freed from the yoke of government-sponsored gambling would be an America once again on the move—an America with broader and more sustainable economic growth, more honesty in government, more social trust, and the rekindling of the optimism that has long been our defining national strength.

That's a purpose worth sacrificing for.

Thank you for your consideration.

Sincerely,



National Director
Stop Predatory Gambling

SPG's mission is to build a more humane and just society by sunseting government's practice of using gambling to defraud and exploit citizens, whether in the form of lotteries, regional casinos or online gambling.

¹ *Why Casinos Matter, Thirty-One Evidence-Based Propositions from the Health and Social Sciences*, Institute for American Values, Council on Casinos, September 2013 <http://americanvalues.org/catalog/pdfs/why-casinos-matter.pdf>

² *Why Casinos Matter, Thirty-One Evidence-Based Propositions from the Health and Social Sciences*, Institute for American Values, Council on Casinos, September 2013 <http://americanvalues.org/catalog/pdfs/why-casinos-matter.pdf>

³ *Why Casinos Matter, Thirty-One Evidence-Based Propositions from the Health and Social Sciences*, Institute for American Values, Council on Casinos, September 2013 <http://americanvalues.org/catalog/pdfs/why-casinos-matter.pdf>

⁴ The National Gambling Impact Study Commission Report, sponsored by the U.S. Congress, 1999 www.govinfo.library.unt.edu/ngisc/research/lotteries.html

⁵ Public records request filed by Stop Predatory Gambling and Muckrock to the Massachusetts Lottery, 2010 <https://www.muckrock.com/foi/massachusetts-1/massachusetts-lottery-records-260/>

⁶ "Cash Drops and Keystrokes: The Dark Reality of Sports Betting and Daily Fantasy Games," *The New York Times*, October 15, 2016 http://www.nytimes.com/interactive/2015/10/15/us/sports-betting-daily-fantasy-games-fanduel-draftkings.html?_r=0

⁷ Natasha Dow Schull, PhD, ADDICTION BY DESIGN, MACHINE GAMBLING IN LAS VEGAS, (2012),Pg. 112 available at <http://press.princeton.edu/titles/9156.html>

⁸ Natasha Dow Schull, PhD, ADDICTION BY DESIGN, MACHINE GAMBLING IN LAS VEGAS, (2012), available at <http://press.princeton.edu/titles/9156.html>

⁹ Natasha Dow Schull, PhD, *Beware: Machine Zone Ahead*, Washington Post, July 6, 2008, <http://www.washingtonpost.com/wp-dyn/content/article/2008/07/04/AR2008070402134.html>

¹⁰ Focal Research Consultants, *The 1997/98 Nova Scotia Regular VL Players Study Highlight Report*, at 11, available at <http://stoppredatorygambling.org/wp-content/uploads/2012/12/Novia-Scotia-Problem-Gambling-Study.pdf>

¹¹ NATASHA DOW SCHULL, PHD, ADDICTION BY DESIGN, MACHINE GAMBLING IN LAS VEGAS, Pg. 267 (2012), available at <http://press.princeton.edu/titles/9156.html>

¹² "State spends millions to sway flinty Mainers to spend more on lottery tickets," Maine Center for Public Interest Reporting, October 22, 2015 <http://pinetreewatchdog.org/state-spends-millions-to-sway-flinty-mainers-to-spend-more-on-lottery-tickets/>

¹³ "State spends millions to sway flinty Mainers to spend more on lottery tickets," Maine Center for Public Interest Reporting, October 22, 2015 <http://pinetreewatchdog.org/state-spends-millions-to-sway-flinty-mainers-to-spend-more-on-lottery-tickets/>

¹⁴ FanDuel TV ad offering \$200 bonus to new players, August 2015 <https://www.youtube.com/watch?v=pnvTXsqLxoE>

¹⁵ "State spends millions to sway flinty Mainers to spend more on lottery tickets," Maine Center for Public Interest Reporting, Oct. 22, 2015 <http://pinetreewatchdog.org/state-spends-millions-to-sway-flinty-mainers-to-spend-more-on-lottery-tickets/>

¹⁶ Lucy Dadayan at el, *State Revenues from Gambling: Short-Term Relief, Long-Term Disappointment*, Nelson A. Rockefeller Institute of Government, April 2016, http://www.rockinst.org/pdf/government_finance/2016-04-12-Blinken_Report_Three.pdf

¹⁷ Lucy Dadayan at el, *For the First Time, A Smaller Jackpot*, Nelson A. Rockefeller Institute of Government, September 21, 2009, at 19-20, http://www.rockinst.org/pdf/government_finance/2009-09-21-No_More_Jackpot.pdf

¹⁸ *Why Casinos Matter, Thirty-One Evidence-Based Propositions from the Health and Social Sciences*, Institute for American Values, Council on Casinos, September 2013 <http://americanvalues.org/catalog/pdfs/why-casinos-matter.pdf>

¹⁹ *Why Casinos Matter, Thirty-One Evidence-Based Propositions from the Health and Social Sciences*, Institute for American Values, Council on Casinos, September 2013 <http://americanvalues.org/catalog/pdfs/why-casinos-matter.pdf>

²⁰ State Revenues from Gambling Show Weakness Despite Gambling Expansion," Rockefeller Institute, SUNY, March 23, 2015 http://www.rockinst.org/pdf/government_finance/state_revenue_report/2015-03-23_Data_Alert.pdf

²¹ DAVID CAY JOHNSTON, *TEMPLES OF CHANCE*, (1992)

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- ²² *Why Casinos Matter, Thirty-One Evidence-Based Propositions from the Health and Social Sciences*, Institute for American Values, Council on Casinos, September 2013 <http://americanvalues.org/catalog/pdfs/why-casinos-matter.pdf> Pg. 18, <http://americanvalues.org/catalog/pdfs/why-casinos-matter.pdf>
- ²³ Stop Predatory Gambling Foundation, *The Smartest Guys NOT in the Room*, <http://stoppredatorygambling.org/blog/category/research-center/the-smartest-guys-not-in-the-room/>
- ²⁴ "Casino Mogul Steve Wynn's Midas Touch," *60 Minutes*, April 12, 2009, <http://www.cbsnews.com/news/casino-mogul-steve-wynns-midas-touch/>
- ²⁵ "Is There Life After Blackjack? Ask MGM," *New York Times*, December 26, 2004, <http://www.nytimes.com/2004/12/26/business/26vegas.html? r=0>
- ²⁶ "Gaming Legend Profile: Sheldon Adelson," *Casino Enterprise Management*, June 2011 <http://www.casinoenterprisemanagement.com/articles/june-2011/gaming-legend-profile-sheldon-adelson>
- ²⁷ CHRISTINA BINKLEY, WINNER TAKES ALL, Pg. 177 (2008).
- ²⁸ Stop Predatory Gambling Foundation, *The Smartest Guys NOT in the Room*, <http://stoppredatorygambling.org/blog/category/research-center/the-smartest-guys-not-in-the-room/>
- ²⁹ Gary Rivlin, *The Tug of the Newfangled Slot Machines*, N.Y. TIMES MAGAZINE, May 9, 2004, <http://www.nytimes.com/2004/05/09/magazine/09SLOTS.html>
- ³⁰ "Inside DraftKings' war room as the fantasy sports battle rages," *The Boston Globe*, December 3, 2015 <http://www.bostonglobe.com/magazine/2015/12/03/inside-draftkings-war-room-fantasy-sports-battle-rages/DAX8tBAZBOEX9kr6zoeOfM/story.html>
- ³¹ "Scandal Erupts in Unregulated World of Fantasy Sports," *The New York Times*, Oct. 5, 2016 <http://www.nytimes.com/2015/10/06/sports/fanduel-draftkings-fantasy-employees-bet-rivals.html>