AMERICAN GAMING ASSOCIATION

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"Post-PASPA: An Examination of Sports Betting in America"

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Chairman Sensenbrenner, Ranking Member Jackson Lee and members of the Subcommittee,

Thank you for the opportunity to testify today on behalf of the $261 billion U.S. casino gaming industry and the 1.8 million employees we support throughout the country. As you know, in *Murphy vs. NCAA* the Supreme Court held the Professional and Amateur Sports Protection Act (PASPA) is unconstitutional, which now enables states and sovereign tribal nations to decide whether to legalize and regulate sports betting within their borders. The AGA strongly supports the Court's recent decision, and I appreciate the opportunity to explain how the post-PASPA world will better serve and protect the American public while providing significant economic opportunities for a variety of stakeholders.

Over the last several years, AGA has actively led an inclusive, fact-driven discussion about sports betting and the efficacy of PASPA. Research by AGA and others has conclusively proven Americans have a widespread interest in sports betting – regardless of its legality. Moreover, instead of preventing sports betting in the U.S., PASPA enabled a massive illegal sports betting market that recently exceeded $150 billion dollars a year. This vast illegal market has fueled criminal activity and left American consumers outside of Nevada with no safe alternative to bet.

Since enactment of PASPA in 1992, we've also seen rapid expansion of legalized, heavily-regulated casino gaming in the U.S., which is now thriving in 40 states and 260 jurisdictions. With this expansion has come increased revenue for states and sovereign tribal nations, hundreds of thousands of jobs, meaningful community partnerships and acceptance of gaming as a mainstream form of entertainment enjoyed by millions of Americans each year. Of equal relevance to today's discussion, these jurisdictions also already have established gaming regulations in place, and a successful model for regulating sports betting to emulate in Nevada. As states and sovereign tribal nations bring sports betting out of the shadows, we can expect these many aforementioned benefits to grow while also beginning to eradicate the illegal market.

AGA is encouraged by the unprecedented amount of support and momentum behind legalized sports betting. Nearly 60 percent of Americans were in favor of eliminating the failed federal ban, and nearly two-thirds of Americans believe legal, regulated sports betting would deliver benefits to their communities.[1] AGA also continues to work with a diverse array of groups that support the Supreme Court's decision for a variety of reasons. Some – such as the governors and attorneys general from 20 states who signed an amicus brief in support of New Jersey – believe this is fundamentally a states' rights issue. Others – particularly law

[1] "Legalizing Sports Betting: A Winning Wager," Greenberg Quinlan Rosner Research, April 2017 https://www.americangaming.org/sites/default/files/Rev_Public%20AGA%20National%20Poll%20Memo%20042417%20FINAL.pdf

enforcement – view the Court's decision as an opportunity to take a significant bite out of the illegal market. Still others are primarily motivated by the obvious opportunities to increase tax revenue and jobs.

The confluence of support from these influential stakeholders has translated into significant momentum at the state level, which started even before the Supreme Court rendered its decision. In 2018, 18 states considered legislation to legalize sports betting. Since the ruling, Delaware, New Jersey, Mississippi and West Virginia have joined Nevada as states that now allow single-game betting on sports. Additionally, Pennsylvania, Rhode Island and New York have also enacted legislation to permit sports betting, and operations in Pennsylvania and Rhode Island are expected to launch before the end of the year.

Sports leagues' views on this topic have also evolved. They are now actively working in support of legislative proposals in state capitals across the country. The casino gaming industry and sports leagues have two fundamental things in common: we are both committed to eliminating the thriving illegal sports betting market, and to protecting the integrity of both sports betting and sports.

The evolution of the leagues' views represents a critical opportunity for our industries to work with state legislatures and regulators to develop effective policies that will ensure a safe, successful sports betting market.

The Economics of Legal Sports Betting

Too often, governments and private sector stakeholders have a misperception of sports betting as a cash cow. In reality, sports betting is a low-margin business, which is not viable without the proper policy environment.

For every dollar a legal, regulated sportsbook accepts in wagers, it pays back, on average, 95 cents to winning bettors. That means for every dollar wagered, a sportsbook initially retains around five cents.

But the effective margins that sportsbooks *actually* keep as true profit are much slimmer. A legal sportsbook must pay state and federal taxes out of that five cents in earned revenue. It must also pay for employee salaries, rent, marketing, back-end technology and hardware that runs the sportsbook, and property taxes or casino leasing fees. After all of these and other business expenses are taken care of, the sports book is left with a very modest profit.

In contrast, illegal wagering operators generally have little overhead or tax and regulatory compliance outlays. This competitive advantage allows them to enjoy far higher profit margins, while also offering consumers better-paying odds. If our shared goal is to stamp out illegal sports betting operators, it is imperative that policymakers recognize these dynamics and establish policies that allow legal, regulated sportsbooks to present a compelling alternative to consumers.

Principles That Will Ensure a Safe, Successful, Legal Sports Betting Market

If implemented correctly, legal sports betting could support tens of thousands of jobs, generate hundreds of millions of dollars in tax revenue and make the vast illegal market unattractive to consumers. To attain these benefits, the casino gaming industry believes effective sports betting policy should focus on these core areas:

- **Promote responsible gaming and responsible advertising.** The gaming industry currently invests an estimated $300 million annually toward extensive responsible gaming programs across all jurisdictions where it operates.

In addition, the AGA recently updated our Responsible Gaming Code of Conduct, which demonstrates the industry's commitment to protecting consumers and promoting responsible play. The updated Code of Conduct, which is applicable to both land-based and online sports betting, outlines the commitment of AGA members to continue their rigorous support of robust employee training programs, prevention, treatment and research initiatives, as well as public awareness programs surrounding responsible gaming and the prevention of underage gambling.

The Code also ensures that the industry adheres to responsible advertising and marketing principles. This means ensuring that there are appropriate parameters around the frequency of gambling advertisements and ensuring that advertisements are not placed before an audience where most is expected to be below the legal age to participate in gambling or sports betting.

The AGA has also established the Responsible Gaming Collaborative. Comprised of industry stakeholders and responsible gaming advocates as well as leading academics and researchers from prominent universities including Yale School of Medicine, Harvard Medical School, UNLV and the University of Memphis, the Responsible Gaming Collaborative is dedicated to advancing the most effective approach to responsible gaming and the prevention of problem gambling.

- **Protect sport integrity.** We agree that rigorous sports betting regulation strengthens game integrity, a primary aim shared by the gaming industry and sporting bodies. New technology makes it possible to track legal wagering and identify suspicious activities. Analyzing data from legal wagers can help discover irregular betting patterns and has been credited with uncovering match fixing. In fact, the current unregulated off-shore market may provide bad actors with the opportunity to corrupt sports. Our industry takes sports integrity extremely seriously and will use the technology and other resources available to us to detect and deter any betting-related fraud. Furthermore, the industry is committed to working with other stakeholders to explore the establishment of a data repository to share any suspicious betting information with law enforcement and gaming regulators.

  AGA has had productive discussions with our members and the leagues about the formation of an integrity monitoring association, which would provide an enhanced reporting system. As we work towards this goal, state regulators have also called for individual states to pursue memoranda of understanding and other cooperative agreements to share information and ensure integrity from jurisdiction to jurisdiction. Key state regulators noted in a joint statement following the U.S. Supreme Court decision "that states and tribal gaming regulatory agencies have the capacity, resources, and ability to oversee the regulation of legalized sports betting."

  In their most recent statement, members of the U.S. State Gaming Regulators Forum outlined straightforward guidelines to assist in the initial approach to sports betting regulation. These guidelines included coordinating efforts to thwart the illegal market; the establishment of structures and processes to ensure a high level of integrity in all sports by detecting and preventing match fixing; improving responsible gaming; and working to ensure reasonable tax rates and fees that enable legal, regulated sports betting to compete with the illegal market.

  Match fixing is illegal at both the federal and state level. We support the aggressive enforcement of these commonsense prohibitions to help deter fraudulent conduct.

- **Discourage enacting legislative preferences for specific business interests.** AGA vigorously opposes efforts to use federal or state legislation to establish commercial terms that are routinely left to private business contracts. The casino gaming industry and sports leagues share many goals: we are

both committed to eliminating the thriving illegal sports betting market, protecting the integrity of both sports betting and sporting competitions and protecting consumers. AGA is confident these goals can and will be achieved through collaboration driven by mutual interest and cemented with commercial agreements. Using the power of government to impose costs, eliminate operators' market-based choices or make it harder for consumers to bet will directly undermine the goals we all share.

For example, there is neither a need nor a legal precedent to mandate sports book operators purchase "official data" directly from leagues. A healthy market of accurate, consistent sports betting data providers already exists, and sportsbooks already avail themselves of such services in the commercial market. Mandating every sportsbook contract with only one official data company will allow individual, preferred data providers to set inflated, non-competitive monopoly prices for their services. Furthermore, treating data or facts as if they are a property right is without precedent. The Judiciary Committee has jurisdiction of intellectual property matters and understands that facts, such as the score of a baseball or football game, are not subject to copyright. This proposal is a backdoor attempt to treat such facts as a property right which would give the leagues a monopoly over that which today one finds in the sports page of every newspaper.

Real-time information is crucial for sportsbooks to set accurate odds and compete in a crowded marketplace. If information is delayed or flawed, even by a few seconds, it can put sportsbooks at a severe disadvantage. As such, sportsbooks will seek out the services that are the best for them.

Additionally, a few major sport leagues have proposed they be able to restrict, at their sole discretion, the types of bets allowed on their games. This suggestion was made based on the leagues' concerns that certain types of bets could be more susceptible to manipulation in the betting market. While sports book operators are aligned on the underlying goal of preventing market manipulation – which could severely impact both their business reputations and bottom lines – we see this proposal as counterproductive and unnecessary. Sports book operators already have significant economic incentive to avoid offering bets that pose a significant risk. Moreover, attempts to restrict bets that have broad customer demand would further empower illegal operators that don't abide by the same set of rules.

As the only state with a long enough history to be used as a case study, Nevada has gotten this right. Sports leagues have the ability to ask the Nevada Gaming Commission to restrict wagering on games involving that league's Nevada-based teams, or on league's contests which take place in Nevada. Even then, there is no unilateral ability for any league to call the shots when it comes to what bets sportsbooks can offer. In the past decade, the leagues have not once availed themselves of this option.

- **Empower state and tribal regulation.** Some form of regulated gaming and/or lottery now exists in 48 states. The gaming industry is already one of the most regulated in the country, and state and tribal regulators have decades of experience effectively overseeing gaming operations within their jurisdictions. The 24 states that offer commercial casino gaming have proven to be effective regulators of gaming, with more than $600 million committed to ensuring the integrity of casinos' operations in 2015 alone. Similarly, in the 28 states that offer tribal casino gaming, the 251 tribal governments spent almost $822 million on the overall regulation of tribal gaming in 2015.

  The regulations currently in place in every jurisdiction already address issues like age restrictions, record keeping requirements and licensing and suitability determinations, among others. On top of that, the gaming industry is subject to stringent federal anti-money laundering regulations and has a

strong record of compliance in that area.[2] Tribal governments are also subject to the National Indian Gaming Commission's regulatory oversight, which also has a positive history of compliance. AGA believes any entity offering sports betting should be subjected to the same level of rigorous licensing programs and regulatory oversight with which current commercial and tribal casino operators must comply.

- **Place consumers first**. AGA encourages all stakeholders to understand the intricacies of the illegal marketplace and why consumers turn to it. AGA is a leading advocate for strong consumer protections – which the illegal market fails to offer – and consumer-centric conveniences that are proven to work. While the stated intent of prohibiting legal sports betting throughout most of the nation was to preserve sports integrity, PASPA had the opposite effect by creating an enormous and largely unobserved black market. As states put policies in place to successfully regulate sports betting in a way that offers consumers the products they desire and the payout rates they are used to, much of the new economic benefits will come from current bettors migrating from the illegal market to newly available legal options. A recent study by Nielsen Sports, commissioned by the AGA, indicates more than 70 percent of those who place bets with illegal bookies would move to a legal platform.

Conclusion

The reality is that sports betting has been occurring nationally on a massive scale in this country for decades in an illegal market that provides zero protections for consumers or sports integrity. The result of bringing betting activity into a legal market, under state and tribal regulatory oversight, will be increased transparency, game integrity and consumer protections, while supporting jobs and generating tax revenues.

In order to shut down illegal betting, we must set a sound policy foundation for a legal sports betting market. Imposing costs, eliminating operators' market-based choices or making it harder for consumers to bet will directly undermine the goals we all share.

We must instead draw upon effective regulatory models, work with our dedicated public safety officials who fight illegal sports betting and promote sound policy to drive safe and effective solutions for consumers.

States and tribes have proven to be effective gaming regulators in the 26 years since Congress enacted PASPA. As Congress has refrained from regulating lotteries, slot machines, table games and other gambling products, it should similarly refrain from engaging on sports wagering barring an identifiable problem that warrants federal attention.

AGA is unwavering in our commitment to continuing a constructive dialogue on sports betting with all stakeholders. We stand ready to work with you and serve as a resource for anyone considering statutory or regulatory policies to govern sports betting.

[2]Casinos a Bright Spot in Key Report Grading U.S. Anti-Money Laundering Measures, American Gaming Association, December 2016, https://www.americangaming.org/newsroom/press-releasess/casinos-bright-spot-key-report-grading-us-anti-money-laundering-measures.