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State Legislative Update on U.S. Sports Betting & Online Gaming – October 2020

In partnership with Truist Securities, Global Market Advisors publishes a monthly legislative update on sports betting and online gaming throughout the United States. This provides insights and commentary on several key aspects of the market and the surrounding political narrative effecting the legalization of sports betting, gaming, and other issues. A link to the full Truist Securities report can found [here](#).

Let's Make A Deal

September became the crossroads never seen before in sports. Between the NBA and the NHL that were in their playoffs, the start of a limited college football season, MLB rounding out its abbreviated regular season, the start of the NFL, along with NASCAR, the U.S. Open in both golf and tennis, and the Kentucky Derby, it was quite an opportunity for sports bettors and operators. Numerous states continue to see record setting levels of revenue. Due in part to the unbalanced schedule as well as the continued increase in those states that now have active sports betting, record volumes overall are being wagered legally in the U.S. since the repeal of PASPA (Professional and Amateur Sports Protection Act).

The past month also saw significant agreements and deals between operators, media companies, and teams. The two biggest deals of the month involved NBC Universal and ESPN. In a blockbuster \$500 million deal between NBC Universal and PointsBet, the two companies are moving down the field with sports betting that will become part of the viewing experience. Meanwhile, ESPN confirmed its sports betting partner in Caesars Entertainment and William Hill. DraftKings continues on as its fantasy sports partner. The Caesars Entertainment-William Hill partnership brings further light to the recently announced acquisition by Caesars of William Hill that is schedule be completed pending regulatory approval in the second half of 2021.

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The deals keep flowing with team sponsorships across a diverse field of operators. PointsBet launched the first college sponsorship deal with the University of Colorado Buffalos. This is in addition to sponsorships with the Chicago Bears. DraftKings announced partnerships with the Chicago Cubs, the Colorado Rockies, the Philadelphia Eagles, and the New York Giants. DraftKings also has a new strategic advisor: Michael Jordan. BetMGM has announced partnerships with the Las Vegas Raiders, the Detroit Lions, and the Tennessee Titans. BetMGM also launched a new media campaign with Jamie Foxx.

While the market is still in its infancy, so are the deals that are going to be made as the market expands. The money play for teams, leagues, and media companies continues to be through sponsorships and fan engagement. While some leagues are still pushing to take a cut by mandating data feeds or even the old 'integrity' fee, the money will not be found in a cut to these entities. The money is far greater in further fan engagement and sponsorship guarantees. No contract should be mandated through legislation between two private entities, and there is no other example of a private entity ever receiving a portion of a government tax. This was tried last in Massachusetts' draft legislation and likely will not be the last, but time continues to show where the real money is, and the leagues need to quit picking up pennies while they step over dollars.

The same can be said for legislation that automatically provides sports book licenses to teams. While stadiums and arenas can prove to be solid land-based locations, even when mobile wagering is allowed, no one should be guaranteed a license unless they seek to pass suitability. If it applies to gaming operators that must complete it in every jurisdiction, it should apply just the same for venues, teams, and owners. No one is guaranteed a gaming license in any jurisdiction, and sports betting should be considered as it is an expansion of gaming.

U.S. Sports Betting Comparable Summary								
State	Timeframe	Sports Betting			Taxes	Total Gaming	Sports Betting	Sports Betting
		Handle (\$MM)	Revenue (\$MM)	Hold %	Collected (\$MM)	Revenue (\$MM)	% of Total Gaming	
Nevada (1)	TTM August'20	\$ 3,969.1	\$ 252.4	6.4%	\$ 17.0	\$ 8,849.6	2.8%	\$108.70
Delaware	TTM August'20	\$ 65.3	\$ 10.6	16.2%	\$ 6.1	\$ 319.8	3.2%	\$14.13
New Jersey	TTM August'20	\$ 3,923.3	\$ 324.9	8.3%	\$ 40.5	\$ 1,701.3	16.0%	\$47.90
Mississippi	TTM August'20	\$ 332.0	\$ 37.7	11.4%	\$ 4.5	\$ 1,761.3	2.1%	\$17.47
West Virginia	TTM August'20	\$ 174.6	\$ 14.0	8.0%	\$ 1.4	\$ 434.8	3.1%	\$10.23
Pennsylvania	TTM August'20	\$ 2,646.5	\$ 131.2	5.0%	\$ 47.2	\$ 2,639.4	4.7%	\$13.55
Rhode Island	TTM August'20	\$ 211.7	\$ 18.8	8.9%	\$ 9.6	\$ 397.5	4.5%	\$25.39
Iowa	TTM August'20	\$ 432.6	\$ 28.7	6.6%	\$ 2.0	\$ 1,149.6	2.4%	\$12.47
Indiana (2)	TTM August'20	\$ 1,166.9	\$ 86.4	7.4%	\$ 8.2	\$ 1,438.4	5.7%	\$21.22
Michigan (3)	Since Launch (Mar'20)	\$ 16.3	\$ 2.1	12.7%	\$ 0.17	\$ 126.9	1.6%	\$0.55
Colorado	Since Launch (May'20)	\$ 251.6	\$ 18.8	7.5%	\$ 0.6	\$ 156.6	10.7%	\$12.88
Average Without Nevada				7.3%			6.6%	\$18.04

Source: Global Market Advisors
 (1) April 2020 revenue data redacted by the State; (2) Indiana revenues are exclusive of tribal gaming; (3) Detroit casinos only - excludes tribal gaming



iGaming is having the same record success as sports betting. New Jersey and Pennsylvania are leading the way as they continue to set records and add to their overall gaming revenue. Even Delaware saw record revenues this past month. Online gaming has definitely been one of the positive outcomes associated because of SARS-CoV-2 and allowed this expansion of gaming to thrive under the current drains that brick-and-mortar facilities have faced. While gaming continues to rebound in various ways across the country, online can provide a strong conduit for additional revenue.

Pennsylvania Online Gaming Summary - TTM August'20	
Caesars	\$ 3,479,677
Mohegan	\$ 15,464,285
Mount Airy	\$ 63,883,573
Parx	\$ 43,680,494
Penn National	\$ 60,176,090
Presque Isle	\$ 1,712,974
Rivers Philadelphia	\$ 103,688,258
Valley Forge	\$ 53,971,062
Wind Creek	\$ 248,063
Live! Philadelphia	\$ 25,091
TOTAL	\$ 346,056,414

Source: PGBC, GMA

New Jersey Online Gaming Revenues			
	TTM August'20	TTM August'19	% Change
Borgata	\$ 147,413,702	\$ 64,368,285	129.0%
Caesars	\$ 78,529,220	\$ 54,492,468	44.1%
Golden Nugget	\$ 279,762,421	\$ 146,868,533	90.5%
Tropicana	\$ 59,625,603	\$ 43,536,481	37.0%
Resorts	\$ 166,991,023	\$ 72,774,430	129.5%
Hard Rock	\$ 43,979,395	\$ 18,757,707	134.5%
Ocean Resort	\$ 8,492,407	\$ 5,537,407	53.4%
TOTAL	\$ 784,793,771	\$ 406,335,311	93.1%

Source: NJDGE, GMA

Delaware Online Gaming Revenues			
	TTM August'20	TTM August'19	% Change
Delaware Park	\$ 3,030,834	\$ 1,383,058	119.1%
Dover Downs	\$ 2,747,824	\$ 1,234,152	122.6%
Harrington	\$ 1,767,338	\$ 662,763	166.7%
TOTAL	\$ 7,545,996	\$ 3,279,973	130.1%

Source: Delaware Lottery, GMA

SPARE A DIME?

One of the main benefits of a legal, regulated market is that all parties adhere to the same regulatory environment, and states are able to reap the benefits of tax revenue. One of the biggest challenges to any legal market is trying to compete with and/or curtail the illegal market, one that continues to thrive offshore and through local bookies. However, the tide continues to turn as states legalize sports betting to reap the benefits, and one illegal operator has even decided to take the higher road.

An offshore booked based in Costa Rica, 5Dimes, decided to go straight into the United States and close up shop to U.S. bettors. At the end of September, they were no longer allowing cash



withdrawals and had cut a deal with the U.S. Department of Justice in a settlement of \$46.8 million between more than \$30 million in assets that were seized and another \$15 million in fines. This is the first of its kind to undertake this action, and the question becomes whether the DOJ will go after more entities as it should have over the past several years, or if it will use its current resources just to keep things as they have been for years.

5Dimes indicates that it is going to proceed in trying to obtain a license in New Jersey. While New Jersey continues to signal that it has no appetite for black market operators, it may be faced with the challenge of at least hearing what they have to say, should 5Dimes move forward accordingly. Should they seek a license, there will likely be no jurisdiction that will look under the hood of the entire operation, as they have done before with groups like PokerStars and the elimination of any bad actors that may still be part of their operations. While that is an example of one that took years to walk through, New Jersey has shown questions for bad actors before as it did with MGM in the mid-2000s when it rejected Pansy Ho as a suitable partner for MGM Resorts. Nevada has traditionally had problems with this, including groups such as DraftKings that was told in 2015 that fantasy sports was considered gaming and that they would need to be licensed as such. There is no doubt that with the repeal of PASPA, DraftKings will come to Nevada against at some point in time.

RESPONSIBLE OPERATORS

Responsible gaming, one of the continually evolving legislative and regulatory initiatives, made headlines in both directions recently. As sports betting has expanded the gaming universe in the United States, the responsible gaming issue has finally been included in the discussion with measures established, plan requirements for operators, and funding sources for services, support, and research. Responsible Gaming Education Week (RGEW) occurred in September and provided operators with the ability showcase some of their protections in place, or their latest innovations for consumers that may develop a problem with any form of gaming, including sports betting.

The two most focused announcements of RGEW included the self-exclusion option that is now built in to the GeoComply application, in a similar fashion to the existing GameSecure product. The other is with the American Gaming Association's new effort focused on responsible marketing in sports betting and the Code Compliance Review Board that is designed to set the standard in advertising. They will have their work cut out for them, as operators and news outlets across the board have been in the news for some of their less than stellar advertisements that have either insinuated poor behavior in gaming or targeted youth in their activities. As with any new emerging industry, there will be bumps along the way, but this is where good legislation



allows operators to adhere to the plans they submit, along with research and support for those that may develop a problem with gaming.

MARCHING FORWARD

Four jurisdictions continue to make significant progress in the development of their sports betting and iGaming markets, while one is still trying to get out of the gate (still). These include Virginia, Puerto Rico, and Tennessee for sports betting, with Michigan moving forward as the next iGaming state.

VIRGINIA

Virginia is still in its infancy as it starts moving forward with one of the single largest gaming expansions. The sports betting regulatory process has finished phase one and is only just being recorded officially. Virginia took a thoughtful approach of listening to operators in the crafting of their regulations and their sports bettors 'bill of rights'. While there is still room for improvement, the opportunity to listen was actually achieved for the most part. The next phase begins later this month when operators will have a chance to submit their applications for licensure in the Commonwealth. Not all will be determined initially, as the Commonwealth has four of the five potential casino gaming jurisdictions have voter approval on the ballot this November, this will be a sort of jockeying for market access for those that do not have a land-based partner. What still is concerning in Virginia is the naiveté of some members of the Lottery Board that, when approving the regulations, clearly did not understand fully what they were approving. The staff, however, is the key in moving this market forward. They not only have a good basis to start, but also acknowledge that they will need to go back to the General Assembly to make some changes in the enabling legislation.

PUERTO RICO

It has now been a year since the Commonwealth passed sports betting, and it just closed out the regulatory comment period on sports betting, fantasy sports, and esports. While most of the comments raised during the public hearing were on esports, there are significant challenges to making the initial draft regulations plausible to have a strong market. The drafters clearly do not understand how the operation of sports betting works, and this leaves open the opportunity for potential bad actors with licensees or other activities by not relying solely on the standard that has been set with the legal gaming operators that already exist in the market. This should be the minimum standard for any operator with existing regulatory action.

TENNESSEE

Tennessee is aiming for a November to remember, as it looks to launch sports betting in the first mobile-only state. The state has conditionally licensed three operators (BetMGM, FanDuel, and



DraftKings) after a lengthy hearing that showcased the new well-versed sports betting executive who is set on trying to overcome the challenges that plagued the initial steps of the market. While there are a few steps to move forward still, all sights appear to be moving forward to the November launch. The market may have other potential operators, but those will be having a hard time catching up with the first three market entrants. What is apparent in this state is that they will have to go through not only the regulatory hurdles, but also the financial scrutiny to support their efforts.

MICHIGAN

Michigan's comment period on iGaming regulations has ended, and the state is now set for a likely launch in late November. While initially hopeful that the market would launch earlier, operators of interest provided several comments to make the market more robust. Michigan initially passed sports betting and iGaming in December but has been slow to deliver, due in part to the Governor who was also the roadblock to the initial legislation passing even before then. Look for this market to grow significantly as has been seen with Pennsylvania and the market leaders in New Jersey. It will be competing with the iLottery product that is already in the state but will be more robust and further add to the gaming revenue generated in the state.

MARCHING BACKWARDS?

New York continues to be the conundrum of states that cannot seem to get out of its own way. The casinos under Governor Cuomo just recently reopened in September after being shuttered since March. Many are pointing to how quickly New York is sure to move, but there are a few critical considerations:

- The Governor virtually ignored the pleas of existing gaming operators to reopen as they were continually deemed not essential.
- Had New York moved initially on a ballot initiative when PASPA was repealed (as it should have), New York would likely be ready to launch or would have launched mobile sports betting by now.
- The statewide study is now over 120 days past due, under the guise of SARS-CoV-2, that was to look at a spectrum of topics including the existing market, downstate brick-and-mortar casinos, sports betting, and other gaming options in the immediate and regional market.

Until the Governor moves, it's all rumors in this state, and neighbors like New Jersey, Pennsylvania, and Connecticut will continue to flourish.



added under SARS-CoV-2, and the issue was thrown to the Gaming Control Board to implement in a 30-day timeline. Luckily, the state had a rock-star regulatory staff that was able to put together the regulations to meet the legislative deadline.

SOUTH DAKOTA

South Dakota's ballot measure may be the closest of the three this cycle. The measure, which is backed by the Deadwood Gaming Association, was able to get through the legislature this year to allow the voters to have their voices heard. Because of the late start under SARS-CoV-2 and an industry that has been hammered for being shut down, the proponents face a slow and delayed start to their education campaign. While garnering support from key associations across the state, this looks to be a close race, as was seen in Colorado last year where it could have gone either way. With several weeks to go, this is still a toss-up, although in normal times it would more likely pass, but we are not operating in a normal world.

MARYLAND

Maryland's ballot initiative was passed at the eleventh hour of the legislature and was basically stripped of any details, turning it effectively into an advisory question on the ballot, i.e., 'do you want sports betting'. Maryland is now surrounded by active sports betting jurisdictions, and this was one of the reasons the legislature felt it had to get on the ballot since that is the only way the expansion could take place. While the language is poor, the measure will likely pass as DraftKings and FanDuel have come in to support the effort in Maryland. The challenge that voters will have is that it does not spell out enough and leaves much of the issue up to the legislature. GMA believes that this will pass, but as stated earlier, it is flawed from a policy perspective on what led to this moment and how to best move forward.

ONE MORE CHANCE

While there are other states that have ballot measures related to other gaming related options, the only other that has a potential impact on sports betting and iGaming is in Nebraska. A group called Keep the Money in Nebraska that is supported by the Horseman and the Tribes survived a challenge over their three ballot initiatives that would allow "all games of chance." The hook is to generate property tax relief, but it would amount to maybe the amount it would cost to order pizza for a family. The proposal is well short on other initiatives in the past that would have generated far greater revenue, which brings into question some of the problems with the effort. The one constitutional amendment and two statutory initiatives would require all three to pass in order for the full complement of legislation to be enacted, Nebraska has single subject for ballot measures so this is the reason for the three initiatives. Because of the ballot challenge, the pro-group started late, whereas it appears as though the anti-group is ready to go this time and has started to run its opposition effort.



Gaming has been on the ballot many times in Nebraska since 2004, but it has failed each and every time. This year's effort is by far less than perfect in how it is structured the gaming enterprise. For gaming to be done correctly, the Legislature needs to craft the proposal and the enabling legislation. It did the first portion in 2004 but did not provide the details which led to part of its demise on the ballot. While this has the prospects of being a close race, GMA believes that it will ultimately fail for a host of reasons. Nebraska does have gambling and will not reap the benefits until elected officials can craft a better proposal to bring to voters.

POST-ELECTION MADNESS

The Election Season has been as crazy as 2020 itself, and the surprises are likely far from over. The jockeying begins in every statehouse as to how things will proceed into 2021. Since it will be an odd year (numerically, not in '2020' terms), every legislative body will meet, including the likes of Texas which has been holding behind-the-scenes conversations on sports betting and other potential forms of gaming. While it is known that there will be multiple states that will likely discuss sports betting and online gaming, GMA will be making its predictions on where things will be headed in its December narrative.

Two states currently still have a chance to pass sports betting this year. This includes Ohio and Massachusetts, with Ohio being the most likely to see action this year. While there are some who believe the great compromise has been reached in Ohio, there is still a significant amount of details to be discussed between all legislative stakeholders. The idea that of announcing deal terms and hoping they turn into the final package is dangerous and shows the lack of experience that some "news" outlets have in covering legislative developments. Ohio is closer to a deal, but in terms of a football field, it is on its own 35-yard line.

Massachusetts continues its thoughtful approach to gaming and has cooled the tempers of getting sports betting across the finish line before the upcoming election. This does not mean that it will not occur before the end of the year, but it is not on the fast track as it appeared at the end of the regular session. It, like other states, has run into a host of challenges and an upcoming election, which can typically put a pause on any major legislative activity. This happens at the state level as everyone continues to watch at the federal level. While GMA does not other states that may move before the end of the year, these two have the strongest possibility.



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CONTACT INFORMATION

Brendan D. Bussmann
Partner, Director of Government Affairs
bdb@globalmarketadvisors.com

Jack Gallaway
Associate
jrg@globalmarketadvisors.com

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