

GAMING LEGALNEWS



January 10, 2014 • Volume 7, Number 1

GAMING LEGAL NEWS EDITORIAL BOARD

Robert W. Stocker II, Gaming Law
517.487.4715 • rstocker@dickinsonwright.com

Dennis J. Whittlesey, Gaming Law/Indian Law
202.659.6928 • dwhittlesey@dickinsonwright.com

Michael D. Lipton, Q.C., Gaming Law
416.866.2929 • mdliptonqc@dickinsonwright.com

Peter H. Ellsworth, Gaming Law/Indian Law
517.487.4710 • pellsworth@dickinsonwright.com

Glenn M. Feldman, Gaming Law/Indian Law
602.285.5138 • gfeldman@dickinsonwright.com

Peter J. Kulick, Gaming Law/Taxation
517.487.4729 • pkulick@dickinsonwright.com

Kevin J. Weber, Gaming Law
416.367.0899 • kweber@dickinsonwright.com

DW COOPERATION AGREEMENT FIRMS

MdME, Macau (www.mdme.com.mo)
Varela & Fonseca Abogados, Peru (www.varelafonseca.com)
Velchev & Co., Bulgaria (www.vlaw.bg)
WH Partners, Malta (www.whpartners.eu)

GAMING WEB SITES OF INTEREST

www.indianz.com www.pechanga.net
www.indiangaming.org www.nigc.gov
www.michigan.gov/mgcb www.gaminglawmasters.com
www.ggbmagazine.com
www.casinoenterprisemanagement.com

Disclaimer: Gaming Legal News is published by Dickinson Wright PLLC to inform our clients and friends of important developments in the fields of gaming law and federal Indian law. The content is informational only and does not constitute legal or professional advice. We encourage you to consult a Dickinson Wright attorney if you have specific questions or concerns relating to any of the topics covered in Gaming Legal News.

ABA GAMING LAW MINEFIELD CONFERENCE

The 18th Annual National Institute on the Gaming Law Minefield is set to be held at the Green Valley Ranch Resort, Spa & Casino in Henderson, Nevada, on February 13–14. This Institute, which is jointly sponsored by the ABA's Criminal Justice Section, Solo, Small Firm and General Practice Division, and the Business Law Section, is the only ABA conference focused exclusively on the commercial and Indian gaming industries in the United States. With the continued expansion of commercial and tribal gaming venues, the entry of states and state lotteries into the Internet gaming arena, and the entry of new foreign operators and suppliers into the United States market, the conference has become an important element of the gaming education process in the United States. A wide variety of industry specialists will be discussing all aspects of the regulated gaming industry and the unregulated (gray) market plus expansion, financing, and regulatory trends. The conference also features a two-hour ethics CLE course that is designed to meet the continuing legal education requirements of those states requiring ongoing ethics legal education efforts by licensed attorneys. Details regarding the conference are available on the American Bar Association website (www.americanbar.org/calendar/2014/02/glm2014.html).

GAMING TRENDS IN 2014

by Robert W. Stocker II

Calendar year 2014 is guaranteed to be an interesting year on many fronts, including the gaming industry. The expansion of gaming in Ohio is off and running at a dramatic pace, with more gaming to come on line this year via racino operations. Can Kentucky be just around the corner as another southern state responding to the exodus of gaming money to surrounding states? Will the Illinois Legislature approve casinos in Chicago? Really the question is when such casinos will be approved, not if they will be approved. The East Coast is becoming a hotbed of gaming expansion activity. Tribes in various jurisdictions (Michigan has become a focal point given the Bay Mills case currently pending in the United States Supreme Court) are pushing the envelope on tribal casino development.

With Nevada, New Jersey, Delaware, and Illinois already entering the Internet arena with state legislation approving various forms of intrastate Internet activity, what additional states will jump on the bandwagon this year?

At the federal level, with the entire House of Representatives and one-third of the Senate up for election in November, the chance of substantive federal Internet legislation being passed and signed

into law this year is somewhere between slim and none absent truly dramatic events occurring.

At the same time, the industry faces massive challenges in some jurisdictions – New Jersey being the poster child in this respect given the expansion of gaming in the surrounding states. This brings up the question (often asked and pondered but never really answered) – when will an individual state and when will the states collectively hit the saturation point? These are questions that will be pondered and pontificated at most gaming conferences held in the United States this year.

On the world front, the action is clearly in Asia. Macau gaming operations continue to expand on the Cotai Strip. Speakers at the most recent gaming conference in Macau, which was held in early December under the sponsorship of the Macau Gaming Equipment Manufacturers Association, projected continued expansion of the gaming market in Macau into the foreseeable future, citing the ever-expanding Chinese middle class as the economic engine that will assure the continued growth of the gaming business. While Macau continues to grow, Southeast Asian countries, as well as the Philippines, continue their expansion efforts, with Taiwan and Japan continuing to consider (ever so slowly) casino development.

Overriding all of the land-based efforts is the elephant in the room – the Internet. In a presentation that I made to a law school graduating class a while ago, I asserted that the advent of the Internet is comparable in impact to the invention of the printing press. The Internet has become a game changer. It has broken down state, national, regional, and continental barriers at a phenomenal pace that legislators are unable to effectively respond to and that government bureaucracies are unable to comprehensively restrict. The Internet has completely reformatted the retail business and thereby has affected employment, taxation, and the cost of goods on a wide-scale basis. It remains to be seen what the ultimate impact of the Internet will be on the gaming business – most certainly the big land-based operators will utilize the Internet as another marketing and revenue vehicle. The real issue is what the impact will be on the smaller commercial operators and, in the United States, on tribal gaming operations. As with most new technologies, the creative minds in the industry (commercial, tribal, governmental) will be the most effective in taking advantage of the opportunities presented by the Internet. In this regard, clearly the next five to ten years will be defining years for a variety of industries.

What is emerging as another challenge to the status quo is defining what “gambling” is for regulatory purposes and what methods of determining value are subject to government regulation. The continued pushing of the boundaries of what constitutes a skill game and the growth of virtual currency concepts are examples of the fact that the faces of unregulated gaming continue to multiply and seem to be limited only by the creative imaginations of persons looking to make an unregulated dollar playing upon the competitive and money centric compulsions of the populace. Is there a way to get a handle on this activity, both land based and Internet based, without unintentionally crippling legitimate industries? There is not an easy answer to this question. It most certainly presents both opportunity and danger (fines, seizures, jail time). I sometime equate

the conundrum faced by the political class in regard to unregulated gaming with the explosion of the adult entertainment industry on the Internet twenty-five years ago.

The initial shot in the arm for the development of the Internet was the adult entertainment industry, something people tend to forget now that the Internet has permeated all aspects of business and communication. Will unregulated gaming achieve the same level of success that industry has achieved and, if so, what will the impact of such success be on land-based and Internet gaming? My guess is that the unregulated gaming industry will wind up feeding the regulated gaming industry to some degree just as casinos in Detroit and Ohio feed casino operations in Las Vegas (after all, once gaming is viewed as entertainment, most folks in the United States and Canada want to go the entertainment capital of North America once or twice a year – viva Las Vegas).

Bottom line as we all ring in 2014 – it is going to be an interesting and, at times, wild uncontrolled ride with plenty of twists and turns, successes and failures, and some interesting stories along the way.