



Toward Meaningful Regulatory Reform

By Frank J. Fahrenkopf, Jr.

The casino gaming industry as we know it would not exist without the strong regulatory and enforcement regime established years ago by Nevada gaming regulators. The credibility of the regulatory process here has been transferred to what is now a national industry. In fact, since Nevada did it first, 22 other states have subsequently legalized commercial casinos, bringing tough regulation and fair but vigorous enforcement to gaming jurisdictions across the country. The Nevada casino industry deserves credit, too. It recognized that it needed to work with, not against, gaming regulators, and that attitude has carried across the nation.

An important part of the cooperation between industry and regulators has been adjusting regulations as the industry has changed. I firmly believe that today is a time for making such adjustments. In fact, the rapid changes over the last decade in industry growth, federal oversight and the makeup of the casino floor make it necessary for more than minor changes. We need meaningful changes to regulation that recognize the new world in which casinos operate.

There are regulatory practices that were efficient and made sense when they were first adopted, but are now outdated and, in some cases, superfluous. A regulation that no longer serves its initial purpose, or has become duplicative, may have negative effects. Some of these types of regulation increase costs and divert industry

resources away from important things such as investments and innovations that create jobs and economic opportunities. Outdated regulations can also end up costing taxpayers money as a result of misguided enforcement. They may also reduce the morale of regulators who recognize they are imposing standards that simply are not as relevant as they could be.

Many of the current gaming regulations across the country still serve their purpose efficiently and effectively, but others are in need of updating. For example, some jurisdictions require that an employee's fingerprints be taken by a law enforcement agency within that jurisdiction as part of the licensing process. Many employees are licensed in multiple jurisdictions and subject to continuing license renewal. Today, regulators could accept certified electronic images of the applicant's fingerprints from a legitimate law enforcement agency, rather than the time-consuming task of visiting agencies in person whenever and wherever fingerprints are needed.

Similarly, video-conferencing could be used for conducting regulatory licensing interviews. In the current system, applicants often have to travel long distances – even overseas – for a relatively brief interview. We could all save time and money by taking advantage of a reliable technology that many businesses use every day.

These examples demonstrate the need not for less regulation, but certainly for more efficient regulation. They are just two of those found by an American Gaming Association (AGA)-organized taskforce of compliance officers, lawyers and other industry experts – including former and current regulators. This task force was established to identify necessary regulatory reforms and to determine practical opportunities for change. The result was a white paper, titled "Improving Gaming Regulations: 10 Recommendations for Streamlining Processes While Maintaining Integrity." The paper recommends 10 broad-based regulatory reforms and state-specific actions such as simplifying the gaming licensee's ability to gain access to financing, reforming regulation of gaming machines and modifying or eliminating unnecessary red tape and reporting requirements.

The report identifies reforms that, if implemented, would free regulators and licensees from processes that no longer serve their initial goals. The paper does not

address implementation of the recommendations, other than to acknowledge that some will require statutory action while others will require a change in regulation or perhaps simply a change in practices. For example, the paper recommends the regulation of gaming machines be reformed. The current pre-approval procedures for shipping complicate shipments and create tens of thousands of unnecessary notifications. Different states require different notices within different time periods, thereby making the coordination of machine shipments difficult. The AGA recommends the use of post-delivery notices once a machine has been installed in order to save time and energy.

The AGA also recommends that reporting requirements be modified or eliminated in order to improve efficiency. In the system's current form, foreign reports, loan reports and quarterly contract reports serve duplicative or arcane purposes and are no longer necessary. Using new technology to retain records for background checks and end the practice of licensing non-gaming workers will free up resources for operators and regulators.

These are just a few of the recommendations presented in the paper. The full list includes:

1. License terms should extend for at least five years.
2. Extend the use of uniform license applications.
3. Allow waiver from licensing or registration requirements for those institutional investors holding less than a 25 percent ownership of a licensee.
4. Extend the use of "Shelf Approvals" for debt transactions and public offerings.
5. Require no more than registration of outside directors.
6. Eliminate unnecessary regulatory filings.
7. Update licensing procedures and practices.
8. Eliminate prescribed Minimum Internal Control Standards (MICS).
9. Eliminate prior notice or pre-approval of the shipment of electronic gaming machines.
10. Reduce the number of pre-approvals for electronic gaming machines.

In short, the recommendations will allow businesses and regulators to keep pace with evolving technology. They will improve access to financing and help the industry better respond to changing market conditions. They will allow and encourage increased industry innovation. And they will free regulators and licensees from processes that no longer meet their needs. They will do all of this while maintaining the integrity our industry is known for. The work of the task force comes at a critical time for gaming law and regulation. With new jurisdictions legalizing gaming with regularity and more mature jurisdictions addressing the age of the Internet and ever-improving technology, the recommendations in the white paper will be a valuable resource.

Earlier this year I had the opportunity to speak with the regulators who are in the process of designing the framework that will govern the new casinos in Massachusetts. These regulators are in a unique position. They can take the best of current regulations and use the task force recommendations to craft regulations that can become the standard for both old and new jurisdictions.

In the wake of the release of the AGA white paper, many mature jurisdictions have already begun looking at their regulations. In Nevada, Gov. Brian Sandoval recently convened the Gaming Policy Committee to examine current regulatory technology and to work towards modernizing the industry. Similar conversations are taking place in Missouri, Mississippi and Iowa.

The AGA is working to provide the necessary resources to help states create, amend and adjust gaming regulation. Last year, the AGA distributed the white paper to regulators and other enforcement officials in every jurisdiction, and we are working with state gaming associations and member companies to begin contacting regulators to discuss the most pressing regulatory priorities in each area.

We've also launched a special section of our website devoted specifically to regulatory reform. This page acts as a one-stop shop for tools and reference materials that will help educate licensees on current and proposed regulations. It includes the white paper, op-eds written by members of the AGA and a glossary of terms relevant to regulation. The site also includes charts comparing regulatory requirements state by state.

The AGA is working with regulators to explore the concept of establishing a national forum to tackle this subject. The forum would bring regulators from across the country together to share their experiences and insights, as well as allow industry operators and manufacturers to share their views. The goal of the forum would be to reach a consensus on common standards and “best practices” for regulations across all gaming jurisdictions in the country.

Rigorous and effective regulation is a hallmark of the commercial gaming industry. The old rules have worked well for a very long time and most of them still do, but the gaming industry is on the cutting edge of change that is sweeping the nation and the world. Regulations and regulators must keep up if the industry is to continue to thrive.

For more information and a copy of the white paper please visit the AGA’s regulatory reform website at <http://www.americangaming.org/government-affairs/regulatory-reform>.



Frank J. Fahrenkopf, Jr., as chief executive of the American Gaming Association (AGA), serves as the national advocate for the commercial gaming industry. A lawyer by profession, Frank gained national prominence during the 1980s when served as chairman of the Republican National Committee during six of President Ronald Reagan’s eight years in the White House (1983-1989). His tenure as chairman is the longest in the 20th century and second-longest in the history of the party. He is also a frequent commentator on political and gaming issues, including such network television shows as Crossfire, Inside Politics, Meet The Press, Hardball, Face the Nation, The Today Show, This Week and Good Morning America. Frank continues to serve in a variety of political capacities, including co-chairman of the Commission on Presidential Debates (which he co-founded in 1986 with Democratic National Committee chairman, Paul Kirk). He is also the founder of the National Endowment for Democracy, where he served as vice chairman and a board member from 1983 to 1993. In 1984, he founded the International Republican Institute where he continues to serve as a board member.

Prior to becoming the AGA’s first chief executive on June 1, 1995, Frank was a partner in the Washington D.C. office of Hogan & Hartson, where he chaired the International Trade Practice Group. His practice specialized in regulatory, legislative and corporate matters for multi-national, foreign and domestic clients. His early legal career included 17 years of practice as a trial and gaming lawyer in Nevada, his home state. In that capacity, he represented clients before the Nevada State Gaming Control Board and the Nevada Gaming Commission. Frank also served as the first chairman of the American Bar Association’s (ABA) Committee on Gaming Law and was a founding trustee of the International Association of Gaming Attorneys. For many years, he was a member of the board of trustees for the National Judicial College, an ABA-sponsored judicial education center for federal and state judges. Frank has also served as chairman of the Legal Policy Advisory Board of The Washington Legal Foundation, a member of the Nevada State Board of Bar Examiners, president of the Washoe County Bar Association and vice president of the Nevada Trial Lawyers Association.

Frank currently sits on the board of directors for five New York Stock Exchange public companies: Gabelli Equity Trust, Inc., Gabelli Utility Trust, Gabelli Global Multimedia Trust, Gabelli Dividend and Income Trust, and Gabelli Gold and Natural Resources. His civic involvement includes service as chairman of the board of governors of the City Club of Washington, member of the board of trustees of the E.L. Weigand Foundation, The Economic Club of Washington and the Federal City Council, as well as trustee of the Culinary Institute of America and member of the Advisory Board of the Ladies Professional Golf Association (LPGA).

