



# State of South Carolina

## Office of the Governor

NIKKI R. HALEY  
GOVERNOR

1205 PENDLETON STREET  
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March 24, 2014

The Honorable Patrick Leahy  
Chairman, Committee on the Judiciary  
United States Senate  
437 Russell Senate Office Building  
Washington, D.C. 20510

The Honorable Bob Goodlatte  
Chairman, Committee on the Judiciary  
United States House of Representatives  
2309 Rayburn House Office Building  
Washington, D.C. 20515

The Honorable Chuck Grassley  
Ranking Member, Committee on the Judiciary  
United States Senate  
135 Hart Senate Office Building  
Washington, D.C. 20510

The Honorable John Conyers, Jr.  
Ranking Member, Committee on the Judiciary  
United States House of Representatives  
2426 Rayburn House Office Building  
Washington, D.C. 20515

Dear Chairman Leahy, Chairman Goodlatte, Senator Grassley, and Congressman Conyers,

I write you to express my concern at the U.S. Department of Justice's (DOJ) abrupt reversal of its long-standing interpretation of the Wire Act, 18 U.S.C. § 1084, as that statute applies to Internet gambling.

The regulation of gambling, subject to broad federal limitations (such as the Wire Act) and requirements (such as those found in UIGEA) has properly been the domain of the states – and should remain so. But, when gambling occurs in the virtual world, the ability of states to determine whether the activity should be available to its citizens and under what conditions – and to control the activity accordingly – is left subject to the vagaries of the technological marketplace. This seriously compromises the ability of states to control gambling within its borders.

For decades, the United States government consistently deemed the Wire Act to prohibit all forms of Internet gambling. However, on December 23, 2011, with Congress out of session, the DOJ, acting on an opinion provided by its Office of Legal Counsel (OLC) and without input from Congress, state and local officials, or the public, abruptly overturned years of precedence.<sup>1</sup> This reversal directly conflicted with the longstanding position of DOJ itself *and* with a 2010 opinion of the DOJ Criminal

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<sup>1</sup> See Memorandum for Lanny A. Breuer, Assistant Attorney General, Criminal Division, from Virginia A. Seitz, Assistant Attorney General, Office of Legal Counsel (September 20, 2011).

Division.<sup>2</sup> OLC stated that only online *sports* betting is barred by the Wire Act and that the Act does not apply to online state lottery sales. I believe the reasoning behind this alarming reversal by the DOJ is flawed and that Congressional action is necessary to resolve this issue. Additionally, I believe DOJ did not adequately account for all of the policy concerns surrounding the expansion of gaming to the Internet. I think these policy concerns are for the U.S. Congress and other law enforcement interests to study and analyze before Internet gaming is unleashed on the states.

Allowing Internet gaming to invade the homes of every American family, and to be piped into our dens, living rooms, workplaces, and even our kids' bedrooms and dorm rooms, is a major decision. We must carefully examine the short and long-term social and economic consequences before Internet gambling spreads.

The law enforcement community has identified the risks associated with Internet gambling, although more investigation is needed. The Federal Bureau of Investigation in 2009 warned that Internet gambling could be used by criminal elements for money laundering and fraud. The agency questioned whether the technology existed to guarantee that children and people with gambling problems are kept off, countering claims that such technology was available. In the same letter, it also rattled off a litany of potential abuses, including money laundering.

Congress needs to step in now and call a "time-out" by restoring the decades-long interpretation of the Wire Act.

Congress, the states, law enforcement, and the public need – and deserve – an opportunity to fully review, assess, understand, and debate the significant policy implications entailed in the spread of Internet gambling before it becomes pervasive in our society. I appreciate your consideration, and I look forward to working with you on developing a sensible policy that protects Americans and preserves the traditional role of the states in controlling gambling within their borders. God bless.

My very best,



Nikki R. Haley

NRH/jdb

cc: The Honorable Harry Reid, Majority Leader, United States Senate  
The Honorable Mitch McConnell, Minority Leader, United States Senate  
The Honorable John Boehner, Speaker, United States House of Representatives  
The Honorable Nancy Pelosi, Minority Leader, United States House of Representatives  
South Carolina Congressional Delegation

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<sup>2</sup> See Memorandum for David Barron, Acting Assistant Attorney General, Office of Legal Counsel, from Lanny A. Breuer, Assistant Attorney General, Criminal Division (July 12, 2010) ("USDOJ 2010 Memo").