April 29, 2016

U.S. Representative Michael Burgess, Chair
House Subcomm. on Commerce, Manufacturing, and Trade
2336 Rayburn HOB
Washington, D.C. 20515

Dear Chair Burgess,

Please submit this letter and the attached Illinois legislative testimony from April 6 & 14, 2016 for inclusion in the record of the forthcoming May 11, 2016 hearing on sports gambling, Daily Fantasy Sports (DFS), and related issues. My colleagues and I have testified and provided research for many Members of Congress, including the 1995-1999 U.S. NATIONAL GAMBLING IMPACT STUDY COMMISSION FINAL REPORT, sponsored by U.S. House Judiciary Chair Henry Hyde and U.S. Senators Paul Simon and Richard Lugar.

Concurring with numerous expert witnesses, the U.S. Gambling Commission concluded that Internet gambling could only be prohibited because it could not be regulated (see, e.g., NGISC FINAL REPORT, infra, recs. 5-1 to 5-4). The Commission also referenced that the existing bans on sports gambling should remain intact and that any legalized gambling on collegiate or amateur sports should be re-criminalized (see, e.g., NGISC FINAL REPORT, infra, rec. 3-7).

Exemplifying the academic/governmental interface in the issue area of the socio-economics of gambling, acknowledgments and book dedications to many Members of Congress are included in the multivolume UNITED STATES INTERNATIONAL GAMBLING® REPORT, produced at the University of Illinois and in concert with other research universities.

The most recent Congressional testimony by colleagues and myself was on March 25, 2015 re H.R. 707, the Restoration of America’s Wire Act, before the House Subcommittee on Crime, Terrorism, Homeland Security, and Investigations. The majority viewpoint supported the proposition that while public opinion overwhelmingly supported maintaining the bans on Internet gambling, lobbyists were pushing to legalize sports gambling and particularly DFS to leverage real-time Internet gambling onto every cell phone—“click your phone, lose your home” (see, e.g., Hearing, infra, at 18).
Sports gambling and DFS are not issues of “fun and games”—ubiquitous Internet gambling has significant strategic economic implications destabilizing U.S. financial systems. *Compare, Financial WMDs, 60 Minutes* (reporter Steve Kroft, 8-27-09), *with Slot Machines: The Big Gamble, 60 Minutes* (reporter Lesley Stahl, 1-7-11).

For numerous reprinted academic studies and government reports, see:

1. **Gambling with Crime, Destabilized Economies, and Financial Systems** (Wm S. Hein Pub., Buffalo, N.Y. 2009);
2. **The Gambling Threat to Economies and Financial Systems: Internet Gambling** (Wm S. Hein Pub., Buffalo, N.Y. 2010); and

To protect the integrity of U.S. financial systems, as well as the integrity of sports, all sports gambling and DFS should be suppressed by legal means. Sports gambling and DFS can and will become ubiquitous Internet gambling and unintentionally catalyze financial distress for the entire U.S. public.

Sincerely,

[Signature]

Professor John Warren Kindt
Law and Economics

Nota Bene: For the convenience of Committee members, this letter and attachments are being forwarded to some of the members who have been in previous contact with our Illinois academic research group and/or are current members of the House Subcommittee on Commerce, Manufacturing, and Trade.

Cc: Representative Janice Schakowsky, Ranking Member
Representative Fred Upton, Chair, House Comm. on Energy & Commerce
Representative Bobby Rush
Representative Adam Kinzinger
Representative Susan Brooks
Representative Rodney Davis
Representative John Shimkus

Attachments:
Testimony Before the Illinois House Judiciary – Criminal Committee
Capitol Building
Springfield, Illinois
April 6 & 14, 2016

“DAILY FANTASY SPORTS IS ILLEGAL
UNDER FEDERAL LAW AND MOST STATE LAWS”

Prof. John W. Kindt*

Daily Fantasy Sports (DFS) is illegal under three Federal laws:

1. the Unlawful Internet Gambling Enforcement Act of 2006 (UIGEA), 31 U.S.C. secs. 5361-67;
2. the Professional and Amateur Sports Protection Act of 1992 (PASPA), 28 U.S.C. secs. 3701-04; and

As the most relevant Federal legislation prohibiting DFS, the Congressional intent behind UIGEA was highlighted in October 2015 by the primary sponsor of UIGEA, former U.S. Representative James Leach (R-IA).

Noting the Congressional intent and history of UIGEA, Representative Leach emphasized that DFS operators’ claims that DFS was legal under UIGEA were “sheer chutzpah.” Representative Leach even “e-mailed The Associated Press stating ‘the carve out for Fantasy sports in the Unlawful Internet Gambling Enforcement Act (UIGEA) does not provide them [i.e., DFS operators] with immunity against other federal and state laws that could limit their activities.’” See, e.g., Staff, Unlawful Internet Gambling Enforcement Act Author Jim Leach Unhappy With DFS Sites, SCOUT, Oct. 20, 2015, at www.scout.com/fantasy/story/1601134-uigea.

Colleagues and I testified in favor of UIGEA during the 2006 Congressional hearings, and we can confirm that Fantasy sports was to be only season-long and does not include DFS. See, e.g., Internet Gambling Prohibition Act of 2006: Hearing Before the Subcomm. on Crime, Terrorism, and Homeland Security of the House Comm. on the Judiciary, 109th Cong., 2d Sess. 12-16, 20-63 (testimonies & prepared statements of Bruce G. Ohr, Chief, U.S. Dep’t Just., Organized Crime & Racketeering Section, and Prof. John W. Kindt, Univ. of Ill.).
DFS companies are under investigation by U.S. Attorney Offices in New York City, Boston, and Tampa, Florida. Currently, DFS is under increasing Congressional scrutiny. See, e.g., Hearing Before the Subcomm. on Crime, Terrorism, Homeland Security, and Investigations of the House Comm. on the Judiciary, 104th Cong., 1st Sess. 18 (prepared statement of Prof. John W. Kindt, Univ. of Ill.).

On December 23, 2015, Illinois Attorney General Lisa Madigan issued an opinion to the Illinois House Judiciary – Criminal Committee stating that DFS constituted “illegal gambling” pursuant to the 2012 Criminal Code, subsection 28-1(a); 720 ILCS 5/28-1(a). DFS has also been declared illegal by the state attorney generals of Texas, Hawaii, Georgia, Mississippi, Alabama, Nevada (with an exception) and New York (with false advertising issues pending).

The *Boston Globe* and other media have reported that the major DFS companies have not turned a profit in months and may soon be insolvent. A pro-DFS news site has even admitted that the large DFS company FantasyHub “is refusing to pay players or provide players with any concrete information regarding their money.” The title of the article is descriptive: Chris Grove, *As FantasyHub Scandal Deepens, DFS Lobbyists Are Pushing Bills That Would Let It Happen Again And Again*, LEGAL SPORTS REPORT, Feb. 26, 2016.

In March 2016, Virginia and then Indiana supposedly legislated regulations for DFS, but the *Washington Post* exposed the nationwide tactics of DFS lobbyists who “proposed a two-page bill … called a ‘fluff sandwich’ with a line in the middle declaring that fantasy sports games are ‘not illegal gambling’.” Jenna Portnoy & Drew Harwell, *Fantasy sports games make a play for legitimacy*, WASH. POST, Mar. 18, 2016, at www.washingtonpost.com. The so-called DFS regulations in Virginia and Indiana only provide the appearance of regulation—without any practical effect.

Given the current Federal prohibitions against DFS, it is common knowledge that DFS lobbyists realize that they cannot get Congress to legalize DFS. Accordingly, DFS lobbyists are manipulating individual states into passing laws appearing to regulate DFS. Such state laws would then compel state attorney generals to defend their state regulations. The end result would pressure Congress to enact future Federal legislation enabling “nationwide DFS.”

DFS places real-time gambling at every school desk, work desk, family TV, video game, and cell phone. People of all ages will be able to “click their phones, lose their homes.” Virtually all academic experts concur that DFS is designed to create ubiquitous real-time gambling without any effective consumer protection.

Specifically designed to seduce a youth market, the DFS marketing philosophy also reportedly synchronizes well with pornography marketing techniques. Eben Novy-Williams,

The U.S. National Gambling Impact Study Commission Report concluded that DFS-type gambling was “impossible to regulate” and had to be prohibited. The U.S. Gambling Commission was sponsored by former U.S. Senator Paul Simon (D-IL) and U.S. Representative Henry Hyde (R-IL) with the bipartisan support of virtually the entire Illinois Congressional delegation. The U.S. Gambling Commission was enacted with an 80 percent bipartisan vote.

Since the U.S. Gambling Commission, these conclusions have been confirmed by experts at Congressional hearings and in academic publications, including the multi-volume United States International Gambling® Report, produced at the University of Illinois and in concert with other research universities.

In 2015 Congressional hearings began re-investigating the proliferation and abuses involving DFS. All states should reject the claims and endeavors of DFS lobbyists to leverage state governments into confrontations with the U.S. Department of Justice and the majority of state attorney generals, including Illinois Attorney General Lisa Madigan.

*Prof. John W. Kindt
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Law & Economics
INTERNET GAMBLING WILL CRIPPLE WORLD'S ECONOMIC AND FINANCIAL SYSTEMS

John Warren Kindt

Internet gambling is an issue of strategic financial stability and Wall Street regulation. It is not just an issue of silly games and electronic poker as argued by supporters of the proposed Reid-Kyl bill to legalize gateway gambling in cyberspace. (Congress Should Use This Brief Window to Legislate Internet Gaming, Roll Call, Dec. 18, 2012).

In 1995 Congressional hearings led to enactment of the U.S. National Gambling Impact Study Commission, which concluded in 1999 that maintaining a total ban on Internet gambling was a U.S. imperative.

Currently this ban is supported by almost all members of the National Association of Attorneys General. Congress even strengthened the ban by enacting the 2006 Unlawful Internet Gambling Enforcement Act, which passed the U.S. House with an 80 percent favorable bipartisan vote. Immediately, the Internet gambling stocks on the London Stock Exchange lost billions of dollars as speculators finally recognized that these stocks were predicated on illusory gambling activities. Fortunately for Wall Street, the U.S. ban meant that such vacuous gambling stocks were already prohibited on U.S. stock exchanges.

Also in 2006-2007, Russian President Vladimir Putin sanguinely noted the economic and crime costs of state-sanctioned gambling and he recriminalized 2,230 casinos—virtually wiping the economy clean. Associated leaders such as Chechen President Ramzan Kadyrov confirmed that “the gambling business is … [a threat to] national security.” What do the Russian economists know that is still eluding Washington politicians?
Led primarily by the U.S. ban on Internet gambling, by 2009 about 30 other countries had also banned online gambling.

Recent academic volumes of the multi-volume United States International Gambling® Report even have titles reflecting the international economic realities. Specifically, the 2010 volume is alarmingly titled “The Gambling Threat to Economic and Financial Systems: Internet Gambling.” The title of the 2012 volume is even more alarming, “The Gambling Threat to National and Homeland Security: Internet Gambling.”

In its news video, “The Bet That Blew-Up Wall Street,” the website for 60 Minutes still reports on gambling’s interface with the current crisis in credit default swaps. Cogently, Warren Buffett named the story “Financial WMDs,” while U.S. Senate hearings blasted this Wall Street gambling debacle as “casino capitalism.”

At least the sub-prime crisis had some real property as collateral. However, with Internet gambling there is nothing of real value—just people dumping money into gambling accounts which can evaporate more easily than the Bernie Madoff monies.

U.S. gambling is an economic cancer ready to metastasize into Internet gambling. For example, the so-called Congressional Gaming Caucus used the 9/11 tragedy to cripple the 2002 Economic Stimulus Bill with $40-billion in tax write-offs for slot machines and associated electronics (and the Caucus had asked for $133-billion in tax write-offs). These recurring write-offs for slots are still draining the U.S. Treasury and could easily be transposed into more write-offs for Internet gambling technologies.

Gambling lobbyists also dominate the economic policies of 28 states, draining state treasuries—as exemplified by Illinois with the nation’s worst state budget crisis. With a total fair market value of $5 billion ($9.5 billion in 2012 dollars), the original 10 Illinois casino licenses,
for example, were granted to political insiders for $25,000 each—including one political insider recently convicted in the Gov. Blagojevich scandals.

Within this gambling aura, experts commonly refer to Internet gambling as the “crack cocaine” for addicting new gamblers. Internet gambling would place the worst type of computer gambling at every school desk, at every work desk, in every living room, and on every cell phone.

In an instant, a person could “click the mouse and lose the house.” Again, 60 Minutes highlights these problems in its video “Slot Machines: The Big Gamble.”

With justification, gambling lobbyists brag that Internet gambling is the “Killer Application of the Internet”—killing both individual and institutional finances.

Countries cannot gamble their way to prosperity. Internet gambling shrinks the consumer economy and destroys consumer confidence by promoting a ubiquitous gambling philosophy.

Legalizing U.S. online gambling would allow dubious parties to tout the U.S. imprimatur—empowering them to create a queue of speculative bubbles that could collapse already fragile financial systems and destabilize essential international economic security.

Prof. John Kindt teaches at the University of Illinois and is a senior editor and contributing author to the multi-volume United States International Gaming® Report.
Virginia, the Mother of Presidents, will soon become the “Godfather of Gambling” if Governor Terry McAuliffe signs the “daily fantasy sports” (DFS) bill into law. Ignoring the Attorney Generals of seven other states who have recently declared DFS illegal, the Virginia General Assembly has fast-tracked Virginia to become the first state specifically to authorize sports gambling on every child’s cell phone.

DFS will place real-time gambling at every school desk, work desk, family TV, video game, and cell phone. People of all ages will be allowed to “click their phones, lose their homes.” Lobbyists for DFS claim that the Virginia law will regulate DFS, but academic experts indicate that the law’s practical effect will be to create ubiquitous real-time gambling without any effective consumer protection.

The *Boston Globe* and other media have reported that the major DFS companies have not turned a profit in months and may soon be forced out of business by actions underway by the New York Attorney General, as well as the attorney generals of Illinois, Texas, Hawaii, Mississippi, Nevada, Georgia, and other states investigating DFS.

Specifically designed to attract a youth market, the DFS marketing philosophy also reportedly synchronizes well with pornography marketing techniques, as reflected in a recent Bloomberg news article titled “*Porn Giant Vivid Wants to Rescue Daily Fantasy Sports.*”

The *U.S. National Gambling Impact Study Commission Report* concluded that DFS-type gambling was “impossible to regulate” and had to be prohibited. The *U.S. Gambling Commission* was sponsored by former U.S. Representative Frank Wolf (R-Va.) with the bipartisan support of the Virginia Congressional delegation, and it was enacted with an 80% bipartisan Congressional vote.

Since the *U.S. Gambling Commission*, these conclusions have been confirmed by experts at Congressional hearings and in academic publications, including the multi-volume...
United States International Gambling Report, produced at the University of Illinois and in concert with other research universities.

The Virginia General Assembly seems to be unaware that Congressional hearings in 2015 highlighted the majority legal opinion that DFS is illegal under Federal law. Abuses involving DFS promoters are also being investigated by the U.S. Attorney Offices in New York City and Tampa, Florida.

Contrary to the claims of DFS lobbyists, the majority expert opinion is that DFS is illegal under the 2006 Unlawful Internet Gambling Enforcement Act ( UIGEA). The Wall Street Journal and national media have reported that the DFS lobby is trying to cloak DFS in the color of legality by fast-tracking state legislatures into passing state laws under the guise of consumer protection.

Governor McAuliffe and Virginia Attorney General Mark Herring should not allow Virginia to be manipulated into becoming the precedent for leading children and the general public into deleterious DFS gambling via every smart phone.

*Univ. Illinois Prof. John Kindt, educated at U.Va. Law Sch. and William & Mary, has testified repeatedly as an expert witness before Congress and many state legislatures analyzing gambling issues. The Univ. Illinois is listed on the first page of Sources of Information by the U.S. National Gambling Impact Study Commission Report.