

How Will the National Spread of Sports Betting Impact Nevada's Regulations?

BY SCOTT SCHERER, ESQ.

In the aftermath of the U.S. Supreme Court's decision in *Murphy v. NCAA*,¹ sports betting has spread to more than 20 states and tribal jurisdictions throughout the U.S. In certain states, sports betting is run by the state lottery and offered primarily online or through mobile applications on smart phones.

Where there are existing brick-and-mortar casinos, either commercial or tribal, those jurisdictions have typically required some tie to the existing casinos. In most of those jurisdictions, however, casinos may offer online or mobile sports betting and, in several cases, may offer multiple "skins" for their sports betting sites run by different operators.

Many of the companies entering the U.S. sports betting industry are from Europe, where sports betting and other forms of online gaming have been legal for many years. These companies bring expertise in online gaming platforms, marketing and technology, but they need local gaming companies to help them gain access to the market, understand the preferences of U.S. players, and navigate the nuances of U.S. laws and regulatory processes.

While there have been some growing pains, collaborations between European sports betting companies and U.S. operators are bringing new technology and new approaches to U.S. markets. Moreover, as sports betting and, to a lesser extent, online gaming has spread in the U.S., each new jurisdiction adopts its own laws and regulations. While those laws and regulations draw heavily from Nevada and other more experienced jurisdictions, in some cases they also introduce new twists promoted by local operators and their international partners.

Many of the new jurisdictions and operators compete for the discretionary dollars of betting customers from neighboring jurisdictions that have not yet legalized sports wagering,² but Nevada has remained mostly above the fray, perhaps because California and Arizona have not yet authorized sports betting. As legal sports betting continues to spread, however, Nevada is likely to be caught up in the competition for sports betting dollars and customers.

Historically, sports betting has been a low-margin business. "Wise guys" using sophisticated analysis and making large bets can make it difficult to earn significant profits despite the "vig"³ providing the house a theoretical advantage. Mobile sports betting has

allowed operators to achieve higher volumes with lower costs, but one bad line can lead to significant losses, putting a dent in total income.⁴

Expansion of Online Gaming

One way to generate more revenue is through cross-selling other online gaming products to players who sign up for sports betting accounts.⁵ Currently, online gaming in Nevada is limited to poker.⁶ Other jurisdictions, including New Jersey, Delaware and Pennsylvania allow online slots, blackjack, roulette and other casino-style games. One potential impact on Nevada law from the spread of sports betting across the country may be a push to legalize other types of online gaming.

Remote Sign-Up

While the technology exists to register players for wagering accounts remotely, Nevada law currently prohibits a player from placing sports bets online until "the patron personally appears before an employee of the licensee at its licensed gaming establishment ... where the patron presents a government issued picture identification credential confirming the patron's identity."⁷ In other words, a customer must make at least one physical trip to the casino to show identification before being able



to wager online. This regulation provides added assurance against underage gaming and money laundering, although some argue that today's technology allows a patron to be reliably identified remotely.

Those advocating for full remote registration argue that Nevada needs to provide this convenience to customers to stay competitive. Unlike some other jurisdictions, however, most Nevada residents live near a licensed sports book, making it more convenient than would be the case for a player living just south of New

York City to drive into Atlantic City to complete the registration.

Additionally, as discussed above, sports betting has historically been a low-margin business and has been viewed as more of an amenity that drives traffic to Nevada's casino resorts. Requiring completion of registration by appearing in person at the casino ensures that sports betting patrons will visit the casino at least once.

When initially implemented, this requirement was supported by most Nevada casinos. As a greater percentage of sports wagering moves online, however, a split of opinion has arisen among various operators in Nevada. As sports betting continues to spread, technology for identifying players improves, and sports bettors come to expect greater access and convenience, the views of Nevada's gaming industry could continue to shift in favor of full remote sign-up for wagering accounts.

Information Services

An "information service" sells information to a licensed sports pool for use in accepting wagers on events, and it includes the provision of lines, point spreads and odds.⁸ Nevada has required the licensing of "information services" for more than 20 years. Today, Nevada has only six licensed information services, with two being licensed in the last year.

As sports betting has spread, the world has shrunk, with bettors expressing more interest in betting on global events. Meanwhile, technology has enabled in-game wagering, requiring more detailed data at faster speeds. The need for high-quality data analytics companies has increased dramatically. With a larger U.S. market, many companies that have been providing data to European operators for years and new U.S. start-ups are looking to enter the legal sports betting industry, resulting in new applications for "information service" licenses.

Technology

Mobile wagering, in-play wagering and taking larger bets are all ways to increase volume. All are dependent upon reliable technology to provide a quality customer experience while mitigating risk to the sports book. As is the case in the world at large, customers are demanding the convenience and experience that new technologies provide.

Whether online or in the casino, sports betting or casino games, the gaming industry needs to keep pace with the expectations of customers, while regulators want to ensure that technology works as advertised, customers are treated fairly and problem gambling is minimized. The demands on operators and regulators are more

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frequently coming into conflict as the pace of new technology increases.

Competitive pressures resulting from the expansion of sports betting and the reliance of sports betting on technology will increase pressure on regulators to review and approve new technologies quickly and efficiently. To meet demands, regulators will need to decide which issues are truly critical, diligently reviewing and testing for compliance in those areas, while taking a more flexible approach with less-important issues.

Payments

One of the key distinguishing features of the gaming industry for many years was the fact that it was a cash business. The abundance of cash made it easier to “skim” gaming revenues and to launder money. Now, like the rest of the world (though at a slower pace), the gaming industry is going cashless. While theft and money laundering have not disappeared, cashless systems provide for much better tracking of funds, making it more difficult, at least if protocols are followed, to avoid detection.

Because they are accustomed to the convenience of cashless payment systems in the rest of their lives, more – especially younger – gaming customers are expecting those same cashless systems in the gaming world. While regulators and industry are rightly concerned about problem gambling, they should not try to stem the tide of

cashless technology, but rather find ways to use the data generated by cashless systems to identify at-risk gamblers and provide tools and resources to address problematic behavior.

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The spread of sports betting throughout the U.S. will put pressure on Nevada to keep up with regulatory and technological advances in other jurisdictions. Nevada prides itself on being the “gold standard” of the gaming world. To maintain that standard, Nevada will need to quickly and efficiently evaluate and react to new developments in the industry.

Doing so will require balancing the core principals of Nevada gaming—promoting the continued growth and success of gaming, while maintaining public confidence and trust through strict regulation.⁹ Ultimately, the Nevada Legislature, drawing on the experience of Nevada’s Gaming Control Board and Gaming Commission, will need to determine which developments meet the gold standard and which are merely pyrite.

1. 584 U.S. ____, 138 S. Ct. 1461 (2018).
2. Reports that large numbers of bettors traveled to Iowa to place bets on the Kansas City Chiefs in the most recent Super Bowl added impetus to the Missouri Legislature’s consideration of sports betting bills.
3. The typical bet at a sports book will require the bettor to risk \$11 to win \$10, giving the house an advantage, assuming equal amounts are wagered on each side of a particular bet.
4. See, e.g., Roger Gros, “Slaying the Golden Goose,” *Global Gaming Business Magazine* (March 20, 2020), <https://ggbmagazine.com/article/slaying-the-golden-geese/>.
5. *Id.*
6. Nev. Gaming Comm’n Reg. 5A.140(1)(a).
7. Nev. Gaming Comm’n Reg. 5.225(7).
8. NRS 463.01642.
9. See NRS 463.0129(1).

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