



**Written Testimony of the Poker Players Alliance
Informational Hearing Senate Governmental Organization Committee**

*Examining the Public Policy and Fiscal Implications Related to the Authorization of
Intrastate Internet Poker in California*

John A. Pappas, Executive Director, Poker Players Alliance

Steven J. Miller, California State Director, Poker Players Alliance

February 9, 2009
9:30 a.m. – 5:30 p.m.
State Capitol, Room 4203

Mr. Chairman and distinguished members of the California Senate Governmental Organization Committee, thank you for allowing the Poker Players Alliance PPA to testify at today's hearing. Representing the organization is John A. Pappas, PPA Executive Director (Washington, D.C.) and Steven J. Miller, PPA California State Director (Los Angeles, CA). Mr. Pappas is a paid officer with the PPA and Mr. Miller is a volunteer advocate for poker players in California.

The Poker Players Alliance is the largest grassroots advocacy organization dedicated to protecting and promoting the rights of poker players. We have more than 1.2 million members nationwide and in California the PPA is proud to represent 127,255 voters. It is important to note that tens of millions of Americans play poker, in one form or another, and in California alone there are an estimated one million *internet* poker players who play with millions of other players throughout the US and the entire world. This is not surprising. Since the days of the Gold Rush, poker has been a California past-time. The game epitomizes the competitive nature and frontier spirit of those who traveled West seeking new opportunity.

Over the years the game grew out of saloons and into living rooms and then organized card rooms and tribal casinos. Today, poker continues to evolve. The game that was once only played on the felt-covered table is now also played at the computer table. As the game continues to evolve into the 21st Century, the PPA applauds this Committee for taking time to educate itself on how best to address this growing poker platform.

While the PPA respects the due-diligence of the Committee to investigate "if" online poker can be regulated, we stand here to tell you that it unquestionably can be regulated, and in fact, already is being regulated, very effectively, across the globe in well-respected jurisdictions.

In December 2009, Professor Malcom Sparrow from John F. Kennedy School of Government released a report titled "Can Internet Gambling Be Effectively Regulated? Managing the Risks." A complete copy of the report is added as an addendum to this testimony. In the report, Professor Sparrow concludes that regulation has proven to be an effective means to mitigate the problems often associated with the activity such as underage access, compulsive gambling, and consumer fraud. The report points to several jurisdictions that are responsibly controlling online gambling to enable strong consumer protection and also, importantly, a new stream of government revenue.

As this Committee knows, the U.S. Congress is debating federal bills that would establish a licensed and regulated online poker marketplace. Both H.R. 2267 and S. 1597 give California and the Tribes within California the unfettered choice to participate in the federal system which would allow residents to play in a nationwide (if not global) network of players and provide a robust revenue stream for the state. The state can also choose to "opt-out" and seek to deny its residents from playing on the federally-licensed internet poker sites or California can create its own "intra-state" model and hope that people who enjoy peer-to-peer poker worldwide would play on the state-licensed sites solely with other Californians.

The PPA strongly supports the proposed federal legislation and we welcome the opportunity to educate this Committee on why these proposals would benefit your residents and your economy.

Given California's love affair with poker, the PPA and our members feel strongly that if the state decides to go down the path of intra-state licensed and regulated Internet poker it must do it with the long-term needs of the consumer and of the State and California Tribes in mind.

First and foremost, an intra-state model must respect the interests of the consumer, i.e. the estimated one million California online poker players represented by more than 125,000 PPA members in the state.

Without the full buy in of the poker playing community, any effort to regulate the online game will fall woefully short of its objectives. It will fail to provide sufficient consumer benefits and will also fail to deliver optimum economic benefits to the state of California.

The cornerstone for any successful regulatory regime must be a system centered on competition and consumer choice. This is not a "build it and they will come" opportunity. In some respects, the California online poker marketplace is already built with players having the ability to choose from a variety of online poker sites. The true opportunity for California is to capitalize and regulate the current market, add new entrants, and provide the poker player with expanded choice and consumer safeguards at the same time. This would create a dynamic online experience that benefits the player and the state's treasury coffers.

The antithesis of a successful model would be a state-sponsored monopoly. Sadly, this idea has been discussed widely in the California legislature. Let us be clear: Any legislative effort to limit the marketplace to one online poker provider will be quickly rejected by the million plus California players who are also the voters in this state.

There are other drawbacks to the intra-state model as compared to the federal legislative model that the PPA supports, which render the intra-state monopoly approach a non-starter which should be immediately abandoned. An intra-state monopoly will not protect the interests of California players. One only needs to look back at the early days of cable television to see one example of the folly of designating a "government-sponsored" sole source provider of consumer services.

Many on this Committee may recall that in the mid-1970, local cable television franchises were granted by city governments thereby establishing monopolistic control of this burgeoning public service. In much of the City of Los Angeles, a charter was granted to a company called Theta Cable. Because Theta Cable (and other local government-sponsored cable monopolies across the country) had a stranglehold on the marketplace, they had no economic incentive to improve their customer service, innovate through the creation of new programming, or lower (or even maintain) their prices.

Guess what? A virtual consumer revolt occurred leading to competition in the marketplace. Other cable providers burst onto the scene. Then came innovative content providers like HBO. Then came satellite television. And today, many California consumers have the ultimate choice vis-à-vis on-demand television. The result? Higher consumer satisfaction, diversified programming, lower cost through price competition . . . and more tax revenue for the government.

This would be analogous to a potential online poker monopoly. While a state-sponsored site *may*, and we stress the word *may*, attract players, the monopoly will eliminate any incentive for game innovation (something the online player demands and expects) and software improvement. Thus, the monopoly site will inevitably become stale. Players will almost certainly desert the state-sponsored site and will ultimately return to the “unregulated” but far more competitive poker sites. There is no counter-argument to a monopoly – except for those who want it.

California’s early experience with advance deposit wagering (ADW) on pari-mutuel horse racing also illustrates the problems encountered when a single internet provider is granted exclusivity.

Although California’s ADW law allowed the Horse Racing Board to license multiple providers, before the law was enacted, a single provider (TVG) executed exclusivity agreements with most of the major racetracks. Competitors were prevented from accessing content that racing fans demanded, resulting in players having to join more than one provider network to bet on races at all tracks. Eventually the racetracks realized the flaw in exclusive content agreements and today most ADW providers provide their customers access to all racing content.

Establishing a monopoly for online poker in California would also set a precedent for regulated gaming in the state. When card clubs were first authorized, there were no license restrictions. All churches can obtain licenses to offer bingo, not a select few. There is even robust competition in tribal gaming where any qualifying tribe can apply for a license. So why would the monopoly model work in the online space if it has been avoided in the brick and mortar world?

The single provider model also calls into question the proposed rate at which the game would be taxed by the state. For California to maximize revenue under this model, the tax rate will have to be considerably higher than under a competitive situation. How can this tax be effectively passed on to the consumer by a state-sponsored site that is trying to lure one million online California players to its games? The simple answer is that it cannot. The provider would not offer incentives and players bonuses, the hallmarks of the current competitive marketplace, and it would likely have a higher than normal player rake – the amount of money the operator takes out of each poker pot as profit.

Also, it will be nearly impossible to attract the liquidity (the volume of players on a site at one time) to a state-sponsored site -- especially if the existing competitive online poker sites continue

to offer a competitive rake and other player incentives, neither of which will be a priority for the state-sponsored monopoly operator.

If California online poker players don't receive the equivalent rake and bonuses they currently enjoy, they will make the informed decision not to play and eschew state-controlled sites. The players will still play, they will just continue to do so with the brand names they know and trust today. In the end, only California loses from the inability to attract players to the state-regulated marketplace.

Finally, California PPA members are concerned that the intra-state model will effectively shut them out of the global poker marketplace. Today, when a California resident plays online poker, they compete with other individuals from across the United States and the world. They are part of a multi-million person global network of poker players. Under any intra-state model (monopolistic or competitive), their play would be limited to only other California residents. Ultimately, this means fewer players, fewer games, fewer stakes/limits options, and less opportunity for them to play poker how they want and when they want.

But this is not just a downside for the consumer. It also means that the tax revenue potential for the state of California will be greatly reduced. If a player can't find a game online that they want to play, they will simply not play and that means that an opportunity to generate tax revenue is lost.

In conclusion, for as long as the game has been played in this country, poker and politics have intertwined. Many have said that making laws is akin to making sausage – well, it's also akin to a game of poker complete with betting, checking, and of course, bluffing.

The best players, in both the political game and the poker game, succeed by plying their skills and deliberately making the right decisions at the right time. A conservative strategy is also the favored approach when considering the future of online poker regulation in California. It would be unwise to push "all-in" on an intra-state monopoly that favors a consortium of interests when it is the consumers who ultimately hold the best hand.