



**TESTIMONY BY SCOT MCCLINTIC, VICE PRESIDENT, HEAD OF SPORTSBOOK
FOR PENN NATIONAL GAMING, INC. BEFORE
THE HOUSE FINANCE COMMITTEE IN SUPPORT OF HB 194,
THE BILL TO LEGALIZE AND REGULATE SPORTS GAMING IN OHIO
October 16, 2019**

Good morning Mr. Chairman and Members of the Finance Committee, it is a pleasure to be back in front of you to speak on the topic of sports wagering. My name is Scot McClintic and I am the Vice President, Head of Sportsbook for Penn National Gaming. Based in Wyomissing, Pennsylvania, Penn National is the nation's largest regional gaming operator, with 41 facilities in 19 jurisdictions throughout the United States and more than 28,000 employees. Joining me today is Jeff Morris, our Vice President of Public Affairs and Government Relations.

As you are aware, Penn National operates four of the 11 licensed gaming facilities in Ohio, including Hollywood Casino Columbus, Hollywood Casino Toledo, Hollywood Gaming at Dayton Raceway and Hollywood Gaming at Mahoning Valley Race Course. We're proud to have invested more than \$1 billion in our facilities in this state and to employ more than 2,000 local employees.

I am honored to be here this morning to again testify in support of HB 194, with two noted exceptions, which I'll discuss in a moment. First, I want to express our continued appreciation to Representatives Greenspan and Kelly for all their hard work in trying to bring sports wagering to Ohio. As my colleague Mr. Schippers has previously testified to, we believe legal sports betting has the potential to provide a meaningful shot in the arm to Ohio's gaming industry and to provide a new revenue stream to help fund important state programs and services. If successful, Ohio would join eighteen other states that have moved to authorize sports betting in the wake of the May 2018 U.S. Supreme Court decision striking down the Professional and Amateur Sports Protection Act, or "PASPA." Penn National currently operates sports books in six of these jurisdictions – Indiana, Iowa, Mississippi, Nevada, Pennsylvania and West Virginia. In total, Penn National has sports books at 14 of our 41 properties.

First, we believe it is critical that the operation of sports betting be limited to licensed casino and racetrack operators. Ohio's gaming operators have invested billions of dollars in their brick-and-mortar establishments in this state and are major drivers of job creation and economic activity in our host communities. We have well-established, rigorous compliance and responsible gaming protocols, and a robust security apparatus in place to ensure a safe wagering environment for consumers.

For example, in addition to comprehensive and stringent state gaming regulations, as licensed casino and racino operators, we are required to undergo extensive federal anti-money laundering (commonly referred to as "AML") training programs. Since 1985, commercial casinos have been defined as "financial institutions" under the Bank Secrecy Act (BSA). As such, we have in place sophisticated customer identification procedures, which includes reporting suspicious transactions while further regulating, supervising and monitoring anti-money laundering operations.

Operating such a complex security system is expensive and extremely labor intensive. We spend millions of dollars annually on surveillance equipment, surveillance operators, and security officers at each property to maintain a safe and secure environment for our customers. Coupled with the financial risk of taking a sports wager – where operators routinely lose significant amounts of money due to the volatility of sports betting – non-gaming operators simply cannot afford to manage all of these risks effectively. For context, there could be hundreds of thousands of dollars of volatility during peak sporting events at small-to-mid size single locations during a single day.

Second, as it relates to the professional sports leagues, we appreciate their position in the legalization debate. We applaud their interest in ensuring the integrity of their respective sports, with or without legal sports wagering. However, as we have stated before, official league data mandates are superfluous, as most, if not all, of the Leagues have already sold their official data feeds to major accredited data suppliers (whom we are already compensating for the League data that they supply us). Simply put, we feel that a mandated fee is

unnecessary double dipping. We continue to engage in promising conversations with the Leagues directly which I will elaborate on a bit later, as there are viable uses for League data to grow interest in sports wagering. However, these deals should be executed based on the commercial, strategic, and financial merits of the deal, versus preserving integrity (which is already preserved).

Penn previously testified to recent studies that the four major sports leagues will earn a collective \$4.2 billion from legal sports betting, and Dallas Maverick's owner Mark Cuban famously exclaimed that the value of his franchise doubled overnight when PASPA was repealed. Dallas Cowboys owner Jerry Jones echoed these sentiments last month, stating that legal sports betting could increase the value of the NFL's television rights by 50 percent.

Undeterred, the professional sports leagues continue to ask state policymakers to give them a monopoly in providing statistical information, despite multiple federal courts denying them the right to do so.

The NBA sued Motorola and lost. The U.S. Court of Appeals for the 2nd Circuit held that the NBA does not possess any intellectual property rights to prevent the transmission of real-time statistics tabulated by people following television and radio broadcasts. In fact, the court specifically rejected the notions that the NBA enjoyed copyright protection.

Likewise, the 8th circuit in *CBC Distribution v. Major League Baseball Advanced Media*, stated that "records and statistics" from professional baseball games are protected by the 1st Amendment as "a form of expression due substantial constitutional protection."

This is why there are a variety of sources for sports books to consult in settling bets with consumers in Nevada and now a dozen other states. It should be no different in Ohio. Let the books select the sources for their statistical information, submit that as part of their operating plan for review, and let the regulators decide.

As I alluded to before, the purchase of data should be negotiated at arms' length in the private market without a government mandate. If operators and the leagues find a mutual benefit, they will enter into such contracts just like MGM

has with the NBA, NHL, and MLB and FanDuel has with the NBA and NHL. Penn National is actively engaged in productive, commercial discussions with the various professional sports leagues and will seek to purchase certain types of data that may be unavailable on the public market at an appropriate rate.

To that point, what does the term “*commercially reasonable*” mean and who decides what that is? What may be commercially reasonable to the leagues who face no competition, may be inconsistent with the thin margin reality of sportsbook operators in a hyper competitive market. We are already seeing this in the market, where some leagues have threatened to shut off data feeds to the suppliers that we already have a commercial relationship with prior to these mandates. We understand that the leagues are searching for ways to provide value and monetize their data in a post-PASPA world, just as we Penn National are searching for ways to operate a profitable sportsbook business that offers a best-in-class experience to our customers. We will find an equitable solution with the leagues directly at a fair price. That said, government mandated “commercially reasonable” fees detract from these discussions over what a fair, market-based rate for league data really is. Once more, the higher these fees go, the less ability operators have to invest in a good product, with attractive odds – and this is counterproductive in moving bettors from the illegal market to a legal, regulated one.

The final demand that the leagues have is that they be given extraordinary powers to dictate whether or not books can offer wagering offers on certain games or outcomes. These are decisions that should be made by the regulators based upon the information they receive from sportsbook operators and the leagues. Moreover, nothing is going to stop the offshore sites from offering these types of bets. Thus, is the real concern over a “fix” or is it just another statutory mechanism to extract payment from legal sportsbook operators, that could ultimately make us less competitive with the illegal black market.

With that, I’d like to thank you for the opportunity to once again provide testimony this morning and we would be happy to answer any questions you may have.