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Catania Gaming Consultants

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Welcome to our updated newsletter format. We have re-designed it to make it easier to navigate and enjoy.

## Prospects Doubtful for Online Gambling Legislation in 112<sup>th</sup> US Congress



The 112<sup>th</sup> US Congress, which took office after the 2010 elections, won't be especially hospitable to new gaming legislation. While two new proposals are pending in the House of Representatives, it may be some time before either one reaches the House floor for a vote.

One of the bills, H.R. 1174-The Internet Gambling Regulation, Consumer Protection, and Enforcement Act-would give power and authority to the Federal government to license Internet casino games and poker nationally.

The other bill, H.R. 2366-The Internet Gambling Prohibition, Poker Consumer Protection, and Strengthening UIGEA Act of 2011-would leave gaming as a state issue, and delegate most power and authority to state and tribal regulators and to allow the licensing of Internet poker only.

During the last Congress, the House had to consider only one proposal, similar to today's H.R. 1174. The proposal was sponsored by Rep. Barney Frank, Chairman of the House Financial Services Committee during the last Congress, and cosponsored by 70 representatives. After his committee approved it 41-22 Frank was able to take the bill to the floor of the House, but a vote never occurred.

The addition of a second proposal complicates matters by adding another option;

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now the question is not only whether to approve or reject a proposal that was already approved last Congress, but which proposal is better and which elements of each should be kept or discarded.

The conventional requirement would entail a formal informational hearing addressing both bills, followed some time later by a mark-up session in which committee members propose revisions and then vote on one of the bills. However, that process would require adding Internet gambling to the Financial Services Committee's agenda, something not likely to happen under the leadership of the new chairman, Rep. Spencer Bachus. Rep. Bachus was one of the lead sponsors of prohibition legislation leading up to UIGEA, so scheduling hearings to discuss licensing and regulating Internet gambling is probably not a top priority for him.

An additional complication in this Congress is that two other House Committees, the Judicial Committee and the Energy and Commerce Committee, have also claimed jurisdiction. All three committees have also pushed the proposals down to the subcommittee level where, in an ideal Congress, subcommittees would ponder the proposals, then revise one of the bills and send it up to the full committee for approval. Then the full committee might revise it again before sending it for a vote on the floor of the House.

But this is not an ideal Congress-at least as far as Internet gaming legislation is concerned-and it seems unlikely that Internet gambling would be given such concern. A more likely scenario would involve speeding through the committees or, better yet, circumventing them altogether.

Another option would be appealing to the House "Supercommittee" to take up the cause of legalizing gambling. That's the route Rep. Joe Barton and Rep. Barney Frank seem to be taking. The two have spent considerable time talking up members of the powerful deficit-slashing committee, arguing that virtual betting could boost tax revenue and even create jobs. "Several of us are trying to get it into the supercommittee," Frank said. "It would create \$40 billion [in revenue] over 10 years."

Frank conceded that they would need the support of Senate Majority Leader Harry Reid and Senator Jon Kyl to make any real headway, but that possibility does not seem out of the question. Reid has long been a supporter of legalized online gaming, and Senator Kyl's previous opposition may be softening.

The Poker Players Alliance (PPA) has also harnessed its grass-roots network to put pressure on the Supercommittee, sending nearly 7,000 emails through the PPA system to Supercommittee members. PPA has also met with nearly all the panel's members or staff, trying to persuade them that legalized online gaming would create jobs, generate revenue, and ensure better consumer protections.

While some groups, such as the American Gaming Association (AGA) and Fair Play USA, are choosing not to go the Supercommittee route, all are ultimately hoping for the same final result. "It's never been about which vehicle," said Fair Play USA Executive Director Marisa McNee. "Just that we would like Congress to address the issue and by what vehicle that happens is really up to Congress."

## Philippine Gaming Market on Track for Growth

The Philippines has officially broken the gaming monopoly previously held by state-run Philippine Amusement and Gaming Corp., authorizing four companies to



### **Frank Catania, Esq., President**

Former Assistant Attorney General, Director, NJ Division of Gaming Enforcement.  
frank@cataniaconsulting.com

### **Gary Ehrlich, Esq., VP**

Former Assistant Attorney General, Deputy Director, NJ Division of Gaming Enforcement.  
gary@cataniaconsulting.com

### **Keith Furlong, VP,**

Former Public Information Officer & Legislative Liaison, NJ Division of Gaming Enforcement.  
keith@cataniaconsulting.com

### **Joseph Kelly, Esq., Associate**

Professor of Business Law, SUNY College, Buffalo.  
jkelly@cataniaconsulting.com

### **Toni Cowan, Esq., Associate**

Former Senior Attorney, NJ Casino Control Commission, Nevada Attorney General's Office, Division of Gaming, and NIGC Staff Attorney.  
toni@cataniaconsulting.com

### **Margaret McGee**

Former Vice-President, Prevention Programming and Public Affairs, and Vice-President, Business Innovation, Nova Scotia Gaming Corporation (NSGC)  
magmcee@gmail.com

### **Bob DeLuca**

Former Lieutenant, New Jersey State Police. Supervisor of the Applicant Investigation Unit in the EEO/AA Bureau and supervisor of the Records & ID Section for the Division of

put up hotels and casinos at the Pagcor Entertainment City in Parañaque City. Experts say the influx of new companies could help grow the Philippine gaming market fivefold over the next five years.

In Macau, the world's leading gaming market, industry revenues were at only \$1 billion while businessman Stanley Ho maintained a monopoly. Once that monopoly was broken, leading hotel and casino operators entered the market, bringing Macau to where it is today. Singapore experienced a similar growth, and the Philippines could be next.

"We are confident to see the Philippine market grow to as much as \$2 billion to \$5 billion in size in the next five years," said Willy Ocier, vice chairman of Belle Corp., one of four companies participating in the Pagcor project. The other companies are Japan's Aruze Group, Megaworld, and Bloombury Investments of businessman Enrique Razon, Jr.

All four companies are required to put up 8,000 hotel rooms each before they can be allowed to operate a casino. They hope that, once operational, the casinos will become a destination for foreign tourists, particularly those from China. Although Macau is the most convenient market geographically, Chinese citizens are only allowed to visit Macau once every three months. That leaves Singapore and, now, the Philippines as options.

"Singapore is four hours away by plane from Southern China," Ocier said. "The Philippines is much nearer. A lot of people want to go to the Philippines and they are just looking for a reason to do so."

**"We are confident to see the Philippine market grow to as much as \$2 billion to \$5 billion in size in the next five years,"** - Willy Ocier, vice chairman of Belle Corp., one of four companies participating in the Pagcor project.

## Las Vegas Gets First Online Poker Site



The South Point Hotel, Casino & Spa in Las Vegas has opened the first online poker site in Las Vegas. [SouthPointPoker.com](http://SouthPointPoker.com), the first free play site approved for a Nevada-regulated casino, opened in October.

Caesars Entertainment has been running its own free poker site for two years, branded through the World Series of Poker. It offers games on several mobile platforms, and signs up thousands of players weekly, approaching 1 million total user accounts. However, the website is not branded by Caesars and is not tied to its

gambling perks program, Total Rewards. In contrast, South Point's site will be tied to its loyalty program and branded with the South Point name.

Since the site does not involve real-money gambling, it did not have to be formally approved by Nevada's Gaming Control Board, though regulators did check how the site would arbitrate disputes in games and keep information about hands played.

Right now the site is primarily seen as a promotional tool, but South Point owner Michael Gaughan has said that the site is a first step to being ahead of the pack if and when lawmakers decide to allow casinos to operate Internet poker.

"It's kind of a gamble," Gaughan said. "I don't know that much about online poker

Gaming Enforcement/ Casino  
Gaming Bureau.  
[bobd@cataniaconsulting.com](mailto:bobd@cataniaconsulting.com)

*The Catania Consulting Group, Inc., doing business as Catania Gaming Consultants (CGC), offers a full service international gaming consultancy. CGC provides a variety of services to all sectors of the gaming industry, including governments, casino operators, game manufacturers, software providers, lotteries, payment processors and the horseracing industry.*

*Our goal is to provide clients with the information, experience, and contacts necessary to develop, regulate and operate both casinos and ancillary companies. The governments for which CGC has previously provided assistance in drafting gaming regulations and establishing gaming regulatory structures include the following: The Mohawk Territory of Kahnawake, located just outside Montreal; the United States Virgin Islands; Antigua and Barbuda; the Philippines; and the Canadian Provinces of Prince Edward Island and Nova Scotia.*

*Combined, the partners and associates of CGC listed below have over 75 years of gaming experience.*

and I'm trying to learn about it with a free site. . . . I think it would help business at the South Point and I think I could make money with it as a (stand-alone) poker site."

Hosted on the Zen Entertainment platform, [SouthPointPoker.com](http://SouthPointPoker.com) will offer a \$10,000 seat for the World Series of Poker main event, as well as up to \$100,000 in cash and prizes each month to draw in visitors.

## Court Ruling Expands Gambling in Florida

A new ruling in Florida will authorize slot machines anywhere in the state, and may also be a precursor to legislation that will expand Florida's resort casino industry.

The ruling, made by a three-judge appeals court panel, affirmed a prior decision that allowed the expansion of slot machines, including slots at Hialeah's race track.

Competitors had challenged the law, arguing that Hialeah didn't qualify under a state constitutional amendment voters passed in 2004, which permitted slots at just seven horse and dog tracks and jai alai frontons that met certain criteria in Miami-Dade and Broward counties if approved through local referenda.

There's no indication "voters intended to forever prohibit the Legislature from exercising its authority to expand slot machine gaming beyond those facilities," the opinion stated. "Nor is there any indication that Florida voters intended to grant the seven entities who met the criteria a constitutionally-protected monopoly over slot machine gaming in the state."

Though the decision will likely be appealed to the state Supreme Court, the ruling may also open the door for a list of companies that want to expand gambling options in several other places. Among them are the Malaysia-based Resorts World/Genting Group, The Las Vegas Sands, and Wynn Resorts, all of which have indicated interest in opening resort casinos in Miami.

The seven-page ruling made it clear that state lawmakers are within their authority to expand gambling where they see fit. "This ruling puts the authority to regulate gaming squarely in the lap of the Legislature," said Marc Dunbar, a Florida attorney who teaches gaming law at Florida State University.

That's good news for those who support the expansion of destination resorts, including state Representative Erik Fresen. "It is one less obstacle for us to hop over. It sends a very declarative judicial message."

Fresen and Senator Elyn Bogdanoff are working on their second attempt to pass a bill that would allow three permits for casinos in Broward and Miami-Dade counties with the inclusion of a strict regulatory gaming commission. Though the bill is only focused on South Florida, several other counties have already indicated their interest in being included.

**"This ruling puts the authority to regulate gaming squarely in the lap of the (Florida) Legislature"** - Marc Dunbar, Gaming Law teacher, Florida State University

## New Jersey Relaxes Casino Regulations



New Jersey gaming regulators have

proposed new rules that they hope will make it cheaper, faster, and easier for casinos to conduct their business. The plan, which was proposed in response to Governor Christie's reform plan to help revitalize Atlantic City casinos, is currently in a 60-day public comment period after which it will formally take effect.

The new Division of Gaming Enforcement regulations will supersede the so-called emergency rules that had been in place since Governor Christie signed the casino reform bill into law in February. At the time, Christie discarded what he considered to be outdated regulations-"an antique car," in his words-replacing them with a system that gives casinos more freedom.

The regulations mark the most significant overhaul of casino regulations in Atlantic City's history. They include provisions that will streamline the process for casino licenses, hearings, junket operators, casino hotel alcoholic beverage licenses, simulcast rules, and financial stability reviews. They also lower the cost for employee registration and renewal fees, as well as end the requirement for state gaming inspectors to be on casino floors on a 24-hour basis.

In addition, the new regulations shift most of the regulatory power from the New Jersey Casino Control Commission to the Division of Gaming Enforcement.

"Our focus is on streamlining regulation while maintaining public confidence and trust in the integrity of the regulatory process and casino operations," said Gaming Enforcement Director David Rebuck.

***"Our focus is on streamlining regulation while maintaining public confidence and trust in the integrity of the regulatory process and casino operations," - Gaming Enforcement Director David Rebuck.***

## **Full Tilt Loses License; US Calls It "Ponzi Scheme"**

After taking a serious hit last April when prosecutors accused it of bank fraud, illegal gambling, and money laundering, Full Tilt Poker was dealt what may be two killing blows this fall: US prosecutors brought new charges against the company, while its license was revoked by the U.K.'s Alderney Gambling Control Commission.

In late September, US prosecutors accused the company of paying its top board members and owners more than \$440 million, while defrauding ordinary players-in effect, a Ponzi scheme. The prosecutors alleged that Full Tilt's board of directors, including Raymond Bitar, Howard Lederer, and professional poker champion Christopher Ferguson, defrauded players by misrepresenting that their funds in Full Tilt accounts were safe, secure, and available for withdrawal.

The company assured players through emails and message board postings that all player account funds were segregated and held separately from operating accounts. However, evidence allegedly suggests that player money was actually used to pay board members, and that the company did not have money to repay players.

Prosecutors have alleged that this continued even after the first charges were brought against the company last April and many player funds were frozen. In a filing, the US said that as of June, when Full Tilt was still operating overseas, one executive reported that there was just \$6 million in the bank while liabilities were

just over \$300 million.

The company evidently had hoped that by continuing to operate overseas it could make up some of the difference, but Alderney temporarily shut the site down at the end of June due to the shortfall.

"Full Tilt was not a legitimate poker company, but a global Ponzi scheme," said Preet Bharara, US Attorney for the Southern District of New York, where the charges were filed. Bharara said that Full Tilt "cheated and abused its own players to the tune of hundreds of millions of dollars." In public statements, Full Tilt acknowledged the shortfall but disputed the US government's characterization of its behavior as a Ponzi scheme.

Adding insult to injury, Alderney decided to revoke Full Tilt's license shortly thereafter. Alderney regulators, who control Full Tilt's world-wide license, concluded that Full Tilt had fundamentally misled the licensing authority about its funds. In their statement, the regulators listed serious breaches of regulations, including false reporting, unauthorized provision of credit, and failure to report material events.

Some have proposed rescue plans for Full Tilt, including the family-owned French investment company Groupe Bernard Tapie. A lawyer for the company said that "the Tapies may address Full Tilt's liabilities by offering equity in a revived company to poker players owed the most money." According to reports, Full Tilt has player liabilities of over \$300 million right now. The company has said that it "remains committed to repaying its players in full and continues active negotiations."

However, after having its license revoked by Alderney, any attempt to rescue Full Tilt will not be easy. There are a number of hurdles that any buyer would need to clear before a potential takeover, the biggest of which would be an agreement from the US Department of Justice and a new operating license from the Alderney Gambling Control Commission.

Alderney regulators have said that the revocation of licenses related to Full Tilt's website doesn't mean they can't be reactivated if the business comes under new ownership and management. However, it remains to be seen if a rescue is truly possible, or if Full Tilt's reputation has already been damaged beyond repair.

*Happy Thanksgiving to those in the U.S. We look forward to seeing other friends and colleagues at upcoming events in Washington, D.C. in December and London in late January.*

*Please feel free to contact us with any licensing and gaming compliance needs. Our law firm, Catania & Ehrlich, is also available for any of your gaming law needs.*

**Sincerely,**

Frank Catania, Gary Ehrlich and Keith Furlong  
Catania Consulting Group, Inc.

*Catania Gaming Consultants*

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Catania Consulting Group, Inc. | 909 Belmont Avenue | North Haledon | NJ | 07508