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Sally P. Elloyan, Executive Secretary  
Nevada Gaming Commission  
1919 College Parkway  
Per email: selloyan@gcb.nv.gov

Munich, 11.04.2013

## Submission to Notice # 2013-20, Request for Comments on Online Gaming

Dear Mrs. Elloyan,

On behalf of Academicon I would like to comment on the five questions you posed in regard to Nevada's online poker regulation.

Academicon is a Law & Economics Consultancy based in Munich, Germany. We conduct market research on online poker and consult regulators on online gambling. We do not have any stake in the gaming industry and our recommendations are thus not biased by financial motives. This does also mean, however, that we have no inherent interest in providing free advice in full detail. Still, I would like to briefly comment on the issues you raised, mostly in regards to online poker:

Ad 1: *What topics should the Board and Commission consider putting in regulation relating to an interstate agreement on interactive gaming?*

The most important issue to consider is **taxes**. A sensible regulation raises taxes based on the players' location. When considering the tax rate for online poker it should be kept in mind, that gross gaming revenue is very sensitive to taxes due to strong network effects in the poker market.

The second most important issue is **player protection**. Online gambling comes with the risk of fraud and addiction of its consumers. While fraud can be abolished relatively easy by giving licenses only to trustworthy operators, the problem of compulsive gambling is harder to tackle. A sensible solution is to protect at risk gamblers via a self-commitment system which does not constrain recreational players. The most important parameter is that it is an opt-out system, since opt-in systems have a rather weak or no protective effect at all.

Another important issue is the availability of **payment options**. On the one hand there is a clear consumer benefit of allowing a variety of payment options to deposit funds. However, this may also lead to social costs, for example, in form of higher effort to monitor cash flows and prevent money laundering. Each additional payment option can also add to the risk of fraud. A third problem can arise when problem gamblers are allowed to use credit cards and gamble on money they do not have. Choosing reliable and well-proven payment options and providers can reduce the risks while still granting enough choices for recreational gamblers.

Ad 2: *Should revenue sharing between signatory states to a compact be based on the location of where the wager originated? Why or why not? Please be specific and cite any relevant legal support.*

From an economic point of view the answer is clear and straightforward: The revenue share should be based on the location of the wager. The reason is that there is otherwise no incentive for a state to take part in an inter-state online gaming regulation without hosting the operators.

Ad 3: *Should revenue sharing between signatory states to a compact be based on the location of the licensed interactive host? Why or why not? Please be specific and cite any relevant legal support.*

A reasonable return that offsets the costs of licensing and regulating the interactive host is appropriate, as states would otherwise have an incentive to free-ride on the regulatory efforts of other states.

Ad 4: *Should the regulatory body of the signatory state where the wager originated have control over player disputes related to said players? Why or why not? Please be specific and cite any relevant legal support.*

Any player dispute with an operator should be settled by the regulatory body of the licensing state. Otherwise it is quite likely that legal uncertainty arises that deters consumers. The additional bureaucratic costs of the signatory states should be compensated by a small fee from the signatory states. However, it might be that there is legal reason to follow a different approach. Academicon does not have legal expertise in US-law.

Ad 5: *Please provide any other information not requested above that is relevant to regulations for interstate agreements on interactive gaming.*

It should be noted that the gross gaming revenue of online poker is heavily dependent on the size of the player pool, because network effects play a large role in online poker. Market data from the stable pre-Black Friday/post-UIGEA contained in the Online Poker Database of the University of Hamburg (OPD-UHH) indicate a total **US-market size of \$981 million for 2010** with 3.86% (\$37.58 million) coming from Nevada.<sup>1</sup> In a regulated market these figures will be considerably lower if the player pools of each state are fenced.

Academicon forecasts the market size of regulated US online poker per state in scenarios with intra-state, inter-state and international player pools. These **market reports will be released by the end of May** and provide deep insight into how the scope of regulation drives the market size of online poker.

With kind regards



Dr. Ingo Fiedler

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<sup>1</sup> See the peer reviewed academic paper by Kahlil Philander, Ingo Fiedler, 2012, Online Poker in North America: Empirical Evidence on its complementary effect on the offline gambling market, Gaming Law Review and Economics, 16, 415-423.