



May 31, 2007

Dear Members of the House Financial Services Committee:

On behalf of our respective professional and collegiate sports organizations, we ask for your continued support in protecting American athletics from the corrupting influence of sports gambling.

We wrote to you on April 25, to express our concerns about H.R. 2046, Chairman Frank's Internet gambling bill. Since then, advocates of H.R. 2046 have contended that we have no basis for concern, because H.R. 2046 creates "opt-outs" that permit individual leagues to prohibit gambling on their sports. However, with or without an opt-out, the bill sends a destructive message on how Congress views gambling on professional and college sports. Moreover, we believe that the bill's opt-outs will prove illusory. If H.R. 2046 were to pass, sports betting would likely proliferate and the integrity of American athletics would be compromised.

Congress has historically and consistently opposed sports gambling. In 1992, a bipartisan, overwhelming majority voted to enact PASPA—the Professional and Amateur Sports Protection Act. The House of Representatives' report found that that "there exists a special relationship between American sports fans of all ages and their favorite teams, and that athletic competition embodies and affirms fundamental American values worth protecting from the potential taint of corruption and scandal," and thus "these activities should be declared off limits from further exploitation as State 'revenue enhancers.'"

The Senate report further explained, "Sports gambling threatens to change the nature of sporting events from wholesome entertainment for all ages to devices for gambling. It undermines public confidence in the character of professional and amateur sports. Furthermore, State-sanctioned sports gambling will promote gambling among our Nation's young people." It also concluded that "[t]he moral erosion it produces cannot be limited geographically. Once a State legalizes sports gambling, it will be extremely difficult for other States to resist the lure."

PASPA passed 88 to 5 in the Senate and by voice vote in the House.

Since then, gambling operations—largely based outside of the U.S.—have turned to the Internet, where they were able to evade existing, longstanding gambling laws, including laws against sports gambling. Last year, Congress responded by passing UIGEA—the Unlawful Internet Gambling Enforcement Act—which enhances enforcement of America's gambling laws, including PASPA and other laws against sports gambling.

On July 11, 2006, the House passed UIGEA 317 to 93, reaffirming its commitment to protect American athletics from sports gambling. This strong vote tally reflects majorities of both parties and the affirmative votes of both Leaders.

H.R. 2046 would reverse Congress' longstanding consensus on the harms of sports gambling. Unsupported by any factual record, H.R. 2046 declares that sports betting is acceptable, and the bill expressly authorizes Internet sports gambling. Regardless of the existence of opt-outs, Congress' fundamental message would for the first time be one of approval for sports betting. Moreover, the sports opt-outs are likely to provoke legal challenges in U.S. courts and before the World Trade Organization.

We oppose H.R. 2046 for the following reasons:

- First, the bill states that sports betting is acceptable to Congress.
- Second, the opt-outs are subject to challenge in U.S. courts on the grounds that Congress has unconstitutionally delegated its lawmaking power (to ban Internet gambling) to private parties (commissioners of various sports leagues and conferences).
- Third, the "opt outs" for states and sports leagues are illusory because, if exercised, they might very well be struck down by the WTO as discriminating against foreign providers of gambling services. In that case, the U.S. would be hard pressed to invoke the "public morality" defense to argue, for instance, that offshore internet gambling facilities used by Louisiana citizens corrupt public morals, while Louisiana land based casinos do not, or that sports gambling on football would corrupt public morals, but gambling on boxing or horse racing would not. Consistent with prior WTO rulings, the opt-outs will also prove difficult to defend if Congress gives its consent to Internet sports betting by passing H.R. 2046. Although the United States has announced its intent to withdraw from GATS "commitments" on gambling access, that process will be prolonged and with uncertain outcomes. Thus, the threat of WTO litigation remains active.
- Fourth, H.R. 2046 will lead to demands that PASPA be repealed. The bill would grant greater rights to foreign sports gambling operations, which could conduct Internet sports betting, than to State governments, which would remain barred by PASPA from authorizing sports betting. Arguments to "level the playing field" by repealing PASPA undoubtedly will follow and, once Congress is seen as having endorsed sports betting, will be difficult to resist.

We have long opposed sports betting because of the harm it inflicts on fans of all ages, professional and college athletes, and the integrity of American sports. Congress has long agreed and enforced a policy against sports betting. H.R. 2046 moves in exactly the opposite direction. In doing so, it advances no public interest and simply rewards foreign entities who have shamelessly ignored U.S. law for the past ten years. Accordingly, we urge you to reject it.

Sincerely,

Rick Buchanan, Executive VP and General Counsel
National Basketball Association

Elsa Kircher Cole, General Counsel
National Collegiate Athletic Association

William Daly, Deputy Commissioner
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cc: Members of the House of Representatives