

Internet/wire communications used for gambling

Number: INFORMAL

Date: November 03, 1999

The Honorable Steven A. Geller
Senator, District 29
400 South Federal Highway
Suite 204
Hallandale, Florida 33009

RE: GAMBLING--WIRE COMMUNICATIONS--use of Internet or wire communications to conduct gambling. Ch. 849, Fla. Stat.

Dear Representative Geller:

Thank you for forwarding a copy of a Legal Memorandum you received from the National Thoroughbred Racing Association (NTRA) regarding use of the Internet and wire communications media to conduct gambling. The memorandum concludes that it is legal for a gambling facility, located in a state that has authorized gambling, to conduct gambling with persons who are located in states other than where the gambling facility is located by means of the Internet and wire communications media. This office strongly disagrees with this conclusion and continues to be of the opinion that Florida law, as well as the Federal Wire Communications Act, prohibit such conduct. Further, recent legal developments suggest that more state courts and legislatures share this view.

As discussed in detail in Attorney General's Opinion 95-70, federal law currently prohibits an individual engaged in the business of betting or wagering from using wire communications for the transmission of information that assists in the placing of bets or wagers, while Florida law prohibits an individual within this state from placing a bet or wager. I am enclosing a copy of the 1995 opinion for your convenience.

I would also bring to your attention a recent New York case in which a judge of the State Supreme Court in Manhattan concluded that the Web site of an Internet gambling company created a "virtual casino within the user's computer terminal" in New York State even though the company's computers were based outside the country. The judge in this case held that the New York Attorney General had the right to freeze the assets of the corporation and issued an injunction to halt any further activity by the company. I am including a copy of the decision in this case for your review.

Finally, I would note that federal legislation is currently pending which will make it clear that the federal Wire Act's provisions apply to Internet gambling.

I trust that this information will be useful to you.

Sincerely,

Joslyn Wilson
Director of Opinions Division

JW/tgh

Enclosure