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DAILY FANTASY SPORTS: ISSUES AND PERSPECTIVES

WEDNESDAY, MAY 11, 2016

House of Representatives,

Subcommittee on Commerce, Manufacturing, and Trade,

Committee on Energy and Commerce,

Washington, D.C.

The subcommittee met, pursuant to call, at 10:16 a.m., in Room 2123, Rayburn House Office Building, Hon. Michael C. Burgess, M.D., [chairman of the subcommittee] presiding.

Present: Representatives Burgess, Lance, Harper, Guthrie, Bilirakis, Brooks, Mullin, Upton (ex officio), Schakowsky, Clarke, Kennedy, Cardenas, Butterfield, Welch, and Pallone (ex officio).

Staff Present: Mike Bloomquist, Deputy Staff Director; Leighton

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Brown, Deputy Press Secretary; Rebecca Card, Assistant Press Secretary; Paige Decker, Executive Assistant; Graham Dufault, Counsel, Commerce, Manufacturing and Trade; Melissa Froelich Counsel, Commerce, Manufacturing and Trade; Giulia Giannangeli, Legislative Clerk, Commerce, Manufacturing and Trade; Jay Gulshen, Staff Assistant; Paul Nagle, Chief Counsel, Commerce, Manufacturing and Trade; Tim Pataki, Professional Staff Member; Mark Ratner, Policy Advisor to the Chairman; Dan Schneider, Press Secretary; Olivia Trusty, Professional Staff Member, Commerce, Manufacturing and Trade; Dylan Vorbach, Deputy Press Secretary; Michelle Ash, Minority Chief Counsel, Commerce, Manufacturing and Trade; Jeff Carroll, Minority Staff Director; Lisa Goldman, Minority Counsel, Commerce, Manufacturing and Trade; Tiffany Guarascio, Minority Deputy Staff Director and Chief Health Advisor; Rick Kessler, Minority Senior Advisor and Staff Director, Energy and Environment; Dan Miller, Minority Staff Assistant; Caroline Paris-Behr, Minority Policy Analyst; Tim Robinson, Minority Chief Counsel; Andrew Souvall, Minority Director of Communications, Outreach and Member Services; and Matt Schumacher, Minority Press Assistant.

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Mr. Burgess. I want to thank all of our witnesses for being here today. I ask everyone to take their seats. The Subcommittee on Commerce, Manufacturing and Trade will now come to order. The chair recognizes himself, 5 minutes for the purpose of an opening statement.

Once again, I would say to you good morning and welcome to our hearing on daily fantasy sports. At the outset, I would like to thank the ranking member of the full committee, Representative Pallone, for his letter last fall requesting the hearing. The panel of witnesses here today will discuss the issues facing daily fantasy sports, the industry, as well as consumer protection features that are available in the marketplace.

There have been headlines, there have been advertisements, and over the last year we have all seen the introduction of these contests to fans. Some of these contests can be played for pennies while others are for substantial amounts of money. Just as the proliferation of the Internet and mobile devices have given consumers access to personalized entertainment on the go, like Netflix, Words With Friends, and Candy Crush, they have also supported the growth of the fantasy sports contests.

Between 1994 and 2003, the number of fantasy sports players increased from around 2 million players to 15 million players. In 2015, almost 60 million people played fantasy sports.

As fun and easy as the games are advertised to be, the issues

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involved are actually complicated, more complicated than they might first appear. This hearing is an opportunity for the stakeholders to discuss the many aspects of this complicated issue. Consumer protection is a critical component of this conversation, and indeed it is a critical component of the work that this subcommittee does day in and day out. Not only should consumers have a clear understanding of the rules and the risks for a particular contest, but the integrity of the game depends upon consumers getting what they are paying for.

There has been a significant amount of State activity in this area in the last few months. I am interested in hearing from the witnesses how State regulatory responses have impacted their industry and their marketplace. From the States that have required the daily fantasy sports sites to meet online gambling requirements, to the States that have passed legislation explicitly legalizing fantasy games, it is critical to understand the role of the States and what impact their actions have on interstate commerce.

Consistently during this term of the subcommittee, I have focused on the struggles that small businesses face in the regulatory environment. I believe that small businesses are vital to our economy, and understanding how they fit into this industry, that is reportedly dominated by a few large actors, is a critical piece of this puzzle.

Once again, thank you to our witnesses for participating this morning.

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And I would yield back my time and recognize the ranking member of the subcommittee, Ms. Schakowsky. 5 minutes for an opening statement, please.

[The prepared statement of Mr. Burgess follows:]

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Ms. Schakowsky. Thank you, Chairman Burgess, for holding today's hearing on daily fantasy sports. I want to welcome all of our witnesses today.

Today's hearing really comes down to one question: what should be the future of this multi-billion-dollar gaming industry? Fantasy sports games competing for cash against others by picking fantasy teams of real sports players have taken off in recent years, and according to Fantasy Sports Trade Association, 56.8 million people in the United States and Canada participated in some form of fantasy sports in 2015. While this includes traditional fantasy that spans the entire football season or baseball season, a rapidly expanding share of spending goes to daily fantasy sports.

Between 2012 and 2015, daily fantasy grew from less than 10 percent of all fantasy sports spending to now more than half, and there is big money in this industry. Daily fantasy companies generate \$3.7 billion in entry fees alone.

When we talk about the daily fantasy industry, we are mainly talking about two companies. DraftKings, and FanDuel, represent 95 percent of the daily fantasy market. I would note, however, that neither of those companies is testifying today, neither are the sports leagues and teams that have partnered with these sites.

Daily fantasy has gotten big fast, but how should we think of daily fantasy? Companies that operate these Web sites call daily fantasy

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a game of skill. I will admit it takes some skill. You have to pick players to be part of your fantasy team. I doubt I would be very good at that. I know I wouldn't. But even if some skill is required, daily fantasy is at its core -- at its core involves betting on sports. As hall of fame quarterback Joe Namath put it when asked by CNBC, Do you have anything -- this is what Joe said. He said, Do you have to pay anything to play, and do they win something? It is gambling, unquote.

Several States have come to the same conclusion. Last year in my home State of Illinois, Attorney General Lisa Madigan declared daily fantasy to be illegal gambling under State law. The Illinois State legislature is considering legislation to make daily fantasy a regulated and taxed form of gaming under the oversight of the Illinois Gaming Board.

On the Federal level, it almost seems like an accident that daily fantasy sites are allowed to exist in the first place. Sports betting is illegal in all but four grandfathered States under the Professional and Amateur Sports Protection Act, and the Unlawful Internal -- Internet -- I will say it again -- and the Unlawful Internet Gambling Enforcement Act generally prohibited online gambling. UIGEA contained an exception for fantasy sports. Keep in mind that in 2006 when UIGEA passed, fantasy sports was almost all season-long fantasy, not the daily fantasy sports that we are focusing on today.

Even if daily fantasy companies claim to be legal under the letter

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of the law, that doesn't seem like the lawmakers' intent. Former Congressman Jim Leach, who introduced UIGEA, said last year that he had no idea that the fantasy exception would, quote, morph in today's cauldron of daily betting, unquote. He continued, quote, it is sheer chutzpa for the fantasy sports companies to cite the law as a legal basis for existing, unquote.

As long as the Federal law on daily fantasy seems ambiguous, the legality of daily fantasy will be determined largely at the State level. Daily fantasy companies have responsibility to comply with these State regulations, blocking use in States where daily fantasy has been determined to be illegal gambling.

If these sites are going to operate, daily fantasy companies need to take robust steps to prevent use by minors or those struggling with gambling addiction. Ensuring they take these steps will require appropriate regulation.

So what should be the future of daily fantasy? Should it be allowed? Several States have already decided the answer is no. And if betting through daily fantasy is going to take place, what regulations need to be in place to protect consumers?

I am disappointed that the companies most central to this discussion are not here today to answer these questions.

That said, I welcome our witnesses and look forward to hearing your perspectives on this industry.

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And I yield back.

[The prepared statement of Ms. Schakowsky follows:]

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Mr. Burgess. The gentlelady yields back. The chair thanks the gentlelady, recognizes the chairman of the full committee, Mr. Upton of Michigan, 5 minutes for an opening statement.

The Chairman. Thank you, Mr. Chairman.

So today we are going to hear from stakeholders about the daily fantasy sports industry that indeed has attracted so much attention and excitement in the last couple of years. Most folks' exposure to fantasy sports consist of a group of friends and coworkers getting together for a season-long pool. The games are a fun way to bring communities together, even Republicans and Democrats for sure, around some of our very favorite national pastimes, but what we have seen in the last couple years is the explosive growth of a new segment of the fantasy world, daily fantasy sports. About 60 million folks are playing fantasy sports and a reported 14 million are playing daily fantasy sports with sometimes millions of dollars at stake.

So as we explore the current landscape of daily fantasy sports and the new innovations that they offer for fans, consumer protections have to be in place for players on the Web sites. It is clear that adult players deserve a fair game and clear rules.

I look forward to hearing from the witnesses about what internal controls are in place to ensure game integrity on fantasy sports Web sites, particularly if different operators use different controls. I am also interested to learn about the self-regulatory activities

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industry has put in place and the technological tools available in the market to implement consumers protections, including age limits and geofencing.

States all across the country are looking at these issues, which is going to help inform whether a Federal role is warranted or not. So my State, Michigan, there is a bill pending in the legislature to expressly legalize daily fantasy sports, but we must keep in mind that a patchwork of differing and contradictory State laws has the potential to negatively impact consumers and harm further growth and innovation in the process.

Thank you all for being here today. I look forward to your testimony.

And I yield back.

[The prepared statement of The Chairman follows:]

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Mr. Burgess. The chair thanks the gentleman. The gentleman yields back. The chair recognizes the gentleman from New Jersey, Mr. Pallone. 5 minutes for opening statement, please.

Mr. Pallone. Thank you, Mr. Chairman.

Daily fantasy sports have become an integral part of the game for millions of fans around the country. What started as small informal betting pools among friends over the course of a season is now a sophisticated online platform where millions of dollars are exchanged across State lines every day. Entry fees for daily fantasy sports range from a few cents to several thousand dollars, and the major daily fantasy sports operators have posted revenues of more than \$1 billion in recent years.

Casual fans and diehards alike have embraced daily fantasy sports as a way to interact with the games and players they enjoy, and the leagues have taken notice. Within the past 2 years, Major League Baseball, the NBA, the NHL, and Major League Soccer have each purchased ownership stakes or invested in daily fantasy sports operators. Individual teams across professional sports have also formed lucrative partnerships with DFS operators, including nearly all NFL and MLB teams and about half of the NBA teams. These teams and their leagues know that daily fantasy sports participants watch more games than the average fan and will even watch a one-sided contest until the end if a player's performance could improve their stats and earn them money.

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For the leagues, this presents a massive ratings and advertising opportunity.

And despite its growing popularity, however, daily fantasy sports are currently operating in a murky legal framework by an industry that is mostly unregulated. It is crucial that consumers know what they are purchasing when they sign up for daily fantasy sports and that they understand the risk of losing money in the process. For example, there are reports that 90 percent of payouts were won but just 1 percent of winners. With the allegations of insider trading at two major daily fantasy sports operators, the potential harm to consumers is real. And today we will explore not how to stop people from playing, but how to bring fairness and transparency to the industry.

And I must also mention the hypocrisy of those arguing that daily fantasy sports is readily distinguishable from traditional sports betting. While quietly applying for and receiving gambling licenses in the United Kingdom, daily fantasy sports operators continue to argue to interested States in the United States that unlike sports betting, daily fantasy sports is not gambling. Their reliance on this arbitrary distinction of skill and chance is unconvincing, especially since both the Department of Justice and the NFL have asserted that sports betting also is a game of skill.

And speaking of the professional sports leagues, they have reaped huge profits from their partnerships with daily fantasy sports

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operators, at the same time most remain stubbornly opposed to sports betting on the grounds that their players could become involved in gambling and organized crime if it were legalized, yet an estimated \$400 billion is spent annually in the United States on sports betting, and 99 percent is illegal and functions almost exclusively through organized crime.

In New Jersey, voters approved a two-to-one referendum in 2011 to allow sports betting at casinos and race tracks. In response, every major professional sports league joined together and sued the State to stop the plan's implementation and stifle the will of the voters. How can the professional sports leagues oppose sports betting at casinos and race tracks but support and prosper from the betting that is taking place every day in daily fantasy sports?

To date, the leagues and others have not sufficiently explained the difference between fantasy sports, sports betting, and other forms of gambling, and I look forward to hearing from the witnesses on this topic.

I just want to conclude by thanking Chairman Upton and Burgess for holding this hearing at my request. While I am disappointed that some of the relevant actors in this place, like FanDuel and DraftKings, refused to participate today, I still believe that this hearing will be a good beginning to our efforts to level the playing field between daily fantasy sports, traditional sports betting, and gaming.

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And I yield back the balance of my time. Thank you, Mr. Chairman.

[The prepared statement of Mr. Pallone follows:]

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Mr. Burgess. The chair thanks the gentleman. The gentleman yields back.

This concludes member opening statements. The chair would like to remind members that pursuant to committee rules, all members' opening statements will be made part of the record.

The chair also wants to acknowledge the presence of our colleague from Nevada, Ms. Titus, on the dais, who is not a member of the committee, but is monitoring our activities this morning to ensure that we behave ourselves.

So we do want to thank our witnesses for being here this morning and taking their time to testify before the subcommittee. Today's witnesses will have the opportunity to summarize their opening statements, followed by a round of questions from members.

Our witness panel for today's hearing includes Mr. Peter Schoenke from RotoWire; Mr. John McManus, the executive vice-president and general counsel and secretary at MGM Resorts International; Mr. Steve Brubaker, executive director at Small Business of Fantasy Sports Association; Dr. Ryan Rodenberg, assistant professor at Florida State University within their Department of Sports Management; Mr. Mark Locke, chief executive officer at Genius Sports Group; Ms. Lindsay Slader, operations manager at GeoComply. Where did we get to -- Mr. Jordan Gnat, senior vice-president of strategic business development at Scientific Games; Mr. Kurt Eggert, Professor of Law at

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Chapman University's Fowler School of Law.

We do appreciate all of you being here this morning, and we will begin our panel with Mr. Schoenke. And you are now recognized for 5 minutes for your opening statement. Thank you.

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STATEMENTS OF PETER SCHOENKE, PRESIDENT, ROTOWIRE, ON BEHALF OF FANTASY SPORTS TRADE ASSOCIATION; JOHN M. MCMANUS, EXECUTIVE VICE PRESIDENT, GENERAL COUNSEL, AND SECRETARY, MGM RESORTS INTERNATIONAL; STEVE BRUBAKER, EXECUTIVE DIRECTOR, SMALL BUSINESS OF FANTASY SPORTS TRADE ASSOCIATION; DR. RYAN RODENBERG, ASSISTANT PROFESSOR, FLORIDA STATE UNIVERSITY, DEPARTMENT OF SPORT MANAGEMENT; MARK LOCKE, CHIEF EXECUTIVE OFFICER, GENIUS SPORTS GROUP; LINDSAY SLADER, OPERATIONS MANAGER, GEOCOMPLY; JORDAN GNAT, SVP, STRATEGIC BUSINESS DEVELOPMENT, SCIENTIFIC GAMES; AND KURT EGGERT, PROFESSOR OF LAW, CHAPMAN UNIVERSITY FOWLER SCHOOL OF LAW

STATEMENT OF PETER SCHOENKE

Mr. Schoenke. Chairman Burgess, Ranking Member Schakowsky, and members of the subcommittee, thank you for the opportunity to testify today.

Mr. Burgess. Our technology here is arcane to ancient. You would think that while we are the premier technology committee in the United States, we would have only the best, but that is not true. So please continue.

Mr. Schoenke. I will try to work through it.

Chairman Burgess, Ranking Member Schakowsky, and members of the

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subcommittee, thank you for the opportunity to testify before you today. My name is Peter Schoenke and I am testifying as chairman of the Fantasy Sports Trade Association.

The FSTA has over 300 members, including major media companies, such as ESPN, CBS, Yahoo, NBC, and Fox Sports; content and data providers like USA Today, RotoGrinders, and STATS, Inc.; and contest and league management operators, such as RealTime Fantasy Sports, MyFantasyLeague, FanDuel, and DraftKings.

Fantasy sports have become a new national pastime, with over 50 million Americans participating in some form of fantasy sports last year. Americans enjoy fantasy sports as a hobby and as a form of entertainment that gives them an enhanced experience and a deeper appreciation for the sports they love.

I am also the founder and president of RotoWire.com, a leading information Web site for fans who enjoy playing fantasy sports. I founded the Web site almost 20-year ago, when fantasy sports were just beginning to be played on the Internet. I am a small business owner based in Madison, Wisconsin, and I chose a career in this industry because I am passionate about playing fantasy sports and helping millions of others enjoy the hobby.

First I would like to give a short introduction to fantasy sports. Although it may seem to some as if fantasy sports started last fall, with the barrage of ads during football season, the truth is that

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fantasy sports have been played for over 35 years. While there have been some innovations, like head-to-head contests, live scoring, and most recently the daily or weekly format, the basic concept has remained the same. The objective is for a player to select a team of real world athletes and compete against opponents based upon a scoring system that uses statistical measures of individual athlete's performances.

Take fantasy football as an example. Players draft a team of eight real world football players from different teams to play positions like quarterback, running back, wide receiver, and so forth. The goal is to assemble a fantasy team that will earn the most points, not to pick the winner of any particular game. A running back, for example, earns 1 point for every 10 rushing yards and 6 points for a touchdown. This format is typical for both season-long fantasy contests as well as daily.

Some may have the impression that the daily format is dramatically different than season-long fantasy sports, but it is virtually identical in the way it assigns points for players' performance. All of the same basic principles apply. An owner still assembles a team of real word players from different teams for multiple positions, and those players earn points through the same scoring system as in the season-long leagues. The only difference is the duration of the contest. Rather than taking place over a 17-week football season before crowning a champion, for instance, these contests take place

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over a single day or weekend. In essence, every week is akin to the playoff rounds in a season-long league; think speed chess versus regular chess.

Many sports observers recognize that fantasy sports are having a transformative effect on how fans enjoy sports. Ultimately this innovation can enhance fans' overall experience, to the benefit of all.

My second point today is that the States are actively regulating our industry. We support commonsense State regulation to ensure transparency and fairness and to maintain consumer confidence. I want to emphasize that we are committed to consumer protection, not just because it is the right thing to do, but because it is vital to the health of our industry. States have traditionally taken the leading role in regulating these issues, and States have taken varying approaches in the context of fantasy sports. In the majority of States, paid fantasy sports operate under the existing legal framework without separate legislation or regulation, but bound by State laws on fair commercial practices.

Some States, including Virginia, Indiana, and Tennessee, have enacted legislation to clarify the legality of paid fantasy sports contests and to ensure consumer protections. Other States are currently crafting legislation tailored to their own State's needs and interests.

We stand ready to work with any State interested in developing

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a commonsense regulatory framework that would allow residents to play fantasy sports while ensuring appropriate consumer protections and without dampening innovation or denying consumer choice.

Finally, at the Federal level, Congress has empowered the FTC to protect American consumers from unfair or deceptive acts or practices, and we as an industry appreciate that our businesses must comply with these standards just as all other Internet businesses do. We stand ready to work with the FTC and with this subcommittee in moving forward to ensure the fairness and transparency of paid daily fantasy sports as well as season-long fantasy sports, and to ensure that we maintain the trust and confidence of fans that choose to play fantasy sports.

We also hope that in doing so, we preserve the ability of States to regulate this activity, and that they do so without killing the innovative spirit and new and exciting choices for millions of fans who enjoy fantasy sports.

Thank you again for the opportunity to testify today. I look forward to answering any questions you may have.

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[The prepared statement of Mr. Schoenke follows:]

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Mr. Burgess. The chair thanks the gentleman. The chair recognizes Mr. McManus for 5 minutes for your opening statement, please.

STATEMENT OF JOHN M. MCMANUS

Mr. McManus. Thank you, Chairman Burgess, members of the subcommittee. I appreciate the opportunity to be here to testify today.

I am the executive vice-president and general counsel for MGM Resorts. We operate land-based casinos throughout the United States. I note that many of the members of the subcommittee are from the States where we either operate a casino or may be developing one, so I will try to be on my best behavior today.

I have submitted written testimony. I am going to just summarize it, as we have many more knowledgeable panelists on the subject today and I would like to allow additional time for your questions.

And I don't speak for the land-based casino industry generally. There are different points of view with respect to daily fantasy sports. My company has its point of view, and I will speak really on behalf of my company, but I think where there are differences, I can address that through questions if you would like.

Really, like most other people, I first became aware of daily

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fantasy sports through the barrage of television advertisements. And sort of the first impression I had is, what is this? And it sort of feels like gambling to me, was my initial reaction. And over the last year and a half or so, I have tried to study it, learn more about it.

We are a gambling company, a gaming company, and we are a bookmaker in Nevada, the one State that has really full scale sports betting permitted under PASPA, so it is of great interest to us. And our first reaction was, well, maybe this is something we want to get involved with. We looked into it and concluded that as a regulated company, there was a lot of risk, because there wasn't clarity on whether it was legal, exactly what it was, and, frankly, we didn't know how to make money doing it as well.

So through our study of the subject, we concluded that what we really need is to know whether or not it is legal, because whether we choose to engage in it directly, have marketing partnerships with the companies that do engage in it, or any other association, as a licensed gaming company, we need to associate ourselves with businesses that are legal, and avoid falling into situations where we are associated with an illegal operation.

So we really want clarity, and that is what -- that is one point I think the industry is unified on, that having legal clarity on the subject of daily fantasy is critical. And gaming and gambling issues have historically and, I think, appropriately been regulated at a State

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level and legislated at a State level. There are many States represented on this subcommittee where there is no legal casino gaming and there are others where it is an important industry and part of the economy in those States. We think that is where these decisions ought to lie, on gaming anyway, that that ought to be an issue to be decided by the States to preserve the differences of the citizens of the States and let them decide what type of activity will be permissible.

However, to the extent that daily fantasy is or is not gambling, it ought to be run fairly with appropriate consumer protections and appropriate level of regulation, whether it is gaming regulation or otherwise. So we fully support consumers being able to engage in this activity, in a lawful and safe manner, and with appropriate protections. And we hope, whether it is at a Federal level or a State level, appropriate actions are taken to make sure that this is a safe playing field for those who enjoy it.

We think it is a really interesting innovation. It is something that has activated fan bases for a variety of sports, and increased engagement. I know that the leagues, with the exception of the NCAA have embraced it. And it is something that we would like to see done in a safe and responsible manner.

And with that, I will be happy to answer any questions.

[The prepared statement of Mr. McManus follows:]

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Mr. Burgess. The chair thanks the gentleman. The gentleman yields back. Mr. Brubaker, you are recognized for 5 minutes for your opening statement, please.

STATEMENT OF STEVE BRUBAKER

Mr. Brubaker. Good morning, Chairman Burgess, Ranking Members Schakowsky and Pallone. My name is Steve Brubaker. And I am here representing the small businesses of fantasy sports.

I think, like many of you, I didn't know there were small businesses of fantasy sports until about 6 weeks ago. I was contacted by a mutual friend that had some fantasy football, season-long fantasy football clients that were disappointed in some legislative activity that happened in Virginia and Indiana. I got in touch with these folks. We decided that we needed to educate legislators, now we have an opportunity to educate Members of Congress, about the needs of small businesses in this industry and how they differ from the large companies.

And we are concerned that, I think you mentioned, Chairman Burgess, this patchwork of laws across the country. We are concerned about this patchwork. It is hard work for a small group of companies to band together and try to work on legislation in 50 States at the same time. We are trying, we are making that effort, and we are going

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to continue on as long as we can do that.

On the two States that we had problems with early on, Virginia and Indiana, the issues for the small companies are really financial and regulatory. So we had a \$50,000 annual fee in both those States. None of the small companies make \$50,000 in those States. So if you are not making \$50,000 and the fee is \$50,000, you are barred from entry into that State, so financially we can't operate there.

Mr. Schoenke mentioned Tennessee. Tennessee has a 6 percent tax on net revenues. It is not a horrible, large tax, it is higher than we want to see it in that State, but the undefined portion of that is the regulatory fees. We don't know what they are going to be. We have to go negotiate those.

We are looking for clarity in laws. We would like to have low fees everywhere we go, low taxes if there is going to be taxes, but it is the regulatory burden that is really troublesome. So what I mean by that is many of the State laws that we have seen on the books, or are introduced so far, talk about annual audits by a third party within the State. If we had an annual audit for our companies, one audit for the company that would be reciprocally accepted across all 50 States, that would be certainly acceptable, that makes sense. You want to see our financials, here is our audited financials, here they go, all 50 States go out in the mail, but if we have to have financially -- or audits in every single State, 50 States times that \$4,000 or \$5,000,

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\$6,000, \$10,000 fee, that is a prohibitive thing for us on the regulatory side.

On scale, we talk about DraftKings and FanDuel, huge, huge, huge companies. Some of these companies that are in the small businesses of fantasy sports group may only have 4,000, 5,000 players all across the country, so it is a different thing. It is like McDonald's compared to the local java hut you go to to get your morning coffee, or a Starbucks or something like that.

But I think critically what we want to try to get across is we want to work with you. If you are interested in doing some more research on this, we will come here and talk to you at length about the needs of small businesses. Certainly we are going to keep plugging away in the States. We are working in Illinois really hard on that bill, Congresswoman Schakowsky. It is coming along. We will see how it progresses. New York has a tough bill. They have a \$500,000 fee, a registration fee, in that State. I don't even know if these guys could have -- DraftKings could have afforded that fee, although I think they supported that bill.

So there is a lot of work that we have to do to educate people about the number of businesses, the types of businesses.

A lot of our members are season-long. There is a drastic difference between season-long and daily. And most of that difference comes down to the active management that you have to have when you are

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a season-long fantasy sports player. You have to readjust your lineup every week for 16 weeks of a football season, thousands of transactions where you go back and forth improving your team so you can beat your buddy who is also in that same league with you.

You don't have that in DFS. You pick your lineup, you select it, you might enter it in one or 100 different games for that day, and then you are done. Season-long, you are constantly working on that team, because, as I said, you want to beat your friends that are playing those games with you.

I am running out of time here. I want to thank you for the opportunity of being here today.

[The prepared statement of Mr. Brubaker follows:]

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Mr. Burgess. The chair thanks the gentleman. The gentleman yields back. The chair recognizes Dr. Rodenberg. 5 minutes for your opening statement, please.

STATEMENT OF RYAN M. RODENBERG

Mr. Rodenberg. Good morning, Dr. Chairman Burgess and other honorable members of the Subcommittee on Commerce, Manufacturing, and Trade. My name is Ryan Rodenberg. I work as a professor --

Mr. Burgess. Sir, is your microphone on?

Mr. Pallone. Closer.

Mr. Rodenberg. Good morning, Dr. Chairman Burgess and other honorable members of the Subcommittee on Commerce, Manufacturing, and Trade. My name is Ryan Rodenberg. I work as a professor at Florida State University. One of my primary research lines pertains to sports gaming. I am pleased to be invited to testify at today's hearing and appreciate the opportunity to be on this panel. My written statement and oral testimony reflect only my personal views and do not necessarily reflect the views of my employer or any of the media outlets for whom I have written articles.

As I detail in my written statement, daily fantasy sports' current legal status lies at the intersection of three overlapping regulatory circles in a Venn diagram: Federal gaming law, State gaming law, and

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general notions of consumer protection.

Given the overlap, and recognizing the daily fantasy sports represents only a small portion of the American sports gaming market, I believe any substantive discussion of daily fantasy sports must take place in the context of a simultaneous examination of traditional sports wagering.

In this brief oral testimony, I focus on the most important Federal statute in this realm, the Professional and Amateur Sports Protection Act of 1992, or PASPA, for short. Justice John Paul Stevens, writing for a unanimous U.S. Supreme Court in a 1999 decision opined that, quote, "PASPA includes a variety of exemptions, some with obscured congressional purposes," end quote.

Similarly, the Department of Justice raised a number of concerns about PASPA in a September 1991 letter to then Senator Joe Biden.

The paradoxical nature of PASPA's grandfathering scheme among the States has serious implications for potential consumer-protection-related regulations of daily fantasy sports as well as traditional sports gambling.

Over the course of nearly 5 years of litigation, three Federal lawsuits against two different sitting State governors, and three Court of Appeals decisions with a fourth decision imminent, here is what we know about PASPA. First, for grandfathered States such as Nevada, Delaware, Montana, Oregon, and perhaps a few others, PASPA seemingly

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freezes in time, circa 1992, those States' abilities to enact sports gaming related regulations.

Second, for nongrandfathered States, PASPA seemingly provides such States with the option of either retaining their sports gambling prohibitions as is or repealing their prohibitions entirely. To do otherwise would apparently render PASPA unconstitutional under the Tenth Amendment. Whether any middle ground is permitted under PASPA remains a subject of still ongoing litigation filed by the NCAA, NBA, NFL, NHL, and Major League Baseball against the Governor of New Jersey.

Third, for all States, whether grandfathered under PASPA or not, the plain language of PASPA constrains the ability of governments to enact commonsense consumer protection legislation for both daily fantasy sports and traditional sports wagering. No Federal court case has squarely decided whether daily fantasy sports constitute illegal gambling. Relatedly, a Department of Justice attorney testified before Congress in 2000 and said, quote, "there is considerable debate we found in our research over whether or not fantasy sports leagues constitute gambling or whether they are simply a contest."

For all these reasons, I think it would be difficult for Congress to address specific issues pertaining to daily fantasy sports absent a contemporaneous evaluation of traditional sports wagering.

Thank you, Chairman Burgess and members of the subcommittee for the opportunity to appear before you today. I am happy to answer any

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questions you may have.

[The prepared statement of Mr. Rodenberg follows:]

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Mr. Burgess. The chair thanks the gentleman. Mr. Locke, you are recognized. 5 minutes for your opening statement, please.

STATEMENT OF MARK LOCKE

Mr. Locke. Good morning. Many thanks to the committee for giving me the opportunity to speak today and share my experiences and views in relation to sports integrity. My name is Mark Locke. I am the chief executive officer of Genius Sports. We are a U.K.-based technology company that, amongst other things, specialize in providing technology and education services to sport in order to help them both protect the integrity of their events and also to help them understand the markets and the environment within which they operate.

As I see it, my role here today is to share my experience and knowledge of factors that can influence the integrity of sport. At no point during today's sessions will any views I have be those other than my own, and I am certainly not speaking on behalf of or representing in any way the views of our partners or clients both here in the U.S. or internationally.

Genius Sports was established as a technology company in the year 2000, and we have been operating in the regulated international gaming, sports, and lottery markets, providing various technical solutions that, amongst other things, enable us to collect data, model how events

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should be expected to proceed, and monitor betting markets on a live and automated basis. As a result of this work in technology, we are able to help sports to recognize anomalies that could indicate potential problems with the integrity of their events.

As sports become more widely appreciated and internationalized, there has been an increasing need to have an education and technology services available to provide sports leagues and federations with the necessary breadth of knowledge and expertise in order to help them to manage in a safe and responsible fashion the growth of their events. We work across all sports, from technology, to education, helping these sports to achieve those goals.

I hope that my experience and knowledge will be helpful to the committee today. And once again, many thanks for giving me the honor of participating.

[The prepared statement of Mr. Locke follows:]

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Mr. Burgess. The chair thanks the gentleman. The chair recognizes Ms. Slader. 5 minutes for your opening statement, please.

STATEMENT OF LINDSAY SLADER

Ms. Slader. And I think that there is a map coming up on the screen here. Perfect.

Thank you, Chairman Burgess and members of the subcommittee for having me here today. My name is Lindsay Slader. I am the operations manager of GeoComply, who is a geolocation technology provider.

We have all heard of the Internet of things. The term used to describe how the Internet has gone from a desktop computer at home or the office to the near ubiquitous network of connected devices today. From phones in our cars, to our TV, everything is connected. However, with the Internet of things has also come the need for the Internet of places. States' rights concerns, as well as the requirement for national sovereignty over what can and can't be accessed on a territorial basis, have given rise to the need to determine with a very high degree of certainty what jurisdiction a Internet-connected consumer is governed by.

Historically the notion that you could indeed draw geographic boundaries on the Internet would have been laughable, such was the weakness of the original technologies and the availability of cheap

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and easy methods to fake your location. However, with the advent of regulated iGaming in the U.S. in 2013, four of the five U.S. States who are participating meaningfully in iGaming today have taken the initiative in deploying stringent geolocation and security protocols in order to geofence their services solely within their boundaries. By doing so, they act with the clear letter and spirit of the Federal law of UIGEA, which requires such rigorous geolocation tools as a prerequisite of operating within a particular jurisdiction.

Given the more recent rise of daily fantasy sports, the need to define physical location on the Internet has only become more significant. No matter how, nor in what manner, such an industry may be regulated, there is now advanced geolocation technology available to powerfully filter consumer access in any shape or form that may be required.

Be it to promote or restrict online access, technology is no longer an impediment to a chosen business or legislative model. It can be an indispensable tool and enabler.

GeoComply's technology is currently in action throughout the U.S., processing up to 1 million transactions per day. Our technology ensures State rights are respected through adequate geofencing and business operators are equipped with advanced tools needed to uphold relevant business and compliance requirements.

For Internet gaming and lottery, we are currently working with

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licensed operators to uphold State regulations and the geographic borders of New Jersey, Nevada, Delaware, and Georgia. This also means not only enabling eligible traffic from these States, but also blocking traffic from States that outlaw Internet gaming, such as Utah, California, New York, and so on.

For DFS, our geolocation solutions are designed to be highly adaptive to the constantly changing landscape of the DFS industry thus far. Given the volume and speed at which State DFS legislation is currently evolving, our systems are designed to turn on or off access at the drop of a hat for any particular State or region. I believe last week, for example, legislative changes were seen in about three States, whereas tomorrow, there could be a whole host of others.

By providing the means to respect sovereignty and the jurisdictional powers of a given physical territory, all via the Internet, geolocation technology, therefore, provides a necessary two-fold function: one, to uphold the preferences and rights of any given jurisdiction seeking to enable yet contain user access within their borders; and, two, to respect the wishes of any jurisdictions that choose to not participate or license such activity or that may ban it all together.

Neither can be achieved without adequately robust and adaptive geolocation tools. So if a State doesn't want it, they don't have to have it. Every use case has a technical solution.

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To perform a geolocation, GeoComply is able to gather pinpoint-accurate location data from a number of data sources to determine the whereabouts of a user. Then we confirm the integrity of that data to ensure it is secure and hasn't been masked or tampered with by any host of tools, such as proxies, VPNs, remote desktop software, jailbroken devices, mock location settings, and atomizers, the list goes on.

By the time we approve or deny a transaction, the data may have gone through up to 350 checks that our compliance algorithm seeks to verify. These settings can be set and adjusted by regulators and operators, depending on the market needs and requirements. Therefore, it should be well noted that the technology and safeguards which may be necessary if State or Federal parties choose to become more involved in DFS, in some shape or form, are very capable and, in fact, quite robust to uphold such standards.

GeoComply believes that all legislative and regulatory issues can easily be addressed with effective geofencing technology.

If I can point your attention towards the map up on the screen. Go back to the -- yeah.

So as you can see on the map here, these are live geolocation queries and instant analytics currently happening in realtime in the U.S. In particular, this demonstrates the importance of pinpoint-accurate location data, given the significant population

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centers in America that line your State and Federal borders. And this technology is used to -- or can be custom configured and adapted accordingly to any given use case be it DFS or Internet gaming or any other industry.

And then just a quick video clip. This is a zoom-in on the New Jersey-New York border, which is really a significant area for all the stakeholders speaking here today, be it gaming or DFS. This shows that not only can we accurately pinpoint someone's location, but also defend any given border even from the banks of the Hudson River in such a highly densely populated area.

That concludes my testimony. Thank you for having me.

[The prepared statement of Ms. Slader follows:]

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Mr. Burgess. The chair thanks the gentlelady. The chair recognizes Mr. Gnat. 5 minutes for your opening statement, please.

STATEMENT OF JORDAN GNAT

Mr. Gnat. Thank you, Chairman Burgess, Ranking Member Schakowsky, Ranking Member Pallone, and members of the subcommittee, for the opportunity to testify before you today.

My name is Jordan Gnat and I am the senior vice-president of strategic business development for Scientific Games Corporation. Scientific Games is a leading innovator in the regulated global lottery, gaming, and interactive industries offering a range of products, technologies, and services to more than 300 customers on six continents for the last 40 years. Scientific Games is also the service provider to the Delaware Lottery of its legal, regulated sports betting offering at over 100 retailers and three race tracks.

I am honored to be with you today to share my observations from my 12 plus years in the international gaming industry. I would like to offer some insights regarding the means by which other countries have successfully implemented regulated sports wagering systems.

My testimony will outline two case studies from Ontario, Canada, and the EU to help illustrate how these best practices, from geolocation and age verification, to betting limits, realtime global monitoring

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of betting activity, and education have been enabled effective and transparent sports wagering in international jurisdictions.

Additionally, in almost all cases, these regulatory systems have enabled both governmental lotteries and commercial gaming operators to offer innovative products through multiple, highly regulated, licensed distribution channels. In fact, nine of the top ten legal sports betting jurisdictions in the world offer sports wagering either exclusively through their lottery or a combination of lottery and commercial operators, being land-based or Internet.

Let's begin with Canada. Legal sports wagering has been available in Canada since the early 1990s. Each of the five provincial lottery corporations in Canada offer a full line of sports betting, but in the form of parlay wagering, meaning that a wager placed must be on the outcome of more than one event, activity, or performance.

To provide you with an example of how legal, secure, regulated sports betting happens in Canada, I will use the Province of Ontario as a case study. Ontario launched Pro-Line in 1994, and it is available at the nearly 10,000 licensed lottery retailers in the province. The first product launch was a simple three game parlay with a minimum and maximum betting limit set. Over the past 20 plus years, the product offerings have continued to evolve in sophistication to include two-event parlays, proposition wagering, and cross event wagering. The product has also evolved from a lottery-only channel to now include

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the casino channel. Recognizing the differences between the two, Ontario created a differentiated model for lottery retailers. With betting maximums for players at \$100 and casinos, with betting maximums for players at \$1,000. For its Internet activity, Ontario is soon to offer its sports betting products online alongside its current casino and lottery products.

British Columbia, for example, offers a full range of Internet sports betting products. Both provinces use geolocation and age verification systems to ensure that players are of age and located specifically in BC or Ontario.

I will now turn to Europe. The majority of jurisdictions in Europe offer sports wagering through their lottery or a combination of lottery and commercial operators. Each jurisdiction establishes its own betting rules, risk management teams, policies, odd setting frameworks, or outsources it to professional organizations.

In 2012, the World Lottery Association introduced the Global Lottery Monitoring System, GLMS. The system went live in partnership with Sportradar in June 2015. GLMS provides its members alerts on betting anomalies from around the world. Each member reacts to the alert independently, looking at the betting in their particular market, and determines what corrective action is necessary, including voiding bets, and reporting to the appropriate authorities.

There are 27 global members of GLMS from Europe, Canada, South

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America, Asia, and Africa. The program is planned to be expanded in the latter part of 2016.

In addition to technological advancements, professional sports organizations themselves are beginning to introduce measures to ensure game integrity. As an example, in 2013, FIFA, FIFPro, and Interpol came together to announce a new initiative to combat match fixing in the form of a training program called "Don't Fix It." The program focused on raising, quote, awareness of the dangers of match fixing among players, referees, officials, administrators, organizations, and public authorities, and to raise the ability of those involved in professional soccer to know how to recognize it, reject it, and report it.

It is estimated that the illegal U.S. sports betting market could be as much as \$400 billion. To put this number into perspective, the legal, regulated global lottery business is approximately \$280 billion and the U.S. casino industry is approximately \$240 billion.

The point to understand here is that sports betting is already an enormous market in the U.S. Implementation of regulations that ensure integrity, accountability, and consumer safeguards in sports wagering can turn the current multi-billion-dollar black market into a transparent, effective system that keeps professional sports and amateur sports safe for future generations.

Mr. Chairman and Ranking Member Schakowsky, I again want to thank

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you and your members of this committee for inviting me to testify before you today at this very important hearing.

I hope my presentation has provided helpful insights on some key elements of successful regulatory systems employed around the globe, and I look forward to the opportunity to answer your or our colleagues' questions. Thank you.

[The prepared statement of Mr. Gnat follows:]

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Mr. Burgess. The chair thanks the gentleman. Mr. Eggert, you are recognized. 5 minutes for questions -- for opening statement, please.

STATEMENT OF KURT EGGERT

Mr. Eggert. Thank you, Chairman Burgess and Ranking Members Schakowsky and Pallone. I appreciate the chance to talk about daily fantasy sports. I am a law professor. This is my third time testifying in front of this subcommittee about Internet gambling issues. And I must be doing something right, or you wouldn't keep inviting me back, at least that is my hope.

I should say upfront, I don't oppose or support daily fantasy sports or gambling. My purpose is to argue that if it is legalized, it needs to be regulated so that there is proper consumer protection, to maximize the experience of players, and to protect them from being cheated or beaten unfairly, and also to make sure that problem gamers get the help they need so that gambling and daily fantasy sports don't destroy the players and their families.

One issue that constantly comes up is, is it gambling or not? Is this a game of skill or a game of chance? And I would like to say that for the people who are really good at it, it is not a game of skill, it is not a game of chance, it is a game of algorithms.

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The top players are -- as far as I could tell, I have read a lot of interviews of the big winners, they are not long-time sports experts. They come up through -- many of them I have seen come up through either poker or data management. And what they do is they construct these very sophisticated algorithms and import a huge amount of data, much more data than any human could hold in their brain at one time, and use these algorithms to spit out lineups, and then they can take these lineups and enter them into multiple, multiple, many times different competitions, both high stakes, mid stakes, low stakes.

And so you can be just an average recreational gamer and suddenly be playing head to head with one of the top daily fantasy sports gamers in the world and perhaps not even recognize it. That would be as if you are out there playing tennis and suddenly Roger Federer is slamming balls at you, and you are playing for money.

The last two times I testified, I talked about Internet poker, and the big issue there are BOTs. And the Internet poker industry says, it is wrong to use these algorithms to beat human players, and they claim that they can stop it. I am not sure they can, but at least they are trying.

In daily fantasy sports, as far as I can tell, they don't even try to stop algorithms; instead, welcome the professionals, who gamble a lot of money every day, against people without these algorithms. So they have a huge advantage, not because they know more about sports,

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but because they have more data and have algorithms that can use that data to select the best portfolio of teams.

I would like to ask industry representatives to explain, why is this a good thing to have a few top players take all this money from the many recreational players who are just trying to have a good time?

So let's look at what these algorithms can do. They can track, say in baseball, for a hitter, they can track whether the hitter is good against lefties or righties or against this particular pitcher, they can track what direction the wind is likely to blow on a given day, they can track when will the sun be in the batter's eyes. I listened to one person who just won a competition, and he said, we were tracking the strike zone of the umpire. How many average players can import that kind of knowledge and make use of it? But the professionals can.

So what do you do to help the recreational player? I think you need strong consumer protection. You need to limit the amount of lineups that people can enter, because people who are entering a lot of lineups are either pros or people probably with a problem. You also need to label the high earners so that the average player knows, look, I am going against somebody way out of my league, and can either choose to play or not.

You also need services for problem gamers. You need them to know that they can get help if they need it. You need to prevent insider

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playing. And you also need regulators to oversee the games to make sure that people get paid and that the right people get paid.

So with that, I am done. I appreciate you inviting me back. And I am happy to answer your questions.

[The prepared statement of Mr. Eggert follows:]

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Mr. Burgess. Well, thank you. And thanks to all of our witnesses for their testimony.

And we will move now into the question and answer portion of the hearing for member questions. I will begin the questioning by recognizing myself for 5 minutes.

And, again, let me just say, fascinating amount of information you have provided for us this morning.

Perhaps if I could, Mr. Eggert, let me just ask you before we leave your algorithm concept, and Ms. Slader, I want to include you in this question, because you heard Chairman Upton talk about how do you exclude someone who is underage, okay, from involving themselves in these daily fantasy sports.

You know where they are and you kind of know something about how they are playing. Is there a way to exclude the 18-and-under-year-old group from playing these sports? And we all know teenage boys live on sports, right? That is all they do.

Ms. Slader. I can speak to excluding individuals, not necessarily about verifying their age or identity.

When GeoComply does a geolocation, the geolocation is anonymous, so we don't know who they are, where they live, whether they are a big-time player or anything. All we are concerned about is where they are. But if we, based on the data that we have, or the operator of the Web site decides that we need to exclude this player, cut them off

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for a certain period of time, GeoComply can help with that. We have tools that would cause you to always fail a geolocation, and therefore never be able to enter a contest. You could do that by their account name, you could do it by any device that has ever been associated with their account.

So if they play on two computers and a tablet, we can block them all. You could do it by an IP address, so their home Internet connection or work or wherever they may have ever played. So there are lots of tools at our disposal to keep people out if you singled out an individual.

Mr. Burgess. Yeah. But the cleverness of a 16-year-old really shouldn't be underestimated.

Mr. Eggert, how do you recommend that this issue be addressed? Is there a way to do it with data, with algorithms?

Mr. Eggert. Well, the new Massachusetts regulations require -- if you want to play daily fantasy sports, you have to prove who you are and you have to have only one account and one name. And I think that is necessary both to make sure that minors aren't playing the games and also to give people tools if they want to self-exclude, you can have a process where they can self-exclude and they just can't come in with a different name. So I think it can be done, and I think it has to be done.

Mr. Burgess. Yeah, but this is -- that is for someone who wants

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to play by the rules, but someone who wants to not play by the rules, I mean, how are you going to exclude them?

Mr. Eggert. Well, if you have to prove who you are in order to play, there may be ways around that, but at least I think the States should try to make sure they know who is playing and that they are of age and that they haven't excluded themselves.

Mr. Burgess. Well, Mr. Schoenke, let me just ask you from the small business perspective here, I mean, how do you see addressing that problem? I mean, Chairman Upton addressed it, the underage person should not be allowed to play. How do you prevent that from happening?

Mr. Schoenke. So we have an entry data --

Ms. Schakowsky. Mic.

Mr. Burgess. We can't really hear your --

Mr. Schoenke. Sorry. I am technologically challenged even though I run a technology company. I apologize.

We as an industry, the FTSA have always been against minors playing fantasy sports, paid fantasy sports contests for money. Our leading providers and our leading companies use something called Know Your Customer technology. When people sign up, they give a whole bunch of information on them, you know, name, address, they run it through databases using leading third-party companies to figure out if the customer is who they say they are, and then, you know, you need a credit card, you need to sign up for credit card information. And then the

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companies, you know, don't -- the major providers of daily fantasy, you know, they don't want minors to play. If they find out that a minor is playing, they will refund the person in question and also --

Mr. Burgess. All right. Let me just ask you, are most of the transactions done on a credit card-type transaction --

Mr. Schoenke. Yes.

Mr. Burgess. -- or using bit coins and digital currency to --

Mr. Schoenke. Yes.

Mr. Burgess. -- for these transactions?

Mr. Schoenke. Yes. So it is all primary credit cards, PayPal, you know, those kinds of transactions.

Mr. Burgess. Mr. Brubaker, let me just ask you, and I don't know, maybe I should be asking others on the panel as well, I mean, I don't want to telegraph the limited amount of knowledge that I have about this issue, but I am just having a hard time with the season-long sports and the daily fantasy sports. Clearly those are different avenues.

I guess what I don't understand is football, if I understand correctly, you play a game once a week, any given Sunday, and yet daily fantasy sports you are playing these same games all week long, but there is no actual game being played. So how is that constructed? How do you actually construct a daily fantasy sports transaction when the games are only played one day a week?

Mr. Brubaker. So on daily, you bet one game -- or you have one

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contest that you play. All right? In season-long, you draft your own team to play for an entire season. You are the GM of a football team, and you draft the players for your team and you enter them for that weekend. And then the next weekend, if you have an injury, say Tom Brady gets injured, he is your guy you drafted, you have to sit him and put a different quarterback in his spot. That is all the work you have to do.

Mr. Burgess. You are obligated for the whole season at that point? You can't fire your team and walk away?

Mr. Brubaker. I don't believe you can, well, you can. There are waivers and there are trades you can do with other people within your league to -- if you need a quarterback, you can trade a running back for another team's quarterback, something like that. Those are the transactions that go on in season-long that don't happen in daily.

So daily, you pick your players. Now, I am no expert in daily. I did get a FanDuel account a few weeks ago to learn how to play that, and I was playing baseball. So in that, you pick a pitcher, you pick a catcher, you pick a first baseman, so on and so forth, and you lock those people in on your team for that game only and you pay your fee. And then at the end of that game, all the players that you pick, their stats are added up, and if you beat everybody else, you win, if you don't, you don't.

Season-long, you have to -- you do your draft at the

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first -- before the first game of the season is played, be it baseball or football. You don't know if you won or not until the end of the season after all 16 games have been played. So that is the difference.

Mr. Burgess. Thank you for that.

Ms. Schakowsky, you are recognized. 5 minutes for questions, please.

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RPTR DEAN

EDTR HOFSTAD

[11:15 a.m.]

Ms. Schakowsky. Thank you.

Professor Eggert, you referred to the Massachusetts attorney general who just issued regulations. I am wondering if there are any other States or is this the furthest-along model of regulation?

Mr. Eggert. I think it is a good model. I know that Tennessee just issued some regulations. To be honest, I haven't gone through -- I think those are fairly well-advanced. I think Massachusetts is a good model, but I think it can be improved on.

Ms. Schakowsky. Okay.

Well, let me talk to some of the -- one of the concerns that the regulations issued in Massachusetts attempt to address is fly-by-night daily fantasy sports companies that collect wages and fees from users and then fail to pay out. Are you seeing that at all as a problem?

Mr. Eggert. Well, right now, the industry is dominated by the two major companies, and they are far from fly-by-night. I haven't heard of instances in the U.S. where that has happened. I know it has happened with gaming organizations in the Cayman Islands, for example. And so that can well be an issue. I haven't seen it here.

Ms. Schakowsky. Okay.

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So, Mr. Brubaker, you are talking basically about the 2 percent of the industry? Because if 98 percent are dominated by two companies, is your space the rest?

Mr. Brubaker. Well, there have been different statistics for what DraftKings and FanDuel mean to the rest of the industry. There are daily statistics only, which I think is 95 percent for DraftKings and FanDuel and 5 percent for the other daily providers. There are several other daily providers that do daily fantasy sports.

Ms. Schakowsky. Okay.

Mr. Brubaker. And there are also all the small companies that do season-long, which would skew that percentage.

Ms. Schakowsky. Right.

So, Professor --

Mr. Brubaker. But we are small. I mean, they are small companies.

Ms. Schakowsky. Professor Eggert, are you seeing gambling addicts playing DFS? And do you know if this is a big issue?

Mr. Eggert. I think there was a recent study that indicated that there is an overlap between people with problem gambling issues and daily fantasy sports play.

Obviously, this is a very new industry and the kind of study that would really nail this down takes a lot to do, and I anticipate that we will see more of that.

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Ms. Schakowsky. Thank you.

You mentioned in your written testimony that Massachusetts regulations would forbid daily fantasy contests based on amateur sports, such as high school or college. And the NCAA has repeatedly professed its opposition to NCAA sports being part of it. So why is this prohibition important?

Mr. Eggert. I think it is important to protect amateurs -- high school kids, college kids -- from having somebody have a great interest in whether they score that touchdown or fall out of bounds right at the 1-yard line. When we have seen game-fixing in college sports, it is really hard for a college kid, who, you know, isn't making a lot of money, will never go pro, it is very tempting to take a pile of money to do the wrong thing. And I think we need to protect high school and college athletes from that.

Ms. Schakowsky. Does anybody on this panel disagree with that?
Okay.

In the time remaining, if you could talk a little bit more -- you did already -- about what you would add to Massachusetts regulation and what might then be the more complete model for States. And are you saying that the State is the best place to regulate?

Mr. Eggert. I think the State is the best place to regulate because I think that there are local interests that are implicated. I think some States don't want to have gambling or daily fantasy sports

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which are equivalent to gambling, and I think that they should have the right to do that if they don't want to have it. It shouldn't be forced on them.

Ms. Schakowsky. So talk to me about what Massachusetts, for example, or any State should add in terms of consumer protection. That is my emphasis.

Mr. Eggert. Well, what I would want to look at -- and, you know, these regulations have just gone into place, and it would be good to see how they work. My concern is I would consider reducing even further the limits that they have only the number of entries. They allow a decent number of entries, and what we have seen is that the professionals enter a lot. And it may be that they have overstated the number.

I would also want to look at -- they have a form of labeling of, I think, what they call highly experienced players. I think that should be based on how much you make rather than have you entered a lot of games. Because somebody may have entered a lot of games and not be very good, and they shouldn't be labeled as, ooh, this is a scary person. The labeling --

Ms. Schakowsky. It could be a person with a problem, though, right?

Mr. Eggert. It could be a person with a problem, but if you over-label as the top players and label many people who aren't, I think

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people will start ignoring the labels. So I would want to tighten up who gets labeled as a highly experienced player.

Ms. Schakowsky. Thank you.

I yield back.

Mr. Burgess. The chair thanks the gentlelady.

The gentlelady yields back, and the chair recognizes the gentleman from New Jersey, Mr. Lance, the vice chairman of the subcommittee, 5 minutes for questions, please.

Mr. Lance. Thank you, Mr. Chairman.

Mr. Locke, as a sports monitoring service in many legal international sports-wagering jurisdictions, can you walk us through how your technology works to protect the integrity of sport? Is usage of this technology required in most legal sports-wagering jurisdictions?

Mr. Locke. Sure. I mean, the technology and the services that we offer operate in two distinct areas.

The first is around the technology play, which allows us to aggregate and monitor betting lines internationally. What we do is we model how we expect sports events to look on a mathematical basis, and then what we do is we overlay what is actually going on in international betting markets in a live environment with that. And the way that we work with sports in that respect is we provide factual data on any anomalies, any differences to what we would expect that

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could indicate, you know, issues that need to be looked at.

Also, from a technology point of view, what we do is we work with sports to identify correlated risk. So, for example, if you are seeing anomalies with particular players and umpires or officials all in the same game or all in the same series of games, we will highlight that, as well, for sports to look into and sports to police.

The other side which is important and I think the emphasis, you know, especially here, should be focused on is around education. The way that we work with sports at the moment is to help sports to understand the environment that they work in and any of the risks that they may be exposed to.

A great example of that is, you know, if, say, for example, a team physio is in a bar having a drink, he runs into somebody who -- they strike up a conversation, they just share the fact that, you know, there might be a particular injury of a particular player. You know, the guy goes away, places some wages, and comes back. He is able to put pressure on the physio of the team by saying, "Listen, you fed us some inside information. Here is your share of the winnings." And he has effectively put him in a position where he feels like he is providing inside information.

So part of our services is around educating the teams, the players, the umpires as to the risks that they may be exposed to in the markets that they operate in.

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Mr. Lance. Okay.

Anyone else on the panel who would like to comment on that?

Mr. Brubaker, in your testimony, you discussed the challenges for small operators to comply with 50 State audits that had been required in recently passed legislation.

Can you give us a sense of how many of your members have players in all 50 States? And do you see a path forward for States accepting audits from one another to reduce the regulatory burden on smaller operators?

Mr. Brubaker. So, on the States, there are only 45 States that fantasy sports can be played in right now. And so the five are going to escape me at this moment, but I would imagine that most companies have players from almost every State. Now, there are not a lot of players in some States. You may have, you know, 400 or 500 in a State like New Jersey; you may have 20 in Delaware. But they are spread out all over the country.

And the second part of your question was, sir? I am sorry.

Mr. Lance. Do you see a path forward for States accepting audits from another State to reduce the regulatory burden on smaller operators?

Mr. Brubaker. The path forward is for us to get to a lot of States and talk to legislators and try to get that changed. Some State bills that we have seen just say there has to be an annual audit. It is not

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quite as specific as some other States that say it has to be from an auditor within the State.

And so there is a lot of work to do, and, you know, when you are a small organization with a small number of companies, that is a lot of work and it takes a lot of time. We will push for those regulatory issues to be uniform across all the platforms, but we are playing catch-up in a lot of these States right now.

Mr. Lance. Thank you, Mr. Chairman. I yield back 50 seconds.

Mr. Burgess. The chair thanks the gentleman.

The gentleman yields back. The chair recognizes the other gentleman from New Jersey, Mr. Pallone, the ranking member of the full committee, 5 minutes for your questions, please.

Mr. Pallone. Thank you, Mr. Chairman.

I obviously believe there is a lot of hypocrisy surrounding the support of daily fantasy sports compared to traditional sports-betting. And the daily fantasy sports industry has been arguing that daily fantasy sports is somehow completely separate from sports-betting despite the fact that similarities can't be denied.

And the same is true of the professional sports leagues. At the same time that they are embracing daily fantasy sports, they are banding together to prevent New Jersey from allowing sports-betting, claiming they are trying to protect the integrity of professional sports. You know, it is going to get involved in organized crime and illegal stuff.

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So sports-betting, as has been mentioned, is legal in some States and in many other countries, including Canada, and the sports world is not falling apart.

My questions are mostly for you, Mr. Gnat. You said in your testimony that Canada has had legal betting since the early 1990s. Is sports-betting in Canada limited to betting on Canadian sports, or do Canadians legally bet on American sports as well?

Mr. Gnat. Thank you.

In Canada, you can bet on any sport in any country. And even in certain jurisdictions, as the sports have continued to gain sophistication, the offerings have begun to --

Mr. Pallone. Okay.

Mr. Gnat. -- gain sophistication as well.

Mr. Pallone. I am just going to interrupt you because I have to get through this.

Have you heard of any major game-fixing scandals linked to sports-betting in American sports since sports-betting was legalized in Canada?

Mr. Gnat. Not to my knowledge.

Mr. Pallone. All right. So there haven't been any major scandals.

We also know that the illegal sports-betting market in the U.S., you mentioned, is estimated to be as high as \$400 billion. So the

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integrity-of-the-game argument just doesn't make sense to me. In fact, legalizing sports-betting would simply allow for the same kinds of consumer protections that we are discussing today for daily fantasy sports.

So my question is, would you like to comment on how bringing the current black market, you know, organized crime, mob, whatever, you know, doing all this sports-betting -- if you bring it out into the sunshine and make it legal, how could you ensure integrity?

Mr. Gnat. Regulation, just in general, brings an environment of accountability, integrity, and consumer trust. Prohibiting does not do that. It drives an acceptable activity -- traditionally drives it underground, where you have no integrity in the game. And, therefore, the people involved are not accountability to anybody, and the consumers' interests are not maintained.

So I think that when you take a look at examples of how it has been done in other jurisdictions, even in Nevada, sports-betting has been done legally and responsibly in other jurisdictions, and, as you said, the world does not come crashing down around it.

Mr. Pallone. Kind of like prohibition of alcohol, I would think.

If sports-betting were not legalized, do you see a way to stop the practice from occurring illegally?

Mr. Gnat. I don't see how you can prevent something that is an industry of this size and this magnitude that exists today.

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Mr. Pallone. All right.

Now let me go to the Fantasy Sports Trade Association, Mr. Schoenke, if I can.

I know you said that you can comprehensively answer any questions about the industry, because even though FanDuels and DraftKings are not here, I am going to ask you the questions that they would normally be here to answer.

Last year, DraftKings applied and received a gambling license in the United Kingdom. FanDuel also applied for a gambling license -- I stress gambling license -- in the U.K. but hasn't yet received it, to my knowledge. Yet, in the U.S., both companies maintain that daily fantasy sports is not gambling.

So what is DraftKings' rationale for getting a gambling license in the U.K. if they say that daily fantasy sports is not gambling? And what about FanDuels? How do they justify this when they ask for a gambling license in the U.K.?

Mr. Schoenke. The laws of the United States are very different than the laws of the United Kingdom. In the United Kingdom, any game that has any skill is also under gambling. In America, in most States, if a game has more skill than luck, it is not considered gambling.

That is why fantasy sports, for over 20 years, as an enterprise, has never been considered gambling. We didn't have -- you know, didn't meet before Congress or at the State levels, but that has been called

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into question the last --

Mr. Pallone. But, I mean, they are doing the same thing, right, in both places?

Mr. Schoenke. Well, I think that, you know, the laws are different. It is a different country. Here in the United States --

Mr. Pallone. Well, it sounds like in one place --

Mr. Schoenke. -- if you have more skill than luck, it is considered --

Mr. Pallone. Well, I mean, they are not really doing anything differently. You are not telling me that, right?

Mr. Schoenke. Well, it is the same game, definitely.

Mr. Pallone. Okay. That is all I am asking. It sounds like the difference is that in one country they have a lot of smart lawyers or lobbyists that are, you know, defining things in one way and in the other they are not. But the game is the same, correct? The game is the same.

Mr. Schoenke. It is still a game that has far more skill than luck.

Mr. Pallone. All right. Thank you very much.

Thank you, Mr. Chairman.

Mr. Burgess. The chair thanks the gentleman.

The chair now recognizes the gentleman from Oklahoma, Mr. Mullin, 5 minutes for your questions, please.

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Mr. Mullin. Thank you, Mr. Chairman.

And thank you to the panel for being here. A lot of interest in this, more so than members, I think, that are interested in it. But, Chairman, appreciate you having the hearing. Outside, there are a lot of people wanting to get in.

And I think there are a lot of unknown facts that people are trying to get information, and that is the whole point of this panel, is just, okay, what exactly is the way that we are heading? What is the future? And how is this going to be a benefit or a negative?

And so I am going to focus just a little bit on this, and this is kind of a generic question for the panel itself. Is anybody aware of certain pushbacks, lawsuits, concerns through the States or through different organizations that have come after online betting?

Anybody want to take that? Not all at once.

Mr. Rodenberg. I am happy to speak to that.

Mr. Mullin. Okay.

Mr. Rodenberg. So I think it comes from two distinct areas. Certainly, there have been a large number, perhaps dozens, of private lawsuits that have been consolidated as part of a class action in the --

Mr. Mullin. What are those lawsuits concerning?

Mr. Rodenberg. A number of different claims based on allegations of fraud, based on allegations of illegal gambling. They are in very preliminary stages. The vast majority of those lawsuits have been

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consolidated in a Federal district court in Massachusetts.

Mr. Mullin. Let me stay there for just a second. On the fraud, what specifically are we talking about with fraud?

Mr. Rodenberg. Allegations have been made of false advertising, misuse of inside information, as part of these private lawsuits. A number of the claims were similar enough that they were consolidated. But they are at such a preliminary stage, nothing has been resolved in the course of them, though.

Mr. Mullin. Is that due to a specific group? Is that due to the ability to be able to fraud people online because it is faceless and nameless and unregulated?

Mr. Rodenberg. Perhaps that is a component of it. I mean, perhaps indirectly, to answer your question, a majority of the defendants are the daily fantasy companies themselves, as well as a few of the lawsuits have named investors and affiliated companies, including payment processors, including some high-level successful daily fantasy players. So perhaps some of that can be inferred, in terms of who the defendants are.

Mr. Mullin. What are the qualifications for a fantasy sports group to go online? Is there a regulating body that oversees it, that says, before you are able to do this, you have to comply with certain agreements; we are going to come in and we are going to look over your shoulder? Does that exist? Or is it just put up a Web site and let's

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go bet?

Mr. Rodenberg. In a small minority of States, all within the last couple -- literally within the last couple weeks -- Virginia, Indiana, Tennessee. There are regulations in Massachusetts now. Those have recently been enacted and signed by State Governors, but most of them have effective dates sometime this summer, so it is literally in its infancy.

Outside of formal State-run regulations, certainly a vast majority of fantasy companies are members of Fantasy Sports Trade Association, whether Mr. Schoenke's organization or others, but that is certainly more of a private self-regulatory model than a formal governmental one.

Mr. Mullin. Mr. Locke, what did your company have to do?

Mr. Locke. What did we have to do within fantasy?

Mr. Mullin. Yeah, to build a new business inside the United States and be -- you know, to keep down the complaints, make sure it is fair, make sure that, you know, it is on the up-and-up, so to say. Was there certain qualifications you had to comply with, or just use your best business model?

Mr. Locke. So we are not a fantasy operator. We work in sports integrity. So we provide services to sports that enable them to protect their events. In terms of working in the U.S., we have not had to comply with any regulations.

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Mr. Mullin. So you work with the fantasy betting organizations?

Mr. Locke. We don't work with any fantasy betting organizations in the U.S. Our prime business in the U.S. is working with sports to help protect the integrity of their events.

Mr. Mullin. Okay.

What are the biggest pushbacks, these complaints that we are seeing? Is it coming from the State or coming from organizations? Is it coming from the sport community itself?

Mr. Rodenberg. It is related to my previous response. The biggest pushback has come at the State level. So, as of 2 weeks ago, by my count, there are roughly a dozen State attorney generals --

Mr. Mullin. Okay.

Mr. Rodenberg. -- from New York to Illinois to Texas, from Hawaii to Idaho to Georgia to Tennessee, that have looked at daily fantasy under the auspices of their State law, and they have concluded that it constitutes illegal sports gambling in their State. They have issued -- whether it is a cease-and-desist letter or a negotiated settlement with daily fantasy companies. In the last 6 months, fantasy companies have removed themselves from those excluded States.

I mean, certainly the list of excluded States has risen dramatically from the original 5 States -- Washington, Louisiana, Arizona, Montana, and Iowa -- to now it is slightly over 15. So certainly the number of excluded States has increased in the last 6

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months. But that is the other, in terms of pushback, that has come from the State level so far.

Mr. Mullin. Thank you. Thank you for your time. My time has run out.

Thank you, Mr. Chairman.

Mr. Burgess. The chair thanks the gentleman.

The chair recognizes the gentlelady from New York, 5 minutes for your questions, please, Ms. Clarke.

Ms. Clarke. Thank you, Mr. Chairman.

Mr. McManus, brick-and-mortar casinos are subject to strict regulation that mandate consumer protections, such as age verification, support for problem gamblers. Casinos can lose their license to operate legally if they don't comply with these safeguards.

Of course, consumer protections must be implemented carefully and effectively to be successful. Some of the consumer protections that have been suggested for daily fantasy are similar to those that have already successfully been put in place by casino operators.

I would like to hear from you how MGM complies with gambling regulations and protects consumers. For instance, are age restrictions on gambling that apply in every State in which gambling is permitted? Can you discuss how you ensure that your customers are old enough to gamble legally?

Mr. McManus. Yes. Thank you for the question.

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We only operate land-based casinos. We don't have an online presence at this time. So it is a different approach to age verification. But we do it the old-fashioned way, as you would for serving alcohol. You ask for identification; you verify identification. There is extensive training for our gaming staff, security staff, and for, frankly, anyone to question whether somebody is of age.

Some States have regulations that require you to present identification as you enter a casino. Others, it is just a responsibility of the operator to assure that only people of age are gambling. Within our facilities in our jurisdictions -- and I don't know if there are differences elsewhere -- the minimum age is 21.

Ms. Clarke. So let me ask, Nevada regulations prohibit some gambling by certain employees of the holder of the gambling license. What policies do you have in place to ensure that MGM employees are complying with that regulation?

Mr. McManus. Yeah, different jurisdictions have different rules. Some exclude all employees. In Nevada, if you are a key employee, you are excluded. I, for instance, am excluded from gambling at our facilities. I could play at a competitor's facility. And that is really to avoid even the appearance of impropriety, that a gambling game is somehow fixed.

Ms. Clarke. And what about casino policies for handling gamers'

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money? For example, betting pools are kept separate from funds used for casino operations, right?

Mr. McManus. Yeah. In Nevada, we have requirements to maintain sufficient cash in our cage to make sure that we can pay winners, things of that sort. Again, in the online environment, it is a little different because you have an account, typically. Most of our customers are paying for chips with cash --

Ms. Clarke. Right. We are just trying to get the distinction crystal-clear.

Mr. McManus. Yes.

Ms. Clarke. You also have policies in place to help people addicted to gambling. How do your casino employees identify problem gamblers? And how are they trained to respond if they learn that a customer may be struggling with a problem gaming?

Mr. McManus. Sure. And I am by no means the authority on problem gaming. There is extensive training, though, for our employees.

And I would say the biggest thing that is uniformly accepted in the land-based-casino industry is making information and help available. There are 800-numbers. There are methods for self-exclusion or self-limiting, in some cases, where, you know, somebody who has identified themselves with a problem is able to say, "Please don't let me game here," and we enforce that. And, frankly, our regulators enforce that, where we would be fined if we were

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marketing to somebody who self-excluded themselves.

How somebody is specifically identified at a gaming table, for instance, I am really not the expert on that.

Ms. Clarke. No problem.

Are there any other consumer protections that your casinos have in place?

Mr. McManus. We have many consumer protections. Gaming regulation is exhaustive. It is thorough. The most basic consumer protection is making sure that the casinos are run by honest and reputable people and their backgrounds are scrutinized so you know who you are dealing with. And then it is every aspect of our industry is regulated that you have to do it with integrity, from advertising to how you conduct the game.

Ms. Clarke. Very well.

Mr. Chairman, I yield back.

Mr. Burgess. The gentlelady yields back.

The chair thanks the gentlelady and recognizes the gentleman from Kentucky, Mr. Guthrie, 5 minutes for your questions, please.

Mr. Guthrie. Thank you. This has been interesting. I appreciate it.

Professor Eggert, in your testimony, you discussed the prevalence of scripting tools on daily fantasy sports Web sites. My understanding is that a script allows one player to enter or change multiple lineups

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and many contests faster than a human could. Is that correct?

And what about a DFS site could make it more optimal for scripting tools than a season-long fantasy sports?

Mr. Eggert. Yes, that is correct. If you have an algorithm that generates, you know, hundreds and hundreds of lineups, professionals use scripting tools in order to easily input those into the DFS site.

And as far as how it is different from season-long, I haven't looked into scripting tools in season-long. My understanding is that people have -- the purpose of season-long is to do trades and things like that where people are much more engaged in the game and so the strategy is how to work with other players. And so I suspect that scripting tools aren't used that much because people are much more hands-on with their individual lineups. But, again, I haven't looked at the season-long as much.

Mr. Guthrie. Okay. Thank you.

And, Mr. Schoenke and Mr. Brubaker, how do your member companies view scripts on their services?

Mr. Schoenke. So, you know, scripts is a new term; this is a new technology. Largely what it was was that the companies didn't have the functionality in their own game and so some players figured out, you know, how to do something on their own, so they developed something to swap out players, you know, at the last second if there was an injury.

But since then, you know, the industry has shifted in terms of

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scripts. The companies have built a lot more functionality into their games so they can do it. Also, you know, the leading companies -- FanDuel, DraftKings, Yahoo -- have banned third-party scripts.

And we have also seen this addressed at the State level, where the State regulations we talked about in Massachusetts and also the State laws that are passing in Indiana, Tennessee, and Virginia, they also ban third-party scripts as well. So I think that is going to minimize any kind of unfair advantage that people would have by using these --

Mr. Guthrie. Mr. Brubaker, answer too, but -- and you will answer this, Mr. Brubaker, as well. Are your providers -- I know the service providers, you just said. But fantasy games, are they able to detect when somebody is using the script on their site?

And then answer the --

Mr. Schoenke. Yeah, I can answer that.

I mean, there is technology they are using. They are using the best practices. It is definitely the goal. I mean, these regulations and laws make it an incentive do it.

Also, if a customer is caught using a script, you know, there is a disincentive for them to use it. Their account will be suspended, could be revoked completely. So there is a disincentive for them to try to make an end-around as well.

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Mr. Guthrie. Okay.

Mr. Brubaker?

Mr. Brubaker. For season-long fantasy sports, you do a draft before every season starts. So there would be 12 teams in a league, and each general manager of that team would hold a draft, and they would go through all 12 people, then they would start over. You have seen drafts on TV before. Same thing. There is no scripting in season-long. Scripting is something unique to daily fantasy sports. And it does allow people to enter multiple contests. And I think Peter did a pretty good job of explaining how they do it on the DFS side.

Mr. Guthrie. Okay. In a previous question, though, you said that there are two major players in the daily fantasy sports and you represent the small player?

Mr. Brubaker. So there are two major players in all of fantasy sports --

Mr. Guthrie. So what is the difference? But what is a key characteristic of a small player, I guess?

Mr. Brubaker. Small companies. Small companies. So there are probably 80 providers that are not DraftKings and FanDuel. And they range, as Peter mentioned, Yahoo is one the larger ones, but many are very small companies that have 2,000, 3,000, 5,000 players total in their company, where DraftKings and FanDuel have millions of players.

So the scale is completely different between what the two big

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companies do and the traditional smaller companies, season-long companies, that have been around for many, many years.

Mr. Guthrie. Okay. I am about out of time.

And there was a question previously asked, and Mr. Eggert answered it, but, Mr. Brubaker, if you would. Some have made the argument that setting a license or registration fee -- I am going to read quick because I am running out of time -- are a barrier to entry into the marketplace to keep fly-by-night operators from running off with players' money.

Are fly-by-night operators a concern in the daily fantasy marketplace?

Mr. Brubaker. Maybe Peter should answer the daily question. Is that all right?

Mr. Guthrie. Okay. That is fine, yeah.

Mr. Schoenke. In the State laws that we have been advocating for, at least with FSTA's work with legislators, one of the key components for consumer protection is that the consumer funds be protected so that the prizes will be there at the end of -- there will be segregation of funds. And that is one thing we are strongly advocating for at the State legislatures.

Mr. Guthrie. Well, thank you. I have run out of time, and I yield back. I appreciate your answers. Thank you.

Mr. Burgess. The chair thanks the gentleman.

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The chair now recognizes the gentlelady from Indiana, Mrs. Brooks, 5 minutes for your questions, please.

Mrs. Brooks. Thank you, Mr. Chairman.

I am very pleased that in this 114th Congress we have been in exploring what we call the disruptor series, which changes the landscape of the economy. And we have explored things like Uber and Bitcoin and now this. And with this packed audience today, it is interesting because I think this, too, is something that is really kind of disrupting the way we think about the world of gaming and gambling.

And I think it is important for us to kind of explore the largest disruptor in the gambling community, the daily fantasy sports. But there are a lot of different questions that we have to grapple with, as to whether or not -- we don't want to limit innovation, but we want to protect consumers, and where do we find that balance.

And, obviously, Indiana has just taken the lead in becoming the second State in the Nation, as I understand, to adopt what we thought was thoughtfully developed legislation. It creates the regulatory framework that ensures games are fair, participants are over 18 years of age, and that sites allow players to restrict their own play.

And while some of the regulatory measures maybe are stern, 150,000 Hoosiers are participating in daily fantasy sports, and they need to have confidence in the integrity of the products. And so I hope that we can continue to explore how to expand the safeguards that Hoosiers

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now enjoy and ensure that we can embrace this new trend in sports entertainment.

A couple of questions that I have. My question is, if we don't allow this type of -- well, I learned yesterday that the total illegal sports-betting market in the United States grew to \$148.8 billion in 2015 -- the illegal sports betting.

And so I guess to Dr. Rodenberg and maybe others, if States don't allow this within their State, won't this simply drive more competition overseas to places -- where are the places that we would be competing with? And can you just talk about that and can the industry talk about that, if we don't figure this out?

Mr. Rodenberg. Sure. Antigua, Curacao, and Costa Rica are the most likely overseas jurisdictions that have sports-book operations that -- some may and some may not offer those services to American citizens. That is certainly a possibility, that if daily fantasy is not legalized and regulated in jurisdictions like yours that may be so inclined, that there could be an underground market. The offering of DFS is so new, though, I think that is a little premature.

And one interesting -- I mean, you had the figure in terms of the \$140-plus-billion. The overall kind of market of daily fantasy is quite small relative to that. I mean, the estimates I have seen are anywhere between \$3 billion and \$4 billion, so it is a very small portion of the overall American sports-gaming market.

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So, while important and certainly relevant to the disruption and the disruptor series that you are evaluating as part of the subcommittee, it is still a small portion of the overall American sports-gaming market.

Mrs. Brooks. However, like Uber and Bitcoin and others, they maybe started out small, but look at where it grows.

Any other comments from anyone else about the offshore competition if we don't get this right and figure this out? Anyone want to comment?

Mr. McManus. Yeah, I would like to comment.

Speaking for -- I think I can speak for my entire industry here, any form of unlawful gambling is bad. And we do find that these forms of entertainment are not going to go away if they are made unlawful, and you will develop a black market if you don't have a legal outlet for daily fantasy.

One comment I would like to make when we talk about season-long verses daily, for me the distinction on whether regulation is appropriate is whether it is house-banked. If it is a season-long fantasy operator who just creates the platform for private leagues, I see no need for regulation. But as soon as you are taking money from citizens and promising to pay back under certain scenarios, you should be regulated, and, respectfully, whether it is a small business or a large business.

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Mrs. Brooks. Mr. Brubaker, you have talked about the difficulty with small operators complying with 50 different State audits. And can you give us a sense of how many of your members have players in all 50 States?

Mr. Brubaker. We don't know for sure. That question came up previous to your arrival, and there were five States where no play is allowed or has been allowed. And Dr. Rodenberg did mention there have been some changes since that from different attorneys general that have made some decisions. But I would say most of our companies have players in every legal State.

Mrs. Brooks. Okay. Thank you.

My time is up. I yield back.

Mr. Burgess. The chair thanks the gentlelady.

At this point, I believe all members' requests for time have been honored, and I would recognize the gentleman from New Jersey for an additional 5 minutes should he so desire.

Mr. Pallone. Thank you.

Let me follow up on the -- as to Mr. Brubaker, follow up on it the gentlewoman's comments.

You talked about the difficulty small fantasy sports companies may have trying to comply with so many different State laws. So do you support Federal involvement? And is there a way to do something at the Federal level that doesn't force States who don't want daily

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fantasy sports or gaming to allow it?

Mr. Brubaker. We will work with just about anybody that wants to help us figure this out. If that is the Federal Government, we will do that. If it is going State to State, that is a much harder path for us to go down.

Certainly, if you look at -- let me take a step backwards. So we looked at UIGEA as companies, these small companies did, and they saw that in 2006 as a green light by the Federal Government to go on line with fantasy sports. Now, that was all season-long at that time. That was before daily even was contemplated.

So we have companies that are relying on you guys and said, go ahead and go start your businesses, and they have gone out and they have started their businesses. And now we have States coming in and changing the game, changing the format.

I don't think you will hear any daily fantasy sports company or season-long fantasy sports company balk at consumer protections as long as they are done in a way that is financially viable to stay in business.

Mr. Pallone. All right. Well, maybe that is something --

Mr. Brubaker. If they get too expensive, then --

Mr. Pallone. Maybe that is something we can look into. Thank you.

Let me go back to Mr. Schoenke again.

And, again, I am asking you specifics about DraftKings and

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FanDuel, which you said you can answer. I want to talk about the so-called insider trading scandal that was reported on last fall. Ethan Haskell, a DraftKings employee, was accused of using information he obtained in the course of his work to help his play on FanDuel's platform. And an independent investigation cleared him of any wrongdoing, noting that he didn't receive the information until his lineup was locked.

But the report prepared by the law firm that conducted the independent investigation was not publicly released. Do you know why DraftKings did not release that report?

Mr. Schoenke. I don't have that information. I know they have been pretty forthcoming with a lot of the details of what --

Mr. Pallone. The mike.

Mr. Schoenke. I apologize. I said I don't have the details of that.

Mr. Pallone. All right. But, I mean, again, we are relying on you to answer these questions of the two, you know, of DraftKings and FanDuel.

Where did the information receive by Mr. Haskell come from? Do you know who sent it to him? Was that person playing daily fantasy sports? Did that person gain an advantage from the information?

Mr. Schoenke. The information that he had was the number of players, the percentage ownership, which may give you an advantage if

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you know that one player, you know, has a lot of ownership and one player doesn't. And so it was the internal, you know, mechanism to calculate that. And he compiled the report after the game was locked, when it was no big deal, and there was an inadvertent release of that.

Mr. Pallone. Well, Mr. Schoenke, you know, since you say you can answer these questions, maybe you can't today, but with the chairman's permission, I would like you to follow up and get back to me and try to answer them on behalf of DraftKings, if you would.

All right. Now, DraftKings prohibits its own employees and employees of other daily fantasy sports operators from playing on its site, and FanDuel prohibits its employees from playing on its own site or other daily fantasy sport sites.

How does DraftKings ensure that employees of other daily fantasy sports operators are not playing? Do competitors share their employee lists with DraftKings, to your knowledge?

Mr. Schoenke. It is also a component of the laws that we are advocating for across the country and that have been passed. One of the key, you know, components is that daily fantasy sports companies and, actually, all paid fantasy sports companies cannot play on other people's platform. So there is obviously a big legal incentive to get it right, as well.

Mr. Pallone. And how does FanDuel ensure that its employees are not playing on another DFS site? Do competitors share those lists of

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users with FanDuel?

Mr. Schoenke. You know, as far as what the specific companies are doing, you know, I don't have that.

Mr. Pallone. Well, again, I would ask you to find out, because Professor Eggert points out that employees have access to spreadsheets that show the players who are the biggest losers on the DFS sites. And, you know, I am just wondering how does FanDuel ensure that those lists are not being used to invite those losers to head-to-head matches. And same thing with DraftKings. I mean, you, I guess, can't answer these things right now, but --

Mr. Schoenke. No, but, you know, we as an industry are advocating for laws at the State level to prevent this from happening. And I think that will be a big disincentive for any company to allow that to happen.

Mr. Pallone. Well, I am going to ask you to get back to me on these questions. Because, again, you know, the two companies didn't come, and they say that you can answer the questions. So please get back to us. And, you know, I will send it in writing, as well, so you know.

Thank you, Mr. Chairman.

Mr. Burgess. The chair thanks the gentleman.

Let me just -- a couple of things for followup. And I guess, Mr. Eggert, even off topic from what we have been discussing, I mean, the concept of the amount of data that -- or maybe, Mr. Gnat, this is

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to you -- the amount of data that is generated seems just to be phenomenal.

And is this useful for anyone else involved in the sport? Is, say, a general manager interested in some of these performance statistics? It just seems like this has the potential for changing the way competition is handled by how well you are able to manage these large data flows.

Would either of you care to comment on that?

Mr. Eggert. Oh, I think general managers have an increasingly great interest in data acquisition and management. And I think the sport is moving in that direction, to be more data-based and less just see how the person swings the bat. It has gotten so far that I think there is an ESPN fantasy sports analyst who is good at this kind of data management so that she can talk about these issues. So data is becoming increasingly important.

Mr. Burgess. Mr. Gnat, did you have something you wanted to add to that?

Mr. Gnat. Thank you, Mr. Chairman.

As far as I know, there are lots of sports organizations out there today who actually employ members of their general manager's staff who are data analysts, who will go and look at players and see how they play in certain environments and decide how they select.

I mean, the entire concept of the movie "Moneyball" and the whole

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Billy Beane and how he was selecting teams for the Oakland A's, that is all really based on the concept of starting with data analytics.

Mr. Burgess. Well, Ms. Brooks is quite correct; we have been studying -- we have been doing the disruptor series, and, of course, at the base of the disruptor series is the way data is now handled and managed throughout every stratum of our ecosystem right now.

Mr. Pallone made the observation that this could perhaps drive interest in a team that otherwise their won-lost record might not generate that much enthusiasm but because you might have players that were on a roster you are now interested in the performance of that team. And while he was describing that, I couldn't help but think that, had this been around 30 years ago, the New Jersey Generals might still be a franchise of the USFL, but maybe not. I don't know. It is just purely speculation at this point.

Mr. Lance. Purely speculative, Mr. Chairman.

Mr. Burgess. Well, again, I want to thank our panel.

Ms. Schakowsky. May I make a comment?

Mr. Burgess. Yeah, please. The gentlelady is recognized.

Ms. Schakowsky. So, last night, I was one of about 5 million people who have checked out John Oliver's explanation of daily fantasy sports. Regardless of one's position on it, you might get a kick out of it. I am not his agent. I get no kickback from John Oliver. But it is a humorous but also informative, from my point of view,

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explanation of daily fantasy sports.

Mr. Burgess. The chair thanks the gentlelady.

Seeing no further members wishing to ask questions for this panel, I do want to thank our witnesses for being here today.

Before we conclude, I would like to submit the following documents for the record by unanimous consent: a letter from the American Gaming Association; a letter from The Mellman Group; a letter from the Stop Predatory Gambling group; a letter from the National Conference of State Legislators; a letter from the Office of the Attorney General from the State of Texas.

[The information follows:]

***** COMMITTEE INSERT *****

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Mr. Burgess. Pursuant to committee rules, I remind members they have 10 business days to submit additional questions for the record. And I ask the witnesses to submit their responses within 10 business days upon receipt of those questions.

Without objection, the subcommittee stands adjourned.

[Whereupon, at 12:02 p.m., the subcommittee was adjourned.]