

Written Statement of Proposed Testimony of
Parry Aftab,
Advisory Board Member of FairPlayUSA

House Committee on Energy and Commerce
Subcommittee on Commerce, Manufacturing and Trade
2125 Rayburn House Office Building
Washington, D.C. 20515

Hearing on "Internet Gaming: Is there a Safe Bet?"

Tuesday October 25, 2011

Summary

FairPlayUSA believes that existing federal laws enacted before the Internet was created that purportedly prohibit businesses from providing Internet-based gambling must be strengthened.

Currently, illegal Internet gambling is not clearly defined, muddying the differences between allowed and illegal games and leading to widespread confusion. Moreover, law enforcement, despite the recent well-publicized indictments against a small group of operators, does not have adequate tools to shut down illegal sites. In addition, online poker is not regulated by U.S. law.

The lack of proper regulation leaves Americans at risk. Offshore sites can endanger minors and expose adult consumers to fraud. Offshore sites also leave consumers with no legal recourse in disputes with unregulated operators. State-of-the-art technology, coupled with strict regulation, will enforce our laws and shut down illegal sites, protect players and children, and create tens of thousands of American jobs. We believe that poker, a popular pastime for millions of American adults, should be safe and fair for adult, law-abiding players. Our goal is to educate and create public momentum for effective law enforcement, consumer protection, and strict regulation.

While we have tried to prohibit online gambling and therefore make it unavailable to U.S. residents, the statistics reflect otherwise:

- It is estimated that each year Americans spend approximately \$4 to 6 billion on Internet gambling, despite the 2006 passage of UIGEA;
- Surveys indicate that more than 300,000 young people between 14 and 22 gamble at least once a week on the Internet, and over 700,000 do so at least once a month;
- 3.3% of male youth, or more than 1 million individuals, play cards online for money at least once a month; and
- An estimated 1,700 rogue international gambling sites currently take bets from players located in the U.S.

Research evaluating the different types and levels of consumer risks associated with existing, mostly unregulated Internet gambling against the risks associated with Internet gambling in a strictly-regulated environment concludes that the net effect of the current approach is to push Internet gambling underground and offshore, out of the reach of U.S. courts and regulators and exposing American consumers to significant risks. The United States therefore finds itself in the unfortunate position of incurring all the social costs of online gambling while having no control over the gaming sites that serve U.S. residents. The status quo offers no meaningful consumer protections. The current regime exposes consumers to a number of potential risks, all of which would be eliminated or significantly mitigated by regulation, coupled with state-of-the-art technology.

If we are going to protect consumers, we owe it to Americans to address online gambling more intelligently and effectively than we do today. Changing the law to provide greater clarity and enhanced law enforcement authority, combined with the use of state-of-the-art technology and strict regulation, can help combat money-laundering, fraud, and other threats, as well as better protect all consumers, including those who choose to play legal online poker.

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Hearing on "Internet Gaming: Is there a Safe Bet?"

Thank you, Chairman Bono Mack, Ranking Member Butterfield, and Members of the Subcommittee for giving me the opportunity to testify today on this important topic.

My name is Parry Aftab and this morning I am testifying on behalf of FairPlayUSA, on whose board of advisors I am pleased to serve. Other members of our board include former FBI Director Louis Freeh, and former Pennsylvania governor and first Secretary of Homeland Security Tom Ridge.

FairPlayUSA is a coalition of law enforcement officials, consumer protection experts, poker players, and other Americans that seeks to educate policymakers and the public on the broad public policy issues raised by the current ambiguous laws in the U.S. Today, millions of Americans continue to regularly gamble on games of all types on websites provided by foreign operators, causing confusion among consumers, the criminal justice community, and among the financial and Internet industries. FairPlayUSA supports Congress once and for all defining what is illegal gambling and providing strong law enforcement tools to ban such gambling, as well as providing a strict regulatory framework for online poker. I believe that FairPlayUSA reflects a growing consensus among a spectrum of stakeholders for an online gambling policy solution that

has three principal elements - strong law enforcement and strict regulation, consumer protection, and the rights of U.S. adult consumers to engage safely in legal pastimes.

My perspective, and a perspective that I share with Judge Freeh and Governor Ridge, is that existing federal laws that were enacted before the Internet was created that purportedly prohibit businesses from providing Internet-based gambling must be strengthened. Currently, illegal Internet gambling is not clearly defined, muddying the differences between allowed and illegal games and leading to widespread confusion. Moreover, law enforcement, despite the recent well-publicized indictments against a small group of operators, does not have adequate tools to shut down illegal sites. In addition, online poker is not regulated by U.S. law. The lack of proper regulation leaves Americans at risk. Offshore sites can endanger minors and expose adult consumers to fraud. Offshore sites also leave consumers with no legal recourse in disputes with unregulated operators. State-of-the-art technology, coupled with strict regulation, will enforce our laws, protect players and children, and create tens of thousands of American jobs. We believe that poker, a popular pastime for millions of American adults, should be safe and fair for adult, law-abiding players. Our goal is to educate and create public momentum for effective law enforcement, consumer protection, and strict regulation.

Let me describe for you how I arrived at the position I am advocating. In addition to being on the advisory board of FairPlayUSA, I am the Executive Director of WiredSafety, the largest Internet safety and help group in the world. WiredSafety operates entirely through its thousands of unpaid volunteers, worldwide. I founded and run the group as an unpaid volunteer as well.

WiredSafety covers all cyber-risks for digital technology users of all ages. While best known for our work in child protection and digital literacy, we protect senior citizens from scams and fraud and adults from cyberstalking and harassment equally as often.

WiredSafety served as one of the 29 members of the Harvard Berkman Center's Internet Safety Technology Task Force (the "ISTTF"), which was commissioned to render a report on children online to the Attorneys General of 49 states. I was recently appointed to serve on the 24-member working group established by an act of Congress and run by the NTIA to render a report for Congress in June of 2010 on cybersafety issues impacting children. The UN and UNESCO, as well as the FTC and FCC have turned to us for advice and help.

Minors and online gambling has been a problem since WiredSafety first began our work in 1995. Even then, kids were gambling online. Teens would use babysitting, paper-delivery and birthday money to place bets online. Teens themselves would contact us when the websites failed to pay out, or they suspected fraud. Parents and grandparents would contact us when they discovered their teens gambling online, or wanted help keeping them away from online gambling sites. We helped them when we could, reviewing filtering and blocking technologies, reaching out to the credit card companies and phone companies used as payment intermediaries and would sometimes even contact the sites themselves.

But minors' gambling remains a problem. So does illegal and fraudulent practices by many unregulated gambling websites. These issues range from scams and fraud perpetrated by the gamblers and those perpetrated by the website operators. Rigged games and collusion using old-fashioned and digital methods are common place among unregulated websites. Problem gamblers can face enhanced problems when the websites are not using best practices to address these special issues. Online gambling abuse has become a mainstream consumer issue. It is WiredSafety's role to address problems affecting our consumer constituency online. Gambling is one of those problems we must address.

After more than a decade of analyzing the risks posed by unregulated Internet gambling, it may be ironic but I have reached the conclusion that the best way to protect families and consumers in connection with online gambling is regulating it, not prohibiting it. Current laws prohibit the use of any financial institution for placing or paying on illegal online bets. But this approach won't work in isolation and can't work in today's digital commerce environment. For example, some financial transactions such as deposits into an offshore bank account don't violate UIGEA, and those accounts can be debited for gambling purposes. Furthermore, there can be fraud regarding the coding of transactions, and other illegal ways to evade UIGEA. The current approach has been to "see no evil...hear no evil." But while we have tried to prohibit online gambling and therefore make it unavailable to U.S. residents, the statistics reflect otherwise:

- It is estimated that each year Americans spend approximately \$4 to 6 billion on Internet gambling, despite the 2006 passage of UIGEA;

- Surveys indicate that more than 300,000 young people between 14 and 22 gamble at least once a week on the Internet, and over 700,000 do so at least once a month;
- 3.3% of male youth, or more than 1 million individuals, play cards online for money at least once a month; and
- An estimated 1,700 rogue international gambling sites currently take bets from players located in the United States.

Because of the nature of online financial transactions, the many unregulated industry members and often unsophisticated online gamblers, WiredSafety has over the years identified a broad range of risks related to online gambling. While all gambling is, by its nature, risky, unregulated gambling is the most risky. Frankly, we need governmental help. We have to legislate best practices, identify the good actors and the bad, and find ways to protect minors and assist those who may have gambling problems. Despite the federal government's best intentions, consumers and families are on their own without regulations to handle underage gambling, addictive gambling, fraud, collusion, malware and malicious code, privacy and data protection, criminal involvement, disputes and online security threats. That is unacceptable.

WiredSafety has always taken the position that education is preferred to regulation. And we have learned that existing laws can often fit new technology legal needs. But in this case it appeared that help was needed from Congress, and we believed that the issues warranted further study and deliberation. In 2009, we commissioned a comprehensive study of the risks we had identified, existing and viable regulatory schemes and the ability of technology tools to address our top

concerns. Would regulation of cyber-gambling work? Is there a way to address the most crucial cyber-risks under existing laws or using alternative methods? Is it practical? Will it improve the existing situation? What can be learned from other jurisdictions? How can we improve on existing approaches? Can risks be realistically mitigated? And if so, how much?

We asked Dr. Malcolm Sparrow, a professor at Harvard University's Kennedy School of Government, to be the study's lead investigator. A former deputy chief inspector with the British Police Services and a world-renowned expert on approaches to regulatory policy and compliance, Dr. Sparrow reviewed the existing literature, evaluated current regulations and cutting-edge technologies, and interviewed regulators, researchers and public policy experts from around the world. Dr. Sparrow was supported by experts in technology and other relevant disciplines.

The report we commissioned, which is attached as a supplement to my written statement, doesn't advocate for or against legalized Internet gambling. Instead, it evaluates and weighs the different types and levels of consumer risks associated with existing, mostly unregulated Internet gambling against the risks associated with Internet gambling in a strictly-regulated environment.

Notwithstanding the current prohibitionist legal and regulatory approach, the study cites evidence that millions of U.S. residents gamble online through offshore gambling sites. Indeed, the report concludes that the net effect of the current approach is to push Internet gambling

underground and offshore, out of the reach of U.S. courts and regulators and exposing American consumers to significant risks.

The United States therefore finds itself in the unfortunate position of incurring all the social costs of online gambling while having no control over the gaming sites that serve U.S. residents. The status quo offers no meaningful consumer protections. The current prohibitionist regime exposes consumers to a number of potential risks:

- gambling by minors;
- problem gambling;
- fraud by operators;
- fraud by players;
- organized crime;
- money laundering by players;
- money laundering by operators;
- violation of jurisdictional prohibitions;
- breaches of data confidentiality; and
- lack of site security.

A fundamental conclusion of the study is that the legalization and regulation of online poker would offer significant improvements to consumer welfare and protections related to each and every risk factor. That is, if we are concerned about the potential problems with online poker, such as underage play and problem gambling, we should seek strict and intelligent regulation coupled with technology – not by trying to completely ban Internet poker. For each of the risks

Dr. Sparrow identified, the research identifies a set of regulatory methods and technologies that would provide appropriate risk management in a regulated online poker environment.

In the two years since the study was prepared, the problems associated with illegal online gambling have matured, as have the solutions. Today, Judge Freeh, Governor Ridge, and my other colleagues at FairPlayUSA do not support any broad legalization of online gambling in the United States. In fact, we're in favor of giving law enforcement powerful new tools to shut down illegal sites that offer sports betting and casino games to Americans. We support strong law enforcement oversight and applaud the Justice Department for bringing charges against those individuals who may have violated U.S. law.

Our focus is on educating the public and policy makers about the need to clarify existing federal laws on Internet gambling, to provide law enforcement with tools to shut down illegal sites, to protect consumers, and to subject online poker to strict regulation.

Should Congress agree with us that strict regulation of online poker makes sense, we believe there must be well-designed minimum standards for regulation that can effectively address the principal public policy concerns that surround playing poker online. We would favor a strict regulatory system that will:

- Exclude minors.

- Restrict access to online poker from individuals residing in states and jurisdictions where online poker has been restricted by the state under mechanisms that Congress chooses.
- Prevent the use of online poker sites for money laundering or other illegal purposes.
- Effectively address problem gambling by providing tools allowing customers to control their own gambling.
- Ensure that online poker games are fair to players by preventing cheating by players, operators or through the use of poker “bots.”

In conclusion, if we are going to protect consumers, we owe it to Americans to address online gambling more intelligently and effectively than we do today. Changing the law to provide greater clarity and enhanced law enforcement authority, combined with the use of state-of-the-art technology and strict regulation, can help combat money laundering, fraud, and other threats, as well as better protect all consumers, including those who choose to play legal online poker.

Thank you again for the opportunity to testify and I look forward to your questions and any help I can provide.