Sports Betting In the Age of COVID

In May 2018, when the United States Supreme Court invalidated the Professional & Amateur Sports Protection Act (PASPA), a federal law that effectively prevented states and tribes from having full-scale legal sports betting like that found in Nevada, some experts estimated that as many as 40 states would have legal, regulated sports betting within 5 years. Such an expansion of a gambling activity would be unprecedented, given that it took over 50 years for 45 states to have a lottery and over 47 years for the second state to legalize commercial casino gambling. While a majority of states immediately proposed or passed legislation after the Supreme Court decision, and 22 states, plus Washington, D.C., have since authorized sports betting within their borders, the pace of sports betting growth has come to a near halt due to COVID-19.

Not only has the expansion of sports betting drastically slowed, the sports betting market is extremely limited given that a majority of the sports upon which wagers normally are taken have ceased due to the global pandemic. Therefore, during this time of social distancing and government shutdowns, sports betting operators have had to adjust their business models, as well as continue to manage business risks, such as cybersecurity attacks and increased competition in this space.

One of the primary questions faced by the sports betting world is: What do we wager on now? Without most sports, what do sports betting operators do to stay in business until traditional sports resume?

After the major sports leagues cancelled or suspended sporting events and entire seasons, sports betting operators looked to the sports that continued to operate. At one point during the shutdown, the wagering options on a given day might be limited to Turkish volleyball and Russian table-tennis. With secondary sports occurring on foreign soil, one of the biggest risks was highlighted when a Ukrainian low-level league soccer tournament was alleged to have not even occurred, despite wagers being accepted and data being provided that the matches were completed.1 With such limited sports options, operators must not only monitor the risks of “ghost matches” but continue to look for match fixing or manipulation risks.

Another incident was the roughly three hours of elections betting that was permitted in West Virginia. Yes, bettors were offered wagers on the outcomes of the 2020 Presidential election.2 This caused quite the political stir, resulting in the state’s governor getting involved and the regulators...
rescinding their initial approval. Elections betting may come as a surprise to many, but such wagers are not unusual in European markets. As one bookmaker has noted before, “maybe it will encourage people to vote.” In Nevada, however, our regulations explicitly prohibit operators from offering wagers on the outcome of any election for public office.  

Finally, with the absence of traditional sports, operators have turned to an emerging sport that attracts more online viewers anyway – esports. Competitive video gaming has become an increasingly popular option for sports bettors. For example, from the time the first esports tournament was approved for wagering in Nevada on November 18, 2016 (the 2016 League of Legends Intel Extreme Masters Season XI), until the start of this year, there were 5 esports tournaments approved for wagering in the state. And two of those were Golden Tee tournaments (the simulated golf game found in many taverns). Since March of 2020, however, Nevada has approved 13 esports tournaments for wagering. Thus, traditional sports bettors have been exposed to an entire new slate of wagering options.

It’s uncertain how long it will take for the world to “get back to normal,” but we may see some permanent shifts in the world of sports betting as a result of the COVID-19 pandemic.  

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3 Nevada Gaming Comm’n Reg. 22.1205(3).
The Regulation 1 amendments serve to update certain definitions for more contemporary use. For example, the definition of “debit instrument” now reflects the statutory definition of a debit instrument and still includes a “prepaid access instrument” as a form of a debit instrument. The term “electronic money transfer” now is “electronic transfer” and the last sentence of its definition was revised to state simply “[t]he term also includes electronic transfers of money to a game or gaming device.” These amendments support the additional operative amendments that follow in Regulation 1.

The amendments to Regulation 14 focus on approvals of a cashless gaming system by revising Regulation 14.260, namely deleting existing parts (3) and (4), and creating a new Regulation 14.265. The deleted provisions of Reg. 14.260 did not permit granting or waiving approvals for associated equipment if the equipment “...[would] allow a patron to use a debit instrument for purposes of making electronic funds transfers from an independent financial institution to a game or gaming device through a cashless wagering system until such time as the appropriate regulations for such transfers are adopted,” but they did provide that an approval or waiver of approval may be granted “…with respect to the use of a prepaid access instrument in conjunction with an approved cashless wagering system.” Regulation 14.265 (although stated in the negative) would permit the use of a debit instrument to transfer money “from a financial institution directly or indirectly to a gaming device, if used with an approved cashless gaming system.” Notably, the use of a “debit instrument” may be approved as a part of a cashless gaming system in comparison to the former regulation, which only mentioned use of a “prepaid access instrument” in conjunction with a cashless gaming system.

The anticipated impact of these subtle amendments is that casinos and manufacturers will be able to develop expanded cashless wagering technologies and such technologies can address player identification and self-imposed wagering limitations. As noted, the amended regulations are a first step.

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1 Nev. Gaming Comm’n Regs. 1.085, 1.090, 1.092, 1.095, 1.103 and 1.140 (eff. June 25, 2020).


4 Former Nev. Gaming Comm’n Reg. 14.260(3) (emphasis added)


6 (Emphasis added).