



The Future of Internet Gaming: What's at Stake for Tribes?

by Grant Eve

Internet gaming today is a substantial industry, estimated to be generating approximately \$30 billion dollars worldwide. Some of this revenue is generated by illegal, offshore organizations paying no tax to the countries they operate in and some of this revenue is generated by licensed Internet gaming operators in jurisdictions like the United Kingdom, France, Italy, Spain, Belgium, Austria, Denmark, Canada, Australia, Sweden and others where the activity is regulated.

In the United States, we have almost 1,000 tribal and commercial, "land based" casinos operating across the country and many in the industry are trying to understand how and if, Internet gaming is affecting their gaming operations.

United States commercial gaming revenues have been steadily decreasing from the record high of \$37.52 billion in 2007 to \$34.60 billion in 2010. This represents a decrease of over 8% from 2007's record revenue numbers. This revenue

estimate includes the states that allow commercial casino operations (non-tribal). The National Indian Gaming Commission reported Indian gaming revenues have remained unchanged between 2010 and 2009 at \$26.5 billion. This revenue analysis includes over 422 independently audited financial statements from 236 gaming tribes in the United States.

Global gaming revenue figures are not as clear as U.S. gaming figures due to vague reporting requirements of various jurisdictions, little online gaming reporting requirements, the rapid expansion of Asia, and unreported illegal gambling enterprises. Many analysts estimate the global gaming market to be in the range of \$110-125 billion, excluding illegal operations. To put this into perspective, if conservative estimates of Internet gaming are about \$30 billion and the global gaming market is estimated around



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\$120 billion, one in every five dollars is gambled online. This ratio of worldwide Internet gaming revenues to land based gaming revenue is increasing as land based gaming revenue is decreasing in many regions of the world and Internet gaming revenue continues to increase. Some analysts' estimate worldwide Internet gaming revenue will increase at 10-15%, or possibly more, if it is legalized in the United States. Despite the high profile indictments of illegal Internet gaming operators by the U.S. Department of Justice on April 15th, 2011, illegal Internet based betting and wagering continues today in the United States with unregulated providers and in places where the activity is currently regulated such as Canada and the United Kingdom. In conclusion, brick and mortar casino revenues are decreasing or breaking even and Internet gaming revenues continue to grow unimpeded.

Potential Impact of Internet Gaming to Indian Gaming

The impact of regulated Internet gaming on Indian gaming will depend significantly on the details of the legislation proposed, whether it is at the state or federal level. There have been many debates about the potential impact that Internet gaming might have on Indian gaming. Specifically,

many tribal leaders feel that this could be detrimental to Indian gaming and others feel that this could be an opportunity for Indian gaming if tribes are strategically positioned when it is legalized. The impact hinges on many factors, such as:

1. How the law will be written
 - a. What games will be legal
 - b. Eligibility of current Internet gaming operators, suppliers, vendors, marketers
 - c. Taxation and/or operating fee structure for commercial gaming operators
 - d. Eligibility of state lotteries
 - e. Eligibility of current brick and mortar gaming operators in the U.S.
 - f. Number of operator permits issued
2. How and if the legislation will affect state-compacts and/or IGRA
3. How Internet gaming operators would be governed, specifically as it applies to American Indian tribes
4. State government cooperation



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“The maturation of the Internet, the increase of mobile network data speed and the advancement in device technology has changed the dynamics of the gaming industry as a whole.”

Since poker generated revenue represents a very small portion of overall casino revenues in Indian Country, legalization of Internet poker could represent an economic opportunity for the tribes to grow a business segment that traditionally has not been a significant one. According to Joseph Eve’s *2011 Indian Gaming Cost of Doing Business Report* on the allocation of Indian gaming revenue by segment, poker accounted for less than 1% of revenues.

One of the more significant potential impacts on Indian gaming from Internet gaming is the extent to which the tribes would need to compete with commercial gaming. Big commercial gaming has nationally recognized brands, large capital resources and alliances with European Internet gaming operators. The vast majority of tribes do not have the resources to compete against these would be competitors if they were to operate independently. Therefore it is not surprising that the tribes are concerned Internet gaming could take away resources from their brick and mortar efforts and put them on unequal footing with commercial competitors.

It would seem only natural should Internet gaming become legalized that Indian tribes be allowed to operate, regulate, tax, host and license Internet gaming websites as sovereign nations, no different than how the tribes operate brick and mortar gaming today.

By combining online and offline club membership programs, tribal casinos could offer additional incentives to encourage Internet gamblers to visit their brick and mortar casinos and resorts. If tribes decided to work together in this area, the player would reap the benefits by accumulating incentives from tribal casinos across the country.

Lastly, there is concern among tribal leaders about the impact that state governments may have on this new business. Clearly more research needs to be conducted to analyze the impact regulated Internet gaming is having in other developed countries and determine how best to approach this industry from the perspective of Indian gaming. This research could help tribal leaders to agree on how best to approach Internet gaming.

Regulation

Regulation is a significant issue when you consider online gaming for tribal operators. The regulator of tribal brick and mortar facilities are the tribal gaming agencies. Other regulators are the National Indian Gaming Commission, the state in which the casino resides (via the compact), and the outside

auditors. Not only does regulation ensure benefits to the customer, it also provides jobs. The Indian regulatory system employs more than 3,400 expert regulators and staff. This issue of regulation needs to be addressed further when it comes to Internet gaming.

Summary

The maturation of the Internet, the increase of mobile network data speed and the advancement in device technology has changed the dynamics of the gaming industry as a whole. Internet gaming is a relatively new form of gambling that customers demand today and they are willing to send their money overseas to prove it. While many experts deliberate over the true benefits of Internet gaming, other countries are taking advantage of the Internet gaming market. Some of the unknown questions that could define this industry in the United State include:

- Will Internet gaming compliment land-based facilities and increase overall revenue?
- How will this affect “overall” revenue for Indian Country?
- Who will be the regulators of Internet gaming?

Internet gaming is available today to anyone who has access to a computer and a connection to the Internet. Anyone that is serious about gambling can find ways around the law to gamble online.

When Internet gaming is legalized, tribal operations are going to need an opportunity to build and capitalize on this market to protect self-sufficiency. Indian gaming has been the most successful benefit to the economic development within the Indian tribal communities. These funds have been used to improve health care, education and public safety in Indian Country.

Ultimately, more information needs to be collected before a proper decision can be made. There is too much at risk for Indian tribes to jeopardize what has been created since Congress enacted Indian Gaming Regulatory Act in 1988.

This article was adapted by Grant Eve from testimony he gave in-person before the Senate Committee on Indian Affairs in Washington, D.C. ♣

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