



AMERICAN GAMING ASSOCIATION

New York Senate Standing Committee on Racing, Gaming and Wagering Hearing to Discuss the Potential of Sports Betting in New York State

Written Testimony of the American Gaming Association February 2, 2018

Chairman Bonacic, and members of the Committee,

Thank you for the opportunity to submit testimony concerning sports betting's potential in the state of New York.

We are at a turning point in sports betting's evolution in the United States.

The choices facing policymakers have never been clearer:

- Will we shut down the vast illegal sports betting market in the United States, which takes in \$150 billion in bets per year? Or will we let it continue to thrive, fuel criminal activity and leave consumers with no safe alternative to bet?
- Will we empower states and tribes to choose for themselves whether to offer legal, regulated wagering on sports? Or will we let the federal government unconstitutionally tell states and tribal sovereign governments they can't do so?
- Will we work together to share information, create transparency and protect the integrity of the games we all love? Or will we continue to jeopardize the integrity of games by forcing bets to take place in an unregulated market with no transparency?

The American Gaming Association is encouraged by the unprecedented amount of momentum behind legalizing sports betting.

Nearly 60 percent of Americans are in favor of eliminating the failed federal ban, while nearly two-thirds of Americans believe legal, regulated sports betting would deliver new tax revenues to local communities and support tens of thousands of jobs.¹

¹ "Legalizing Sports Betting: A Winning Wager," Greenberg Quinlan Rosner Research, April 2017
https://www.americangaming.org/sites/default/files/Rev_Public%20AGA%20National%20Poll%20Memo%20042417%20FINAL.pdf

As you know, the United States Supreme Court is expected to rule in a case which could wipe the federal ban off the books. A collection of governors and attorneys general from 20 states signed an amicus brief in support of a government's right to choose whether to offer sports betting.

Meanwhile, members of Congress are also calling for hearings on the merits of repealing the 25-year-old federal ban.

As of this testimony, 15 states, including New York, have active, sports betting-related legislation.² We commend New York for getting ahead of this issue by passing a constitutional amendment in 2013 to legalize sports betting in the event the federal ban is invalidated. We hope more states approach sports betting with New York's level of thoughtfulness and initiative.

This momentum has unified a broad coalition of supporters around the goal of ending the scourge of illegal sports betting. This coalition has brought the gaming industry together with a wide range of law enforcement groups, consumer groups, policy groups and states' attorneys general.

And as this committee heard firsthand last week, legal sports betting's supporters now include professional sports leagues, as well. We are encouraged by the leagues' evolving views on this topic and our collective commitment to eliminate the thriving illegal sports betting market and protect game integrity.

We believe the evolution of the leagues' views represents a critical opportunity for our industries to work together to develop the right policies that will ensure a safe, successful sports betting market.

Principles That Will Ensure A Safe, Successful, Legal Sports Betting Market

If implemented correctly, legal sports betting in New York could support thousands of jobs and generate tens of millions of dollars in tax revenue.

Assuming New York adopts Nevada's 6.75 percent tax rate on gross gaming revenue and allows betting on all platforms, research conducted by Oxford Economics for the AGA projects bettors would generate approximately \$225 million in total state tax. That figure not only includes gaming-related taxes, but also sales tax, property taxes, and more.

The study also estimates legal sports betting in such a scenario would support nearly 12,000 jobs, contribute \$1.6 billion to the state's GDP and supply nearly \$800 million in labor income.

Importantly, none of the above projections have a chance of occurring unless specific, common sense conditions that enable a successful, legal sports betting market are met.

Too often, governments look at the sports betting opportunity and see an easy cash cow. In reality, however, sports betting is a low-margin business, and is not viable without the proper policy environment.

² "2018 State Legislative Overview – Sports Betting," *American Gaming Association*, February 2, 2018. <https://www.americangaming.org/sites/default/files/2018%20AGA%20Sports%20Betting%20Bills2.pdf>

Key components of effective policy environment include:

1. **Protect the integrity of sporting contests.** Sports leagues, data companies, regulators, law enforcement, and sports betting providers all have mutually-aligned interests in ensuring the integrity of games and the wagers placed on them. We can do this by emulating the effective self-regulatory model that already exists in other jurisdictions where sports betting is legal, such as the state of Nevada, as well as the United Kingdom. We also recommend the creation of a national betting data repository that facilitates robust information sharing among stakeholders. Additionally, sports betting companies can help further market transparency with the ability to permit any type of bet on any professional or collegiate contest.
2. **Eliminate the illegal sports betting market.** We can do this by providing a product that meets consumer demands and ensures competitive pricing by establishing a tax rate aligned with Nevada's 6.75 percent rate, and by not restricting commercial and tribal sports betting operators to offering betting in a brick-and-mortar setting only. High tax rates force legal betting operators to offer customers worse odds, which in turn drives those customers to the illegal market – thereby robbing governments and the private sector of the benefits associated with legalization.
3. **Protect consumers.** Consumers deserve a safe, legal sports betting alternative that discourages participation in the illegal market. This means all stakeholders should promote betting products responsibly, clearly and effectively communicate the legal betting age, offer all bettors limit-setting programs, establish transparent betting rules, and develop tools that help bettors wager responsibly.
4. **Direct revenue to local communities and taxpayer priorities.** While sports betting will not be an economic panacea for states and tribes, it presents an important opportunity to generate revenue and jobs that can impact local communities. A legal sports betting market can only produce these results, however, if sustainable economic policies exist.

We are encouraged that the professional sports leagues, as well as many other stakeholders in this collaborative effort, share these policy goals.

In particular, the testimony of the National Basketball Association to this committee outlined several *additional* areas on which we agree.

- We agree operators should continue to be subject to the rigorous licensing programs which already apply to all commercial and tribal gaming operations.
- We agree operators should have the option of offering betting on Internet and mobile platforms consistent with existing Nevada policy.
- We agree operators should institute robust age verification tools, and offer effective programs to encourage patrons to play responsibly.

- We agree operators should continue their decades-long, successful practice of alerting sports governing bodies to instances of unusual betting activity.

The AGA is confident we can achieve these goals if all stakeholders work together.

Unfortunately, the NBA also proposed several recommendations in its testimony that would directly hinder, not help, the pursuit of the very objectives we both share.

These recommendations include an “integrity tax” on sports betting companies, anticompetitive policies regarding sports betting data, and the ability to dictate what bets sportsbooks can offer.

These proposals are harmful because they belie an understanding of the economics of sports betting.

The Economics of Sports Betting

We can all agree on one point: the federal sports betting ban has failed.

Americans bet approximately \$150 billion on sports per year. The AGA estimates around 97 percent of that amount is bet illegally.

We can also agree that the demand for sports wagering is at an all-time high.

In 2017, bettors in Nevada wagered \$4.87 billion, a record high for the eighth consecutive year. For a comparison of how strong the illegal market is, consider this: the AGA estimates that Super Bowl 52 will attract about \$4.6 billion in illegal bets alone.

But those impressive figures reflect the *amount wagered*, not the comparatively miniscule amount that any sportsbook takes in as revenue.

For every dollar a sportsbook accepts in wagers, it pays back, on average, 95 cents to winning bettors. That means for every dollar wagered, a sportsbook keeps around five cents. Often, it’s less than that. For illegal wagering operators with little overhead, even this small margin can prove extremely lucrative at scale.

For legal sportsbooks, however, the effective margins are much slimmer. A legal sportsbook must pay state and federal taxes out of that five cents in earned revenue. Then it pays out salaries to employees. Then it pays for the back-end technology and hardware that runs the sportsbook. Then it pays property taxes or casino leasing fees.

On top of all this, the NBA is arguing the state of New York impose a tax on operators based on the amount wagered. The league would have this money bypass state and tribal governments and instead go straight to them.

For every dollar bet, the NBA requests a one cent tax. But when sportsbooks only keep five cents of every dollar, that means one cent equals a 20 percent NBA Tax on legal sportsbooks.

Simply put, this approach will fail. Decades' worth of economic evidence from the legal U.S. sports betting market suggests some of the professional sports leagues' recommendations will continue to fuel the illegal market and prevent the creation of a safe betting alternative for customers.

The NBA's "Integrity" Tax

The NBA proposed to this committee that sportsbooks pay each league a tax equal to one percent of the total amount bet on that league's games. The NBA indicated this fee would directly compensate additional investment in bet monitoring, investigations, and education – in other words, it would help the leagues ensure the integrity of their games.

But as we just explored, the NBA Tax will drive low-margin sportsbooks out of business, because those sportsbooks will by definition lose money as soon as they start accepting bets.

Even if such a proposal were economically sustainable, consider these facts:

- **The NBA Tax would unjustly compel private sportsbook operators to pay a vast amount to various private sports leagues.** According to Oxford Economics, one percent of the projected sports betting handle in New York could reach as high as \$220 million. Private sector negotiation, and not the heavy hand of government, should dictate financial transactions between betting companies and another private business.
- **The NBA offers no assurance or regulatory oversight to ensure the money it receives actually goes to additional integrity services.** The professional sports leagues already pay for integrity monitoring services that are extremely effective, despite the fact that an estimated 97 percent of sports betting in the U.S. takes place with illegal sportsbooks. Expanding legal sports betting to new markets will result in more transparent data and enhance our industry's voluntary contributions of real-time information, which are crucial to the success of these monitoring services. Under the NBA's proposal, sportsbooks would be legally required to hand the sports leagues a check to fund integrity services the leagues have long voluntarily paid for.
- **The NBA does not demand that sportsbooks in other jurisdictions pay a tax on every bet.** There is no NBA Tax on legal, regulated sportsbooks in Europe. There is no NBA Tax on legal, regulated Nevada sportsbooks. There is no NBA Tax on legal, regulated daily fantasy sports companies. So why should legal, regulated sportsbooks in New York suddenly have to remit such a tax to the NBA? The global sports betting landscape demonstrates that the NBA has asked for something that is unprecedented.
- **The NBA points to two outlier markets to support its proposed tax in New York. Bad policy in these markets fuels illegal sports betting.** One in every four Australian bettors – 26 percent – use offshore, illegal websites to bet on sports, despite widespread legal betting in Australia.³

³ "Consumer engagement with and consumer perceptions of offshore gambling sites," Gainsubry, Russell, Hing, and Blaszczynski, *New Media and Society*, November 2017.

https://www.researchgate.net/publication/321136601_Consumer_engagement_with_and_perceptions_of_offshore_online_gambling_sites

In France, regulators are calling for a tax on gaming revenue instead of handle, and say they “do not have sufficient resources to stop illegal offerings which persist in the market.”⁴

Meanwhile, dozens of other regulated jurisdictions around the world have found that the best way to protect the integrity of games and shut down the illegal market is to voluntarily share information with sports governing bodies, not pay a tax on the amount of money wagered.

A key determinant as to whether customers choose to wager in the black market, even in jurisdictions where sports betting is legal, is how sports bets are priced. In fact, according to a study in the United Kingdom, more than half of bettors say finding the best odds is what influences their decision to bet at a certain sportsbook.⁵

Let’s say a bettor wants to bet on the New England Patriots to win Super Bowl 52 by at least five points. They can either bet \$100 at a legal sportsbook operating under the leagues’ proposed conditions, or they can bet the same \$100 at an illegal sportsbook that does not pay the NBA Tax.

To recoup money lost to the leagues’ fees, the legal sportsbook will have to pay out less to winning bettors. If the bettor bets there, they will win approximately \$85 on a winning bet. But the illegal sportsbook can continue paying out more to bettors. If the bettor bets there, they will win approximately \$91 on a winning bet.

If you were that bettor, would you choose to win \$85 or would you choose to win \$91? Let’s not further empower the illegal market by incentivizing people to use it more. And let’s definitely not replace a failed federal law by importing failed ideas from foreign jurisdictions.

To learn what works, look no further than the successful policies that already exist in the United States and Europe.

Sports betting in Nevada has enjoyed robust and effective integrity protections for decades without any NBA Tax. In Nevada, sports betting companies, data providers, and sports governing bodies themselves all share real-time information – in a self-regulatory model – out of a mutual shared interest to preserve integrity. These bodies then communicate information to the Nevada Gaming Control Board, which reviews and investigates any pertinent evidence of wrongdoing.⁶

And in Europe, the European Sport Security Association facilitates a system of real-time information sharing among sports betting companies to identify suspicious wagering activity. A memorandum of understanding amongst members mandates that ESSA will report patterns of suspicious information to applicable sports governing bodies.⁷ ESSA’s monitoring and alert platform was responsible for the

⁴ “France’s ARJEL Pushes For GGR Tax As Illegal Offerings Grow,” Grabbe, *Gambling Compliance*, June 2017. https://gamblingcompliance.com/premium-content/insights_analysis/france%E2%80%99s-arjel-pushes-ggr-tax-illegal-offerings-grow

⁵ “Online Gaming Survey UK: Exclusive Market Research And Analysis On The UK Regulated Online Gambling Sector,” Bowden, *Pageant Gaming Media*, 2014.

⁶ “How The Nevada Gaming Market Ensures Sports Betting Integrity,” *American Sports Betting Coalition*, 2017. [www.americangaming.org/sites/default/files/Nevada Integrity Model Flowchart.pdf](http://www.americangaming.org/sites/default/files/Nevada%20Integrity%20Model%20Flowchart.pdf)

⁷ “About ESSA,” *European Sport Security Association*, www.eu-ssa.org/about-essa/

identification and reporting of more than 250 integrity alerts to the relevant governing and regulatory bodies in 2017.⁸

Official Data

The NBA also proposed last week that sportsbooks be required to purchase data from a league's official data provider before they can offer sports betting on that league's events. The NBA folded this recommendation in under a suite of consumer protection recommendations that it argued would enhance the accuracy and consistency of betting outcomes.

Like the NBA Tax, this requirement would unfairly direct the government to compel one private business, gaming operators, to pay another private business, in this case the NBA's official data provider.

Firstly, there is no need to mandate this. Real-time information is crucial for sportsbooks to set accurate odds and compete in a crowded marketplace. If information is delayed or flawed, even by a few seconds, it can put sportsbooks that subscribe to it at a severe disadvantage. As such, sportsbooks will seek out the services that are the best for them.

More importantly, a healthy market of accurate, consistent sports betting data providers already exists for sportsbooks to choose from. Mandating that every sportsbook contract with only one official data company in order to offer betting on that league's games may allow select data providers to set an inflated, non-competitive price for their services.

We urge New York not to go down this road, and instead allow sportsbooks to make the free-market choice to work with upstanding data companies of their choosing.

Wagering Restrictions

Finally, the NBA proposed that it be able to restrict, at its sole discretion, the types of wagering allowed on its games. This suggestion was made with the intent of helping eradicate manipulation of the betting market.

Unfortunately, such a policy would not prevent, but instead encourage, the very manipulation our industry and the professional sports leagues are trying to prevent.

- **When bets are removed from the legal market, betting is funneled to the illegal market.** If betting on a game, or on propositions within that game, are not allowed, bettors will simply wager on those same propositions in the illegal market. They are doing this today, easily and widely, draining law enforcement resources, fueling the illegal market, and threatening game integrity by moving betting into the shadows.

⁸ "ESSA 2017 Annual Integrity Report," *European Sport Security Association*, January, 2018. <http://www.eu-ssa.org/wp-content/uploads/ESSA-2017-annual-integrity-report.pdf>

- **The Nevada model works: sports leagues don't have the ability to restrict, nor do they try to restrict, bets.** Nevada statutes afford the professional sports leagues the ability to ask the Nevada Gaming Commission to restrict wagering on games involving that league's Nevada-based teams, or on that league's contests which take place in Nevada. Even then, there is no unilateral ability for any league to call the shots when it comes to what bets sportsbooks can offer. According to the Nevada Gaming Control Board, no major U.S. sports governing body has applied to restrict wagering on an event in more than a decade.
- **Legal, regulated betting on the NHL's Las Vegas Golden Knights has been a tremendous success.** While the NBA and Major League Baseball have minor league teams located in Nevada, only the NHL has a professional team located in the state.⁹ Today, bettors can wager on live, in-game propositions on their mobile device, even when watching the Golden Knights in person at their home stadium, T-Mobile Arena. There has not been a documented integrity issue by allowing full scale betting, including in-game propositions, on the team.

Conclusion

In order to shut down illegal betting, we must set a sound policy foundation for a legal sports betting market. Imposing an NBA Tax, eliminating operators' market-based choices, or making it harder for consumers to bet, will directly undermine the goals we all share.

We must instead draw upon effective self-regulatory models, work with our dedicated public safety officials who fight illegal sports betting, and promote sound policy to drive safe and effective solutions for consumers.

We support the leagues in their desire to drive revenue from sports betting. The key is that revenue is derived from the *legal* market through public policy that handicaps the *illegal* market. The United Kingdom is the perfect example of a market that has simultaneously driven extraordinary revenue to leagues and teams – through sponsorship, advertisements, streaming, and data rights – while providing illegal operators with no air to breathe.

It's markets like these that the United States should base its policies on.

⁹ The NFL's Oakland Raiders will move to a new stadium in Las Vegas in 2020.