

JEFF IFRAH: WE'RE STILL WRITING THE U.S. GAMBLING STORY

IN AN INTERVIEW WITH SBC LEADERS, the Founding Member and Managing Partner of Ifrah Law reflects on his career as a renowned litigation attorney before offering his take on what we can expect from the US gaming industry in years to come

BY ERIN GALLAGHER

SBC: Firstly, can you tell us a little bit about your background? How did you become interested in the gaming sector?

JJ: I was a federal prosecutor in New Jersey before moving to Washington DC in 1997 to join a very highly ranked white collar criminal lawyer group of former Department of Justice attorneys who were partners at the global law firm Paul Hastings.

A year later – just as the internet was really starting to take off – an internal email asked if anyone knew anything about New Jersey Gaming Enforcement. Coincidentally, the head of the Department of Gaming Enforcement was someone I served

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with in the US Army and who was also previously a federal prosecutor.

From then on, I started to deal with the NJDGE for some very early cases where the State was warning European sportsbooks not to solicit customers from New Jersey. Licensing wasn't available, so I spent the next 10 years litigating the issue of who has jurisdiction and who has the right to enforce their laws. We looked at the

questions of where gaming servers were based and where the activity was occurring. As you can imagine, these weren't settled questions.

By the mid-2000s, we were starting to meet with regulators and legislators in Washington DC, where I'm located. In 2008-09, we started to see some federal legislation being proposed to regulate online poker. That effort failed.

But by 2010 and 2011, the DOJ started to become involved with more enforcement efforts. This coincided with some successful traction in New Jersey around gaming legislation





and regulation. Put simply, the DOJ was enforcing and chasing offshore operators out of the US, while New Jersey was beginning to welcome them.

I started to represent people looking to get started in gaming

in New Jersey and helping them with licensing and regulation. That, of course, was just on the poker and casino side of things. But at the same time, there were efforts underway to pass sports betting legislation in New Jersey.

We then started a trade association called iDEA, which stands for the Internet Development Economic Association. This essentially encouraged operators to become members – to group together to leverage their power to help not just pass regulation, but to also spearhead efforts for responsible gambling.

This would also make it easier for them to operate in the US without fear of prosecution from other states or the federal government.

Eventually, that legislation on the sports side went to the US Supreme Court in 2018, and the rest is history. I've probably advised every operator supplier and vendor payment processor in the industry at some point, and my firm continues to represent a very large swath of the industry.

On top of that, iDEA, the trade

THAT LEGISLATION ON THE SPORTS SIDE WENT TO THE U.S. SUPREME COURT IN 2018, AND THE REST IS HISTORY

association, is proud to now have approximately 85% of the industry, both B2B and B2C companies, and the payment processors as members.

SBC: And from your experience, what do you anticipate as being the biggest trends across the iGaming and sports betting sectors in 2022?

JJ: Historically, the land-based casinos were always concerned about the cannibalisation of their revenues, so they weren't usually helpful in promoting online gaming legislation. That has changed considerably, and in a very good way.

For example, in Indiana we're trying to pass online gaming legislation. Indiana previously passed online sports betting regulation, so we already have a lot of clients and iDEA members operating there; but

online casinos and online poker remain illegal there. We are working alongside the Indiana Casino Association to pass online gaming legislation. That's really a first.

What we're going to see next, and what we're already seeing in Indiana, is stepping up to partner with online operators to pass online legislation, which is really an encouraging sign.

This means that the land-based casinos are starting to appreciate that there is revenue to be made from the online space and that the customers playing online are not necessarily the customers who are coming into their land-based casinos.

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Everyone expected it wouldn't be until 2021-22 before all these states passed online gaming legislation. And that's what's happening now. It has nothing to do with the pandemic – it's just a reflection of the consequences of timing from a Supreme Court decision's impact on the growth of an industry.

I do believe that the online gaming

when they add casino and poker. That's all for the future.

But there's certainly nothing about the pandemic that suggests this has peaked in any way. Following the pandemic, legislators will want the employees who work in those casinos to return, and they want the industry to generate revenue.

The pandemic might actually slow down the growth of the online gaming industry because local legislators need to first make sure that the land-based revenues get back to where they were before. They want employees back at work. They're not focused on passing new legislation, but they will be soon enough. But there is a tremendously bright future for the industry post pandemic.

SBC: What do you think lies ahead for the US sports betting industry as we enter a new year? Is the sector yet to realise its full revenue potential?

JJ: We must remember that the two biggest markets in the US have not even opened yet: namely California and Texas, where no legislation is on the horizon. To put this into perspective, California is the fifth biggest economy in the world, and California and Texas together represent 50% of the US sports market.

When these two states pass sports betting and iGaming legislation, everyone's going to truly step up to the plate to distinguish themselves as the market leaders. There is still so much room to do that too – this isn't going to be something that's just going to be the exclusive domain of having one or two operators, or one or two platform providers, or one or two oddsmakers.

There is also so much creativity in this industry and we're going to continue to see that. Everyone knows how big this could be, but we haven't seen anything in terms of how big this market can get. No way.

SBC: As more states introduce legalised sports betting, how important is it that gaming companies and state regulators place responsible gambling at the forefront of any legislative efforts? What lessons can the US learn from other,



SBC: Speaking of online legislation, do you think that this growth has been fueled by the pandemic?

JJ: I'm not someone who believes that COVID-19 helped online gaming. Many think that, because people were at home, they were playing online games more or that states where online gaming was not legal are suddenly going to realise the power and pass online gaming legislation. But personally, I don't think that's true.

I think the reason we saw, and we continue to see, more interest in and revenue from online sports gaming is the 2018 Supreme Court decision. No one thought that mobile sports betting was going to peak in 2018-19.

industry is going to continue growing on the sports side. As far as the casino side, nothing really happened during COVID-19. We only had Michigan that came online toward the end of the pandemic. No other state passed legislation. And so there is still a lot of growth to be had for both sports and casino online gaming.

In New Jersey and Nevada, we see crazy numbers. The revenue that's being reported now is in the billions of dollars in both states; it's pretty evenly split between online casino and online sports. So when you think about states that only have sports, and are reporting strong revenue numbers, imagine what they can do



more mature gaming markets when it comes to social responsibility?

JJ: A couple of weeks ago, the NFL started partnering with business operators on a responsible gaming plan. The American Gaming Association also announced a responsible gaming plan. We at iDEA also announced one.

Obviously, this is an incredibly important topic right now. The industry really cannot afford any type of scandal or bad news. Sports betting must stay a form of entertainment and not a source of problems for consumers.

If there were more stories about individuals being taken advantage of, that would be terrible for the industry – and operators know that, which is why they're so focused on responsible gaming.

A lot of these operators are also

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very conscious of problems in the UK, and what the UK Gambling Commission has done to rein in credit card fraud and other issues that have raised concerns. Combatting this is all part of a responsible gaming program.

The UK has raised those concerns and operators in the US know that. The most important thing right now is to have a strong, robust, aggressive responsible gaming program so that this continues to be a form of entertainment and not harm consumers.

SBC: And finally, consumer awareness and education can be to the detriment of unregulated states - can you talk us through this?

JJ: The basic problem in both unregulated states and newly opening states is this: Offshore books (meaning illegal and unregulated betting sites) have been advertising to the consumers in those states for years. If consumers in any state – regulated or unregulated – search 'legal sports bets' or 'where can I place a bet?' on Google, a number of the top 10 search results are going to

SPORTS BETTING MUST STAY A FORM OF ENTERTAINMENT

be offshore sites. There are sites that falsely say they are legal for sports betting.

If a state decides that it will not regulate sports betting, it is essentially saying that consumers should continue to bet on offshore sites. On the internet, consumers can't tell if a site is legal or illegal because it's just not easy to figure out.

When a state legalises gaming, it allows the operator to come in and start educating consumers about what's legal and not legal, which a legal operator is motivated to do. Until state legislators act to regulate sports betting and allow legal operators in, no one is going to teach consumers that they are really betting on illegal offshore books.

With legalisation and education, consumers will bet on sites that are regulated and safer. And that's really what every legislator should want for his or her constituents. ■