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## Debunking Myths about Internet Gambling

Unfounded Fears about Money Laundering, Terrorism Funding, and Crime

By Michelle Minton\*

In the heated discussions about online gambling, a common mistake is the conflation of legal, regulated online gambling with illegal off-shore Internet gambling. Supporters of a nationwide ban on Internet gambling claim legalizing the activity would increase crime and fuel terrorism. But all the evidence—including the two-year experience of various states with regulated online gambling—belies those claims.

Preventing states from legalizing and regulating online gambling would simply push American online gamblers back into the black market, where crime is far more likely. In addition to being ineffective, a national online gambling prohibition would be unconstitutional. Regulation of Internet gambling is not a matter covered by any of the enumerated powers granted to Congress by the Constitution, and, as such, falls under the 10<sup>th</sup> Amendment jurisdiction of the states.

**The FBI has never said that online gambling increases crime.** In September 2013, J. Britt Johnson, Deputy Assistant Director of the Federal Bureau of Investigation's (FBI) Criminal Investigative Division, wrote to Congress to express concerns about the potential of online gambling to facilitate money laundering.<sup>1</sup> While the letter is often cited as evidence that the FBI opposes legalizing online gambling, it actually makes the case for *regulated* Internet gambling. Johnson identifies several mechanisms criminals might use to launder money—all of which are virtually impossible in the legal market that has arisen in the U.S. since he penned the letter, for the reasons described below.

**Depositing and withdrawing large sums requires compliance with the Bank Secrecy Act.** Online casinos are considered financial institutions, and therefore have to comply with the same anti-money laundering statutes as banks, including the USA PATRIOT Act and Bank Secrecy Act. They must collect Social Security numbers from players, file Currency Transaction Reports for transactions exceeding \$10,000, and file Suspicious Activity Reports for any suspicious transaction that exceeds \$5,000. Sites located overseas do not have to comply with these anti-money laundering requirements.

**Criminals cannot transfer money on regulated online gambling sites.** As Johnson notes, criminals may launder funds through player-to-player transfers, but in the

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U.S. regulated online gambling market, this is impossible. Transfers between accounts are strictly forbidden in all regulated U.S. online casinos.

**Federal and state laws require players to be physically located within one of the states where online gambling is legal.** The three states that currently license Internet casinos require sites to identify players' physical location. Despite claims that hackers can "spoof" their location by changing the IP address to appear to be in one place while operating from another, sites have the technology to detect and defeat attempts to bypass these checks by utilizing Wi-Fi, GSM, and cell tower triangulation, as well as searching computers and mobile devices for software intended to hide a device's location.

For example, New Jersey requires sites to make sure a player's device does not contain features that compromise the integrity of the device or the data stored on it.<sup>2</sup> If the player's location cannot be determined or is suspect in any way, sites will automatically block that player. Evidence indicates sites are complying. By January 2015, New Jersey online gambling sites had a 98 percent verification success rate, with the 2 percent being false negatives—players denied access despite being within the state's borders.<sup>3</sup> To date, there has not been a single documented case of underage or out-of-state gamblers gaining access to New Jersey online gambling sites.<sup>4</sup>

**Online gambling does not fund terrorist groups like Al Qaeda and ISIL.**

While no system is infallible, it makes little sense for terrorist organizations to attempt to draw funds or launder money through regulated online gambling sites in U.S. states. The difficulties of proving location and identity and the requirement to report any deposit or withdrawal over \$10,000 or suspicious transactions over \$5,000 to the feds creates a virtual trail that makes it an inefficient and risky route for moving money clandestinely.

Moreover, intrastate gambling markets are too small to launder significant amounts of money. For example, in Germany—Europe's largest gambling market—all gambling accounts for a mere 0.5 percent of total money laundering activity, according to Professor Friedrich Georg Schneider, a respected economist and expert in money laundering at the Johannes Kepler University of Linz, Austria. His research led him to conclude that online poker was "by no means relevant for money laundering."<sup>5</sup> In fact, other avenues, such as physical casinos, seem to be less risky and more effective for laundering money.<sup>6</sup> According to the Congressional-Executive Commission on China Annual Report in 2013, a \$202 billion in "ill-gotten funds are channeled through Macau casinos each year."<sup>7</sup>

**Regulated online gambling will reduce crime.** While it is possible that crimes like money laundering could occur within the online gambling market, there is simply no incentive for criminals to choose sites regulated by American states to scrub their money. The deposit limits, oversight, and reporting requirements within the U.S. pose too much risk for far too little gain. Criminals have many other options for laundering cash that are easier, cheaper, and leave less of a paper trail. It would be easier to simply walk into a physical casino and exchange chips with another player.

The risk of money laundering within a regulated online gambling market in the U.S. does not justify the prohibition of an entire industry or federal encroachment in what should be a state matter. States have proven capable of preventing crime and keeping online gambling within their borders. Rather than push the activity back into the black market, Washington should continue to allow states to license and regulate online gambling as their own residents see fit.

## Notes

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<sup>1</sup> Letter to Rep. Bill Young from Britt Johnson, Deputy Assistant of the FBI's criminal Investigative Division, September 20, 2013, <https://docs.google.com/file/d/0B1AgyozaET8BbEJzZTFSeGVSZXM/edit?pli=1>.

<sup>2</sup> New Jersey Gambling Enforcement Regulations 13:690-1.2, <http://www.nj.gov/oag/ge/docs/Regulations/CHAPTER690.pdf>.

<sup>3</sup> David Rebeck, "New Jersey Internet Gaming One Year Anniversary – Achievements to Date and Goals for the Future," Office of the New Jersey Attorney General, <http://www.nj.gov/oag/ge/2015news/Internetgamingletter.pdf>.

<sup>4</sup> "Jeffrey Haas on New Jersey Online Poker." Casino Connection Atlantic City. October 31, 2014 <http://casinoconnectionac.com/issue-printer/vol-11-no-11-november-2014>

<sup>5</sup> Friedrich Georg Schneider, "Online Poker—Need for European Safety Standards?" Presentation at the Workshop Online Poker at the EU Parliament, March 2013, <http://www.gaminglaw.eu/news/workshop-online-poker-at-the-eu-parliament-does-europe-need-uniform-safety-standards-experts-attest-providers-effective-control-mechanisms-against-fraud-attempts/>.

<sup>6</sup> FTI Investigations Global Risk and Investigations, "Macau Remains a Money Laundering Hotbed," <http://www.fticonsulting-asia.com/~media/Files/apac-files/insights/articles/macau-remains-a-money-laundering-hotbed.pdf>.

<sup>7</sup> How China's Filthy Rich Use Macau to Launder Their Money, Business Insider, November 11 2013, <http://www.businessinsider.com/how-people-use-macau-to-launder-money-2013-11>.