

# Internet Gambling: US Crackdown discussion with Christopher Costigan

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British investment bankers have been asked to hand over details of their dealings with internet gambling companies by the US Department of Justice. Subpoenas have already been issued by the Southern District Court of New York to several investment banks including: Credit Suisse, Deutsche Bank, HSBC & Dresdner Kleinwort. It has been revealed that the first subpoenas date back to October 2006. Shortly after US President George W. Bush signed a bill banning online gambling financial transactions.

The official demand is looking for email correspondence, telephone records and other documents. Many internet gambling industry experts believe the DOJ is on a fishing expedition.

London was a hot bed for internet gambling companies that were looking for capital to grow their burgeoning internet operations. Such companies as Party Gaming, 888.com and NETeller all used the London Stock Exchange (AIM) for their IPO.

With all that has transpired in the last several months, we could not think of a better time to speak with an industry expert, so we reached out to Christopher Costigan, the CEO of Costigan Media LLC, which runs Gambling911.com. Gambling911.com is the most read website among internet gambling professionals worldwide.

Thomas Jensen: With all that has transpired within the online gambling industry in recent months, are you at all nervous even as a person who simply covers the news but in so doing promotes a number of these companies? How can you not be?

Christopher Costigan: With news that the governments are going after banks in Europe, this just shows they mean business. I'd be nervous to bet \$25 with friends during the Super Bowl at this point.

Then again, with all the not-so-rosy news pertaining to online gambling we feature on Gambling911.com, we probably scare more people into NOT betting online than we do joining any of these companies, which is a pretty strange irony I suppose. We do this better than anyone else out there. Probably a better job than the US Justice Department until recently. Likewise, our "Don't Deal in Credit and Agents" won't be winning any Pulitzer Prizes from the local bookmakers any time soon or the guys who write their business offshore.

Gambling911.com prides itself on presenting content from all sides of the spectrum. With that said though, there is a reason why online gambling has become a multi-billion dollar industry. There is a demand for gambling and if that's a bad thing, then get rid of Las Vegas and most definitely get rid of state lotteries.

I respect someone like Senator John McCain who wants betting on college games banned out of sincere concern over the influence big money bets might have on tarnishing the NCAA. I do not respect someone like McCain's colleague, Senator Jon Kyl, who in one breath blabbers on about how internet gambling is the 'crack cocaine' of gambling because it ruins families and children can access with their parents 'stolen' credit cards. Then, while ignoring the obvious issue that this child is a juvenile delinquent for stealing his parents credit card, Kyl goes and makes sure there is an exemption for betting horses online in order to appease certain lobbyist. What's that all about?

As a business major, I am fascinated with the evolution of this industry and no time have I been more fascinated than the present. And recent enacted legislation is so vague that lawmakers are still determining how to interpret it.

Thomas Jensen: Do you foresee Gambling911.com taking a major hit from companies no longer willing to advertise with you?

Christopher Costigan: To some extent. But Gambling911.com has readers in over 100 different countries. About half our audience is outside the US and we have become one of the most read websites of its kind in countries such as Great Britain and Canada. Likewise, way before passage of the internet gambling law in October, we were already devising plans to get non-gaming advertisers up on Gambling911.com. We are in the process of introducing some now. Our traffic is substantial enough to attract non-gaming sponsors. We're in a better position to adapt in this unstable environment but make no mistake about it, we're all going to take a hit to some degree.

Thomas Jensen: What are your thoughts about the news that broke Sunday by the Times of London that major European banks have been subpoenaed by the US government in regard to online gambling?

Christopher Costigan: The European banks disclosure that they've been approached by the Justice Department to turn over all documents related to the online gambling industry is perfect timing on their part in light of what transpired with NETeller and that third party payment processors founders being charged this week. Banking executives living and working in the US branches of these European banks are scared that they will be the next to get arrested and have complied with the recent law enacted this past October by opting not to deal with these internet gambling firms. But the arrests of NETeller's founders sends a powerful message that they (the bank executives) may be next and we're now seeing the banking industry send out that message in a way that will get the population believing these actions have far larger implications.

Thomas Jensen: Why now? It seems the US government could have taken down the online gambling industry years ago before it became a multi-billion dollar monster. Did the Justice Department simply drop the ball here?

Christopher Costigan: Not at all. Make no mistake about it, the Justice Department has been following this industry for the past 10 years, probably longer. There were indictments back in 1998 against 21 internet gambling operators, all charged with violating the 1962 Wire Act. Most got a slap on the wrist. Only Jay Cohen, founder of World Sports Exchange, served a prison sentence because he chose to fight the charges in a court of law.

Jay elected to not hire prominent online gambling attorney, the late Kenneth Hense, and opted instead to go with powerful high profile "Mob" attorney, Ben Brafman. Make no mistake about it, Brafman is good but he doesn't know the industry and ultimately Jay lost his case, though it was later appealed and he lost again (with Hense serving as a "consultant" at this point). Jay should not have lost this case. I was present throughout the trial and the one prosecutor I believe just graduated from law school. He was not very good. The female prosecutor was decent.

FBI agents were regular fixtures of industry conferences following the events of 1998. Their concern as expressed to those ballsy enough to approach them was what they termed "Online Gambling Plus". Online gambling alone was less the priority. Instead they were looking for evidence of organized crime and/or money laundering elements.

The problem in recent years is that some of the non-Americans who have gotten involved in the online gambling industry have taken to the air in the US bragging about how they were untouchable. It should be no surprise that BetonSports CEO David Carruthers was the first one apprehended and has been held since July. He and others were rubbing it in the faces of US authorities and probably should have known better.

Thomas Jensen: Do you believe that the US government is at all acting rationally here. Assuming they can't do whatever they want and will ultimately have to prove their case in a court of law, do they have a solid case?

Christopher Costigan: This will be fought in the courts unless a financial settlement can be reached that would in essence ensure neither of the two principals in NETeller serve any jail time. I don't think you will be seeing a settlement here though. NETeller has not hired some legal group fresh out of a third tier law school. Wilmer Cutler Pickering Hale & Dorr is the Washington based law firm retained by Steven Lawrence (NETeller co-founder) and their attorneys will go for the jugular here. The US Prosecuting Attorneys will have their work cut out for them.

Unlike with the Jay Cohen case, Lawrence has opted for specialty attorneys who won't miss a beat. Wilmer Cutler's presence in Washington DC is huge. Their lawyers have been very active in representing financial institutions in federal and state courts with great success. They've counseled a major international bank on its global anti-money laundering compliance regime and helping another major financial institution respond to and defend against a U.S. government request for confidential documents located abroad in the past according to the firm's impressive resume.

The underlying argument in all these recent complaints seems to be that millions of dollars have been leaving the US unaccounted for, untaxed. The government's evidence will be public records (since the companies charged were trading publicly on the London Stock Exchange) that state explicitly how much of the money made by these companies were derived from US citizens. For NETeller I believe it was more than 80% of their business was coming in from US gamblers.

I think the problem is that the government hasn't offered a venue in which to allow taxation of companies like NETeller and the defense will likely hinge on the Justice Department investigation beginning before The Unlawful Internet Gambling Enforcement Act was passed in the US. I would also expect to see cooperating witnesses from previous gambling busts that were more localized but involved some internet betting (i.e. the James Giordano case filed by the Queens District Attorney). They will likely explain how their "criminal activities" were aided via NETeller.

But we see crimes committed every day utilizing Master Card and American Express in the form of identity thefts so I am not sure that "cooperating witnesses" will do anything to help the government's case unless they can prove NETeller principals were actively involved and conspiring. It's difficult to assess the strengths and weaknesses of this case so early. In any event Gambling911.com plans to cover this case throughout and will have our reporters on hand should there be a trial.