

January 12, 2016

Attorney General Maura Healey  
Office of the Attorney General  
c/o DFS Regulations  
One Ashburton Place  
Boston, MA 02108

Dear Attorney General Healey:

On behalf of Stop Predatory Gambling (SPG), I am writing in regard to your office's initiative to legalize internet gambling in Massachusetts.

SPG's mission is to build a more humane and just society by ending government's practice of using gambling to defraud and exploit citizens, whether in the form of lotteries, regional casinos or online gambling.

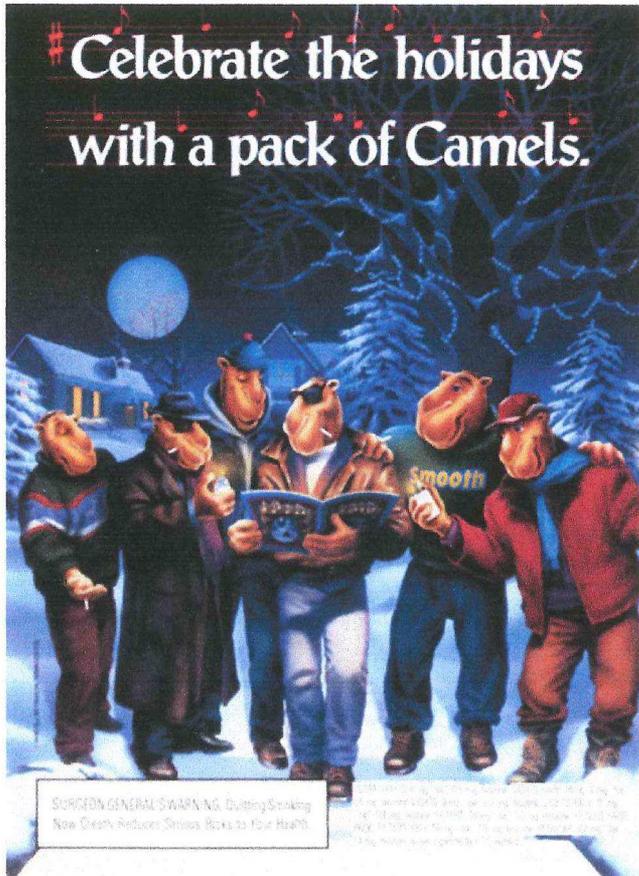
The proposed regulations you are considering represent the biggest expansion of gambling in Massachusetts history, forcing online gambling into every bedroom, living room and smart phone in the state.

This is unjust because a fundamental and irreconcilable conflict exists between the interests of government-regulated gambling and the public good: the state is charged with protecting the public from the very business practices that generate more revenue for the state.

Such an entrenched conflict has allowed unfair and exploitative practices to be endemic to government-regulated gambling. It also explains why no research exists pointing to a single U.S. jurisdiction where commercial gambling regulation has successfully protected its citizens from being damaged financially, or from falling victim to gambling addiction, or both.

Throughout its recent history, the almost singular focus of government-regulated gambling in Massachusetts has been on driving maximum sales and profits. No facts have been presented that would suggest government will promote internet gambling in a different manner than its track record with lotteries and regional casinos demonstrates.

What “Government-Regulated” Gambling Looks Like Today in Massachusetts



In an effort to greatly increase their market share of young smokers, R.J. Reynolds initiated the now infamous Joe Camel campaign for the Camel brand in 1988. The campaign faced almost immediate criticism for influencing children to smoke.



A 2015 Mass Lottery scratch ticket marketing the image of “Frosty the Snowman,” an iconic character for most children.

“Bumhunting”

For a comprehensive analysis about why online fantasy sports gambling should not be regulated by state government, please download our November 2015 report from our website.

For the purpose of this testimony, I want to place specific attention on a recently published *New York Times Magazine* article “How the Daily Fantasy Sports Industry Turns Fans Into Suckers.” (January 6<sup>th</sup>) The story highlighted several little discussed facts about this form of online gambling and revealed why it is inevitable that any effort to regulate online fantasy sports gambling will fail.

*The Times* story colorfully describes one of the predatory practices ingrained in the DNA of online fantasy sports gambling, “bumhunting,” a practice that appears no government regulation can address:

**“Bumhunting” is a word that comes from the poker world. It means seeking out an inexperienced player and mercilessly exploiting him for all he’s worth.** Bumhunters are pariahs because they turn what can be a cerebral, competitive game into its most cynical iteration, and, in the process, discourage that new player from ever coming back. But poker has built-in safeguards against rampant bumhunting – new players tend to play at lower limits, which make it harder for bumhunters to take in huge profits. The bumhunter’s dream is to play thousands of games of poker a day against a never-ending line of fresh, inexperienced newbies. He falls short of that lofty goal because he has to actually bet, raise or fold his hands – he can play multiple tables at once, but he cannot fully automate his bumhunting.

In the game lobbies of DraftKings and FanDuel, however, sharks are free to flood the marketplace with thousands of entries every day, luring inexperienced, bad players into games in which they are at a sizable disadvantage. The imbalanced winnings in D.F.S. have been an open secret since this past September, when Bloomberg Businessweek published an exposé on the habits of high-volume players. The numbers are damning. According to DraftKings data obtained by the New York State attorney general’s office, between 2013 and 2014, 89.3 percent of players had a negative return on investment. A recent McKinsey study showed that in the first half of the 2015 Major League Baseball season, 91 percent of the prize money was won by a mere 1.3 percent of the players.

**While it’s true that some of the skill required to win in DraftKings and FanDuel lies in statistical modeling, general sports knowledge and due diligence, it’s also true that it’s nearly impossible to make a net positive return on investment without bumhunting. You have to win roughly 53 percent of your bets to beat the “rake,” another poker term for the roughly 10 percent service fee DraftKings and FanDuel take out of each wager. The most efficient way to hit that number is to play as many bad opponents as possible.”<sup>1</sup>**

But why don’t DFS operators simply end the practice of scripts? According to *The Times*:

“DraftKings and FanDuel enacted rules that in the end are likely to protect the high-volume players rather than regulate them. In any case, a stricter ban on computer scripting would have been functionally impossible – because, as a representative of FanDuel told me, D.F.S. companies cannot reliably detect it on their sites.”<sup>2</sup>

*They cannot reliably detect scripts on their sites.* If they can't detect scripts, then one of the biggest purported consumer protections of these proposed regulations is worthless right out of the gate.

The fact that regulations such as these are even being proposed by your office, instead of taking decisive action to shut down these white collar offenders of the state's gambling laws, gives an appearance of the same kind of two-tiered justice we have seen at the federal level toward the well-heeled.

You and your team are better than the approach you have taken on this issue. As more facts come in, I hope you will revisit your strategy.

Sincerely,

A handwritten signature in blue ink that reads "Jose Bernal". The signature is written in a cursive, flowing style.

National Director  
Stop Predatory Gambling

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<sup>1</sup> "How the Daily Fantasy Sports Industry Turns Fans Into Suckers," *The New York Times*, January 6, 2016  
<http://www.nytimes.com/2016/01/06/magazine/how-the-daily-fantasy-sports-industry-turns-fans-into-suckers.html? r=3>

<sup>2</sup> Ibid.