

Abstract:

As state lawmakers consider regulating sports betting, it is important that they authorize operators to make their products available to customers via internet-connected mobile devices. Sports betting in the United States and around the world is primarily done via mobile devices, both in regulated and unregulated markets. Mobile sports betting provides user convenience, a wider array of betting options, and a more robust set of consumer protection measures than in-person sports betting at a casino or other retail locations. The regulated markets in states like Pennsylvania and New Jersey show that the overwhelming majority of sports betting takes place via mobile, and states that limit sports betting to casino locations have seen far less revenue than those that have authorized mobile. In order to compete and defeat the illegal offshore sports betting market, states must allow customers the same convenience to register, deposit/withdraw and place bets entirely via mobile device.

Sports Betting in the U.S. Today is Predominately Online

It should come as no surprise that sports betting today is largely conducted online. In an increasingly cash-less society, people use their phone to conduct all matters of business from paying for lunch to applying for a mortgage. Mobile technology has proven safe, effective and convenient, three elements that are essential to today's sports betting consumer.

People today demand convenience, and those who want to bet on sports are no different. The proof is in the numbers. In New Jersey, which leads all states other than Nevada in sports betting revenue, 82.5% of all sports betting revenue comes from mobile and online sports betting.ⁱ Experts project that mobile will be the far dominant method of sports betting throughout the country. In states that authorize both mobile and retail/casino options, mobile is expected to average 72% of the total volume of bets placed, with this number increasing over time.ⁱⁱ

Nevada, while still the leading state in sports betting, does not keep data on how much of their sports betting is done through mobile devices. However, Nevada is unlike most other states that are new to implementing sports betting. Prior to 2018, Nevada had been the only state with legal sports betting for many decades, and still today is known primarily for its tourism and gambling industry. Because so much of their revenue comes from gambling tourism, they are certainly an outlier in terms of how people in other states bet on sports in their daily lives.

Competing with the Offshore Market Requires Mobile Options

People simply cannot, or will not, bet on sports if there isn't a reasonably convenient method available. The fact that it wasn't technically legal to bet on sports outside of Nevada until 2018 was hardly a hindrance – sports betting prohibition has given rise to a multi-billion dollar black market that will continue to thrive until convenient and legal alternatives become viable.

Right now, there are an estimated 14 million U.S. customersⁱⁱⁱ taking part in illegal sports betting, the overwhelming majority of which are using websites and mobile apps. These customers have the choice of dozens of competing sportsbooks, each offering round-the-clock access to place bets conveniently from their location, with no need to travel to a retail establishment or casino in order to place a bet. Sports fans today might have an interest in laying a few dollars on the game, but very few are willing to spend the time and money to make a trip to a casino in order to do so. In a survey, 71% of participants said they would continue to use illegal online sportsbooks if the only legal options required them to drive to a casino in order to place a bet^{iv}.

If states want to defeat the unregulated and untaxed offshore market, they must allow a robust and competitive legal market to occupy the same mobile landscape. Regulated sportsbooks will enjoy certain competitive advantages such as endorsement and marketing with pro sports leagues, and verification from state regulators that these books are safe and legal. Customers will increasingly gravitate towards these legal options as long as they enjoy the same convenient access, and the estimated \$70 billion^v in illegal sports betting will begin to flow into legal, regulated channels.

Revenue is Severely Limited Without Mobile

Sports betting revenue is significantly diminished among states that have limited sports betting to casino locations. Without mobile, states such as Delaware and Mississippi have seen disappointing revenues from sports betting, indicating that a large percentage of people in these states are either traveling to states that have more robust mobile betting options or are continuing to use illegal offshore sports betting websites.

Through September 2019, the state of Delaware, which only allows sports betting in the states' three casinos, only generated \$7.77 million in annual revenue. Mississippi has 28 commercial casinos, but still only generated \$24.9 million in revenue. Contrast this to New Jersey, which has sports betting at nine casinos, but also offers mobile sports betting through 17 websites^{vi}. Through September 2019, New Jersey generated \$190.6 million in sports betting revenue, with \$152.5 million of the total coming from mobile sports betting. New Jersey also taxes online sports betting at a higher rate than casino-based sports betting, meaning that mobile is a more lucrative endeavor for the state in terms of tax revenue.

New Jersey Thrives, While Delaware Recedes

Delaware, which, as discussed above, does not allow mobile sports betting, saw its monthly revenues recede in only Year 2 of its sports betting efforts, which began in June of 2018. In June, July, August and September of 2018, Delaware generated nearly \$5.2 million in revenue. However, by 2019, the state only generated \$3.64 million during those same months. Clearly, Delaware is not capturing the sports betting market in a meaningful way and is continuing to lose revenue to other states and the offshore market.

Meanwhile, New Jersey is continuing to grow in revenue as more and more market entrants look to compete for a slice of New Jersey's exploding revenue. In September 2018, New Jersey generated \$23.9 million in sports betting revenue, but in September 2019 this number had nearly doubled to \$46.4 million.

New York Sputters without Mobile

New York has the potential to be one of the most profitable sports betting markets in the United States, but it has not yet authorized mobile sports betting. As a result, sports betting is relegated to a handful of upstate casinos that have failed to capture any meaningful revenue to date. In the first four months since sports betting began, July through October 2019, New York generated just \$5.7 million in sports betting revenue^{vii}.

Meanwhile, a single New Jersey sportsbook has completely dominated the entirety of New York's output during these same months. From July through October 2019, the Meadowlands in New Jersey generated \$62.6 million in sports betting revenue, more than 10 times the revenue of the entire state of New York. It's not a coincidence that the Meadowlands is the closest sportsbook to New York City – their success is undoubtedly due to their geographic location, combined with a robust mobile product that accounted for over \$50 million in revenue in these four months^{viii}.

New York is the perfect illustration of a failed sports betting policy choice – while New Jersey is seeing explosive revenue, much of it from disenfranchised New York sports bettors, New York has failed to adapt and will continue to lose business to New Jersey until it authorizes mobile. Senator Joseph Addabbo, Chairman of the Senate Committee on Racing, Gaming and Wagering has said, "It is beyond frustrating to see New Jersey and other neighboring states that allow mobile sports betting continue to pass us by as their revenue increases and knowing a portion of that revenue is from our residents using mobile devices to bet in those neighboring states."^{ix}

In-Casino Registration Requirement Hinders Consumers

Rhode Island is an interesting case study. In 2018, Governor Gina Raimondo signed a bill to authorize sports betting at the state's two casinos, without mobile sports betting. At the time, the budget projected that the state would realize \$23.5 million in state revenue in FY 2019, which ended July 1, 2019. In January 2019, after sports betting implementation was delayed, the number was revised to less than half of the original projection - \$11.5 million. However, Rhode Island still fell well short of this, pulling in less than \$3.5 million in FY 2019^x.

While acknowledging that these lagging revenues were largely the result of a lack of mobile sports betting access, the Rhode Island Legislature approved mobile sports betting in 2019, but with one significant catch – customers would first have to register for a sports betting account at a local casino. The state opened up mobile sports betting in early September 2019, but almost immediately the problem with in-casino registration became evident. As of October, more than 12,000 people had started the registration process for an online account via the website, but fewer than half of those had visited the casino to complete the in-person activation requirement^{xi}. Rhode Island is clearly losing customers who, for a variety of reasons, do not want to make the drive to a casino. Instead, these customers can easily sign up for any number of offshore sportsbook accounts entirely online.

Likewise, Iowa has placed artificial limitations on the availability of mobile sports betting. In Iowa, customers must travel to a casino in order to register for a mobile sports betting account. This not only inconveniences the customer, it effectively limits them to the mobile platform offered by their local casino. As a result, sports betting growth has been sluggish in Iowa. In the first three months of Iowa sports betting, August through October 2019, the state generated only \$12.77 million in sports betting, and only 55.75% of the betting activity has come from mobile. Compared to a state such as New Jersey which has no in-casino registration requirements and a mobile betting component that is consistently

over 80% of the total, it is clear that Iowa's growth is being hindered by this policy. Fortunately, Iowa's in-casino registration requirement will end in January of 2021, but in the meantime they are failing to capture valuable sports betting revenue based on a policy that serves no legitimate consumer protection or business purpose.

In-Play Betting Requires Mobile

One of the most popular ways to bet on sports is during the contest itself, known as "in-play betting." In-play betting allows a customer to place bets, not only on the final outcome of the game after it has begun, but on occurrences throughout the game. For example, an in-play prop bet could allow a customer to bet on whether the next pitch in a baseball game is a ball or a strike, or whether a football team will score on the current drive. These up-to-the-second bets are impractical in a typical brick-and-mortar sportsbook, and require an instantaneous method of input from the customer, i.e., a mobile device. As technology continues to advance in this realm, in-play bets are expected to comprise an even larger amount of the total amount bet on sports. Without in-play betting, customers will either look to neighboring states or the offshore market to find their desired bet type.

Mobile Increases Consumer Protection

Mobile betting is the most robust and effective method of sports betting from a consumer safety standpoint. Using tried and true methods to verify a customer's age, identity and location, mobile sports wagering is every bit as safe and effective as in-person registration at a casino or other location. In addition, mobile access provides enhanced fraud and problem gambling protection by analyzing customer's play history to detect unusual occurrences. Betting in a casino sportsbook requires no such safeguards – most casino sportsbook transactions under a certain threshold can be done without the establishment of an account, which means casino sportsbooks have no records of previous play. Mobile is clearly a more effective option for states with concerns about consumer safety and problem gaming issues.

Limiting Mobile Options Bolsters the Illegal Market

While data from the offshore market is scarce, anecdotally, some offshore sportsbooks have observed a significant uptick in business even as legal sports betting is now available. This is because of the tremendous amount of media exposure that mainstream outlets have dedicated to sports betting, especially in the realm of sports coverage. An increase in news and media coverage about the legalization of sports betting has led to an increase in interest from the American public, which in turn leads to increased internet search activity. For common search terms such as "sports betting," "online sports betting," and "best online sports betting," the top two results are illegal offshore operators or companies that promote these offshore operators^{xii}. People who are looking into placing a bet for the first time may think that these websites are legitimate. Or, in the alternative, they may be disheartened to learn that sports betting is not legal in their state yet or that the only legal method is to go to a casino, in which case the offshore sportsbook is still appealing.

This trend shows that illegal online channels will continue to siphon business away from legal sports betting operators unless and until states authorize legal online sports betting and allow direct competition to these illegal outlets. As legal online sportsbooks gain in popularity, they will ultimately be able to crowd out the offshore market and decrease the footprint of these illegal operators.

Conclusion

The results of policy choices made by early adopter states have distinguished clear winners and losers, and its no surprise that states with successful sports betting regulatory frameworks allow for mobile betting, including mobile registration options. Forward-thinking states must allow for regulated mobile sports betting – it is the only sensible policy choice for states that want to maximize revenue and defeat the teeming sports betting black market.

ⁱ HYPERLINK "https://www.nj.gov/lps/ge/financialandstatisticalinfo.html"

<https://www.nj.gov/lps/ge/financialandstatisticalinfo.html>

ⁱⁱ Eilers and Kreijic – Defining the US Sports Betting Opportunity

ⁱⁱⁱ Id.

^{iv} Id.

^v Id.

^{vi} <https://www.nj.gov/lps/ge/sportsbetting.html>

^{vii} <https://www.gaming.ny.gov/gaming/index.php?ID=1>

^{viii} <https://www.nj.gov/lps/ge/docs/Financials/SWRTaxReturns/2019/October2019.pdf>

^{ix} <https://queenseagle.com/all/2019/11/18/addabbo-pushes-state-to-ok-mobile-sports-betting>

^x <https://www.rilot.com/content/dam/interactive/ilottery/pdfs/financial/SportsBookSummaryFY2019.pdf>

^{xi} <https://www.providencejournal.com/news/20191022/ri-sports-betting-revenues-for-first-quarter-were-less-than-half-of-what-state-budgeted>

^{xii} Id.