

Catania Gaming Consultants



A Catania Gaming Consultants Client Newsletter

*Special Edition
February 2010*

***“Catania advocates strict regulation with an open market for California”
Frank Catania testified today before the California Senate Government
Organization Committee in Sacramento advocating strict regulation and an
open market for intra-state Internet poker in California.***

Frank Catania, Esq. President,
former Assistant Attorney General,
Director NJ Division of Gaming Enforcement,
VP Compliance Players International.
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

A full copy of his presentation follows.

Mr. Chairman and Members of the Committee:

By way of introduction, my name is Frank Catania and I am an attorney. I was formerly Deputy Speaker of the New Jersey General Assembly, an Assistant Attorney General, and Director of the New Jersey Division of Gaming Enforcement. Currently, I am a partner in Catania Gaming Consultants and the Law Firm of Catania & Ehrlich. I have been interested in the regulation of Internet gaming since the mid-1990's, and my businesses have assisted states, foreign governments, and private companies in establishing strict regulations for the oversight of Internet poker and other forms of gaming.

My position for intra-state Internet poker regulation is actually concentrated on the identical issues raised by opponents of Internet gaming. If I could make only one suggestion to California in considering regulating intra-state Internet poker,

it would be to get regulation right, from the start. I am also concerned about underage and problem gambling. But since Internet gambling is already here, and attempts at prohibition have not worked, a better solution lies in a strictly regulated alternative aimed at ensuring the presence of harm minimization measures.

Just as with traditional casinos, there are four key elements of effective Internet poker regulation. First, you must ensure the integrity and financial resources of the operators. Second, you must ensure that the games are fair. Third, you must provide player protections, including procedures to exclude minors and assist problem gamblers. Finally, you must have provisions to prevent money laundering and other criminal activity.

Starting with the prospective operators, it is essential that they be investigated to determine their good character, honesty and integrity. They must also have the gaming experience necessary to operate an online poker site and the financial resources to guarantee that winners will be paid. These background investigations should include those who own or control the operating company as well as key employees. The same qualifications required of operators and key personnel should also apply to those who own or control the suppliers of the software platforms used by the various licensed operators. Their key personnel should also have their backgrounds checked. Since online gaming payment processors are an important part of the online gaming operation, they too should comply with the same standards set for the operators and software providers.

Online poker relies on the existence of reliable software, without which an online poker site could not exist. Regulators must be convinced that the software being used by the operators is fair and honest. The online poker site must be shown to operate with complete randomness, so that each player has exactly the same chance of winning. To do this type of testing, experts are needed. The testing facility must have the experience to understand the online poker site's operating system, and the potential for fraudulent activity by the patrons or the operator. To do this, the software being used must be tested by an accredited testing facility with experience in testing server-based games. Testing is what will assure the fairness of the games being offered.

Game servers and backup servers that record all the play must be kept in a safe and secure location, accessible by only authorized personnel and agents of the regulatory agency. This is essential to prevent anyone from tampering with the software. Backup logs must be kept by all operators. These logs provide a picture of all aspects of play, and must be kept for a prescribed time period set by regulations. This is so important that the regulations should include provisions that a failure to keep backup logs as required would be cause for a license suspension or revocation.

The regulators' responsibility cannot end with the pre-testing of the random number generator and the source code. Just as in land-based gaming, monitoring must be continuous. Outcome-based monitoring by internal auditors should also be required. This type monitoring is conducted to prove that the games already concluded have been fair and honest, and the operator has complied with all regulatory requirements. This internal audit, as well as an external audit, should be presented to the regulators periodically to assure that there has not been any cheating by either the players or the licensee.

e-Commerce Online Gaming Regulation and Assurance (eCOGRA), is a regulatory group based in London that has created generally accepted procedures for all types of online gaming, and a model for online gaming regulation. The eCOGRA standards essentially constitute a collection

of global “best practices.” eCOGRA requires their licensees to comply with certain procedures and an independent auditing team reviews their licensees’ compliance yearly. Failure to comply results in the eCOGRA seal being removed from the licensee’s site.

Since Internet poker would be offered to participants located only within the State of California, operators must be compliant with software that is able to determine the exact location of the player. This is absolutely essential, since expansion beyond the State of California would raise issues about legality under federal law. Software of this type is available, and has been successfully employed by online gaming operators located in licensed jurisdictions around the world, to exclude players from the United States or other jurisdictions where the legality of Internet gaming is questionable. This does not mean that there will never be an incident where a player outside of California gets through to register. No system is 100% effective. Even in land-based casinos, there is the occasional underage player that gets past security.

In this regard, a safe and secure manner in which a player registers to play is a necessity. The operator must verify the player’s identity, age and location. Software to do this is currently available, and has been tested and used by existing online poker operators for several years. Licensees must make it a priority to know their players, to also avoid the possibility of money laundering and other illegal activities.

A very important part of any regulatory structure is player protections. A link to a problem gambling site should be easily visible on each site. Players should be allowed to set time or loss limits for play. Players should also be provided the ability to self-exclude from play. If a player bars him or herself, no site regulated in California should allow that player to play until the player follows set procedures, according to regulations, to remove him or herself from the exclusion list.

My experience in both land-based and Internet gaming tells me that Internet poker can be better regulated than casino gaming. In disputes or investigations in land-based casinos and poker rooms, operators and regulators rely on video from closed-circuit TV. This method of investigation is dependent on the camera working and being focused on the right spot at the right time. Internet poker, on the other hand, has real time auditing, which means the system can provide the operator or the regulator with records instantly or from a previous period.

To conclude, the State of California has the experience to regulate gaming through the Bureau of Gambling Control. With regard to online poker, the responsibility to regulate intra-state Internet poker should be assigned to the Bureau, which must be given the resources to regulate online poker properly. The Bureau is familiar with and has been doing background investigations, such as the ones that would be required for online poker.

Additional staff with the technical knowledge regarding the workings of the Internet will likely also be needed, but the costs of any additional staff can be transferred to the licensees, as is the practice in many land-based gaming jurisdictions. It is essential to have staff or third party agencies that have the ability and knowledge to understand the online operations of the licensees.

Although I have focused on the benefits of well-regulated intra-state Internet poker to the player, I should touch on the potential economic benefits to California. As my firm has previously advised governments in other jurisdictions, a well-regulated online gaming industry results in private investment in the technology sector and creates many high-skill, high-paying jobs. Regulation also generates many potential levels of taxation—business, gaming, payroll, etc.—which can be used to fund social programs, particularly those related to gaming. Of course, these benefits are maximized where the government adopts an open regulated free market, allowing multiple licensed operators

Integrity, Leadership, Experience

<http://www.cataniaconsulting.com>

