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November 2, 2012

Via fax 202-224-2499

The Honorable Mitch McConnell
United States Senate
317 Russell Senate Office Building
Washington, D.C. 20510

Re: Legislation Legalizing Interstate Internet Poker

Dear Senator McConnell:

As President of the Kentucky Lottery Corporation, a public agency established by the Kentucky General Assembly, I strongly urge you to oppose any legislation drafted by Senator Reid or Senator Kyl which would legalize interstate Internet poker. We have received only a summary of the provisions of the proposed legislation, which may ultimately be attached to other legislation introduced during this congressional session. Based on the summary, this proposed legislation will primarily benefit the state of Nevada and the casino industry. Consequently, we believe it would be ill-advised and contrary to the interests of the Commonwealth of Kentucky and its residents.

In December 2011, the Department of Justice reversed its previous position and found that, under federal law, lotteries or other entities may engage in Internet gaming so long as it takes place within the boundaries of a state and so long as they are legally authorized to do so. Accordingly, since the DOJ ruling, 10 states – California, Delaware, Hawaii, Illinois, Iowa, Maine, Massachusetts, Mississippi, New Jersey and Vermont – have introduced legislation either authorizing various forms of Internet wagering or committing to additional study on the issue. One state, Nevada began issuing licenses for online poker in June. On March 25, 2012, the Illinois Lottery became the first lottery in the U.S. to sell lottery products on the Internet. The Georgia Lottery announced it will begin selling lottery tickets on the Internet in November of 2012. Delaware and Maryland have also indicated they will begin internet sales within the next few months.

While the KLC is actively monitoring the i-gaming efforts of other state lotteries, the KLC has no immediate plans to initiate the intrastate sale of lottery tickets via the internet, and would not take such steps absent guidance from appropriate state policy-makers. Nevertheless, we strongly wish to preserve that right and all revenue-generating opportunities that may be available should it be determined to be in the best interest of the Commonwealth in the future. The

legislation being developed by Senators Reid and Kyl, however, if enacted, would definitely curtail that right, and consequently, future revenue generating opportunities.

According to the summary, lotteries would be prohibited from choosing for themselves which games to offer on the Internet and would be precluded from offering any interactive games – i.e., games actually played online. Of particular concern is that lotteries would be limited to selling games where drawings are not more than once daily, which may impact the sale of existing draw games. Federally licensed Internet poker operators would compete directly with state lotteries and other state-authorized gaming activities, and under the Reid/Kyl bill, state lotteries could not be licensed for at least the first two years.

The federal taxes on Internet poker that would go to states – generally 14% of poker activity – is lower than the tax rate states now generally apply to authorized gaming activities. Even that 14% is misleading, since 30% of that amount would go to the state where the licensor of the on-line poker is located. This is not a win for states that are not licensing on-line poker.

The federal government should not encroach on states' rights to implement and regulate Internet gaming within their own borders. Individual states are best able to decide what, if any, gambling should occur within their borders. In an October 25, 2012 letter to U.S. Senate and House leaders, the National Governors Association's Economic Development and Commerce Committee voiced opposition to the proposed legislation on these grounds. With multi-state lottery games and pari-mutuel wagering already occurring between jurisdictions, the states have a long and successful history of joining together to ensure gaming programs work for their citizens and comply with both state and federal law. Federally regulated Internet gambling would create a duplicative system and add an unnecessary layer of bureaucracy because states already have their own infrastructures in place.

The North American Association of State & Provincial Lotteries (NASPL) is the national trade association whose membership includes every state-sanctioned lottery organization in the U.S. NASPL's member jurisdictions have long held and supported the individual states' authority and right to regulate gaming within their borders granted by the tenth amendment of the U.S. Constitution. In fact, NASPL has several times formally expressed its support of this position, most recently by a formal resolution adopted in July, 2011 in response to previous on-line poker legislation proposed by Senator Reid.

The KLC is charged, by statute, with the responsibility and granted the exclusive authority to sell lottery tickets and products in the Commonwealth. The KLC plays a vital role in providing funding for public benefit to the citizens of the Commonwealth. Since inception, the

KLC has contributed nearly \$3.8 billion in support of primary and secondary education, college scholarships and grants, affordable housing, adult and early childhood literacy programs, and higher education. Starting 1998, lottery revenues were increasingly and primarily dedicated by legislative direction to funding college merit and need-based scholarships and grants. Since 1999, more than 1.4 million scholarships and grants worth nearly \$1.9 billion funded by lottery proceeds have been awarded.

Internet sales of lottery tickets and products would provide additional means to enhance the established ability of the KLC to provide vital funding to the Commonwealth. The DOJ opinion, by clearing the way for Internet sales of lottery tickets, only recently opened the door to many revenue generating opportunities. The bill proposed by Senators Reid and Kyl effectively closes that door for state lotteries.

For the reasons discussed above, we again request that you oppose the adoption of the proposed Internet gaming legislation by Senators Reid and Kyl. Please feel free to have one of your staff contact me if you have questions or need further information. Thank you for your time and consideration of this important matter.

Sincerely,



c: Governor Steven L. Beshear
Representative Greg Stumbo
Office of Senate President
Kentucky Lottery Corporation Board of Directors