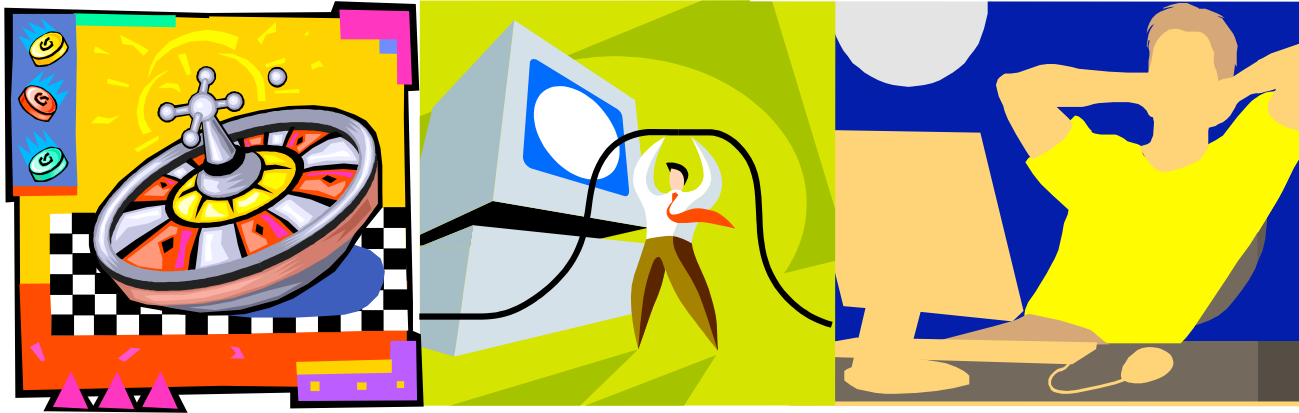
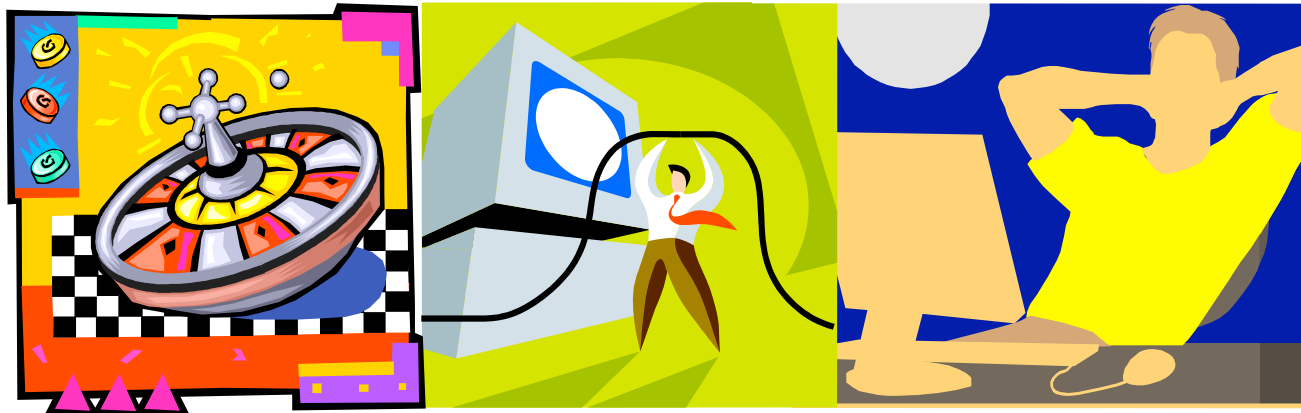


Internet Gambling Issue Briefing



Winter 2010

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Winter 2010

Unlawful Internet Gambling Enforcement Act of 2006

- Why was it needed?
- What does it do?
- Unfinished business

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UIGEA – Why Was It Needed?

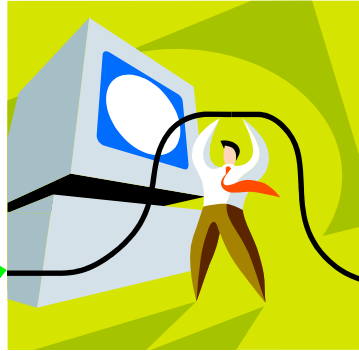
- State and Federal gambling laws evaded and eroded on the Internet
 - Gambling policy traditionally set by States
 - Broad continuum:
All illegal ↔ All legal for adults in licensed casinos
e.g. Utah ↔ Nevada
 - Federal laws assist policy decisions of State laws by prohibiting *interstate* gambling
- ▶ **Prohibition AND licensing/regulatory regimes are meaningless unless line-drawing is enforceable**

UIGEA – Why Was It Needed?

- Policy concerns regarding gambling are magnified for Internet gambling
 - 24-7 instant ubiquitous accessibility and anonymity supercharges addictiveness
 - Easy access for minors; high incidence of college students becoming problem gamblers
- Saps domestic jobs and revenue
 - Competes on unfair playing field with legal (taxed and regulated) gambling
 - Jobs for hundreds of thousands of card dealers, wait staff, hotel staff, etc. depend on gamblers physically coming to casinos/tracks

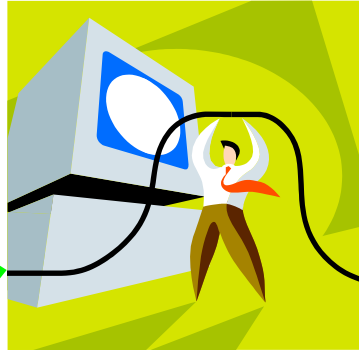
Internet Gambling Basics

**4 Indispensable Parties
to Internet gambling:**



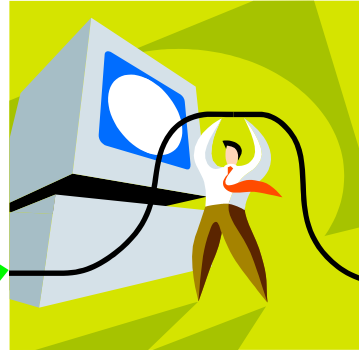
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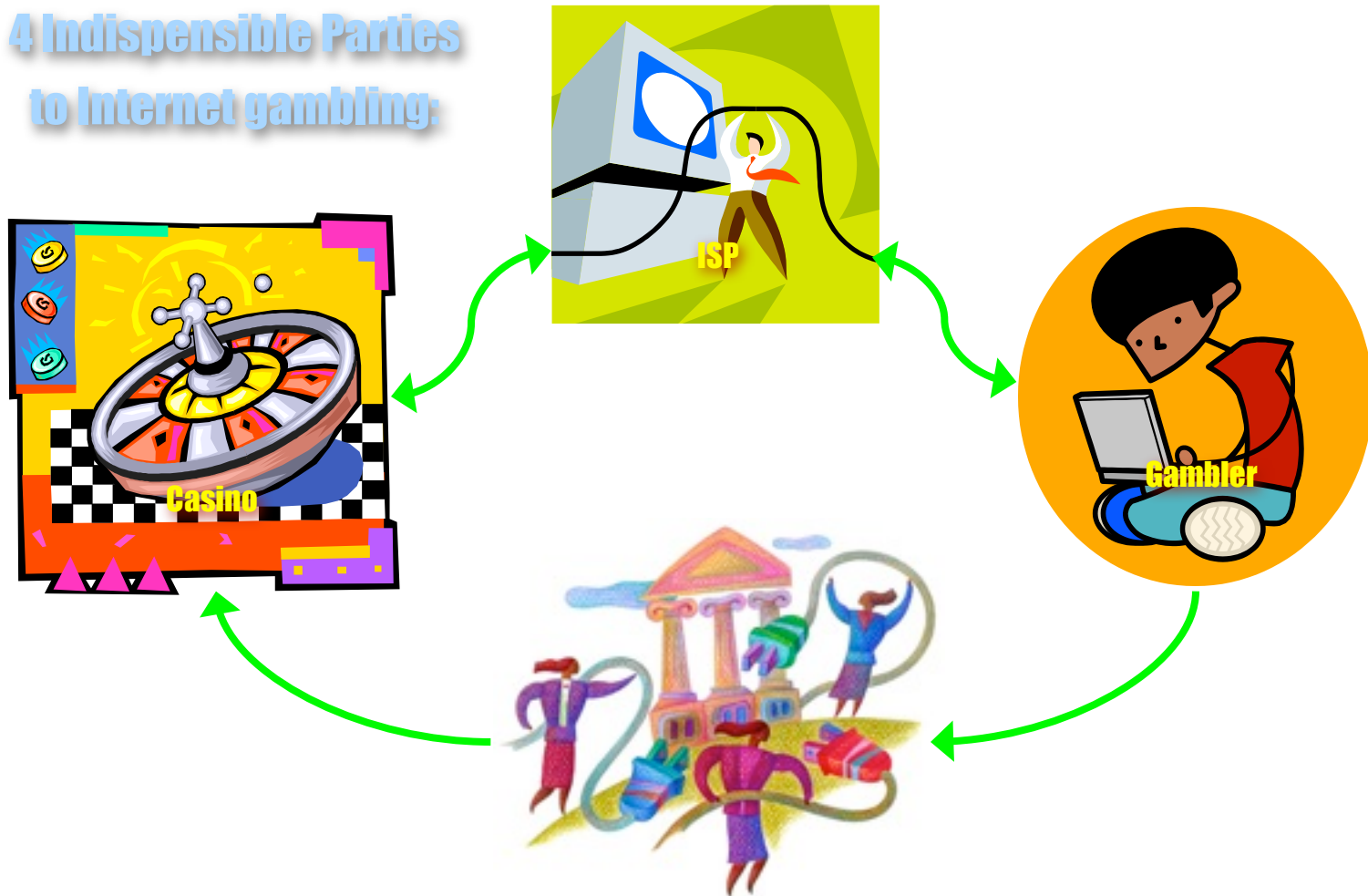
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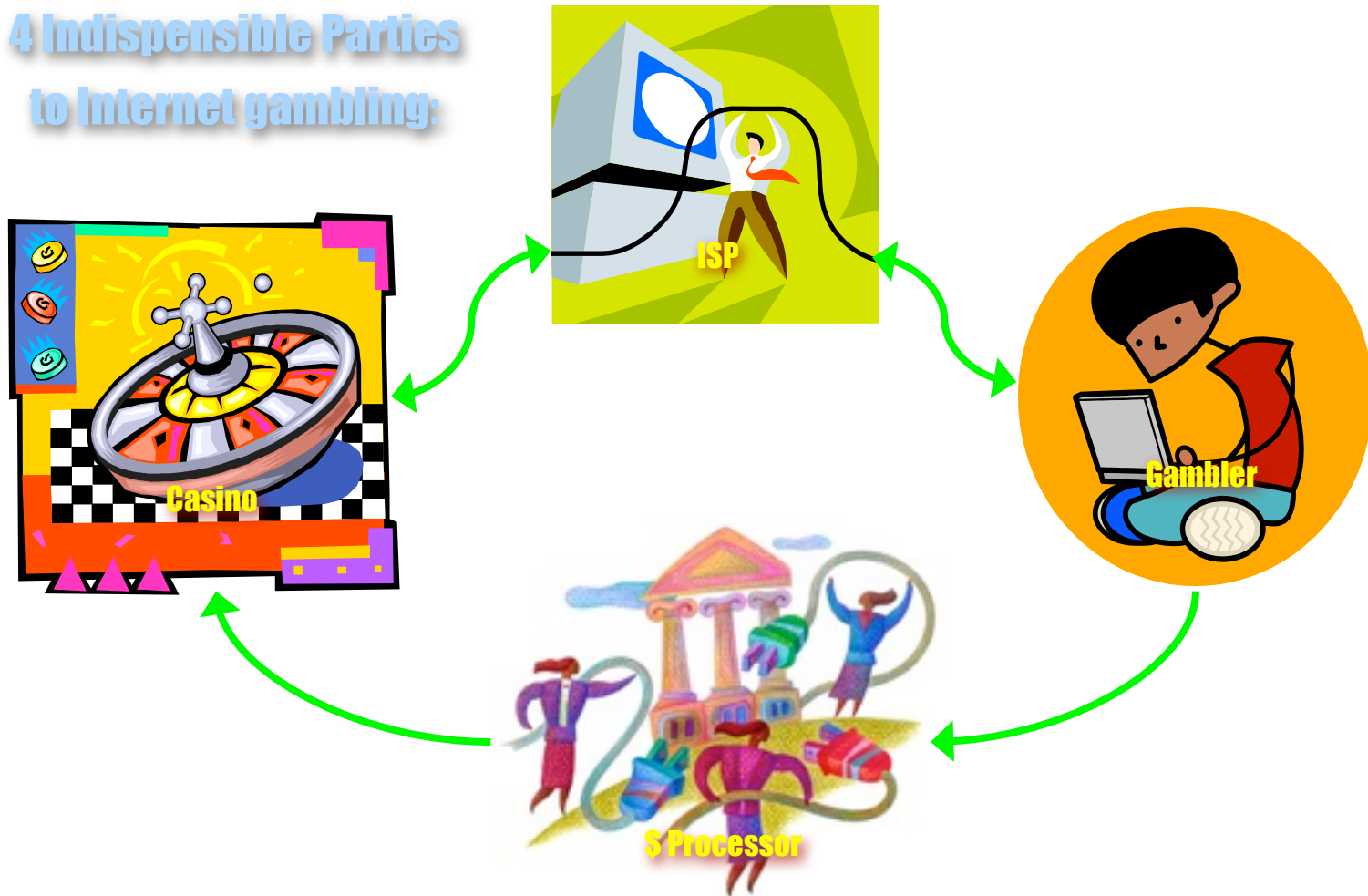
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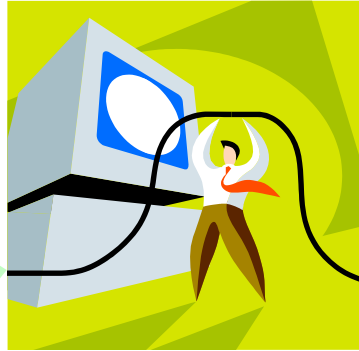


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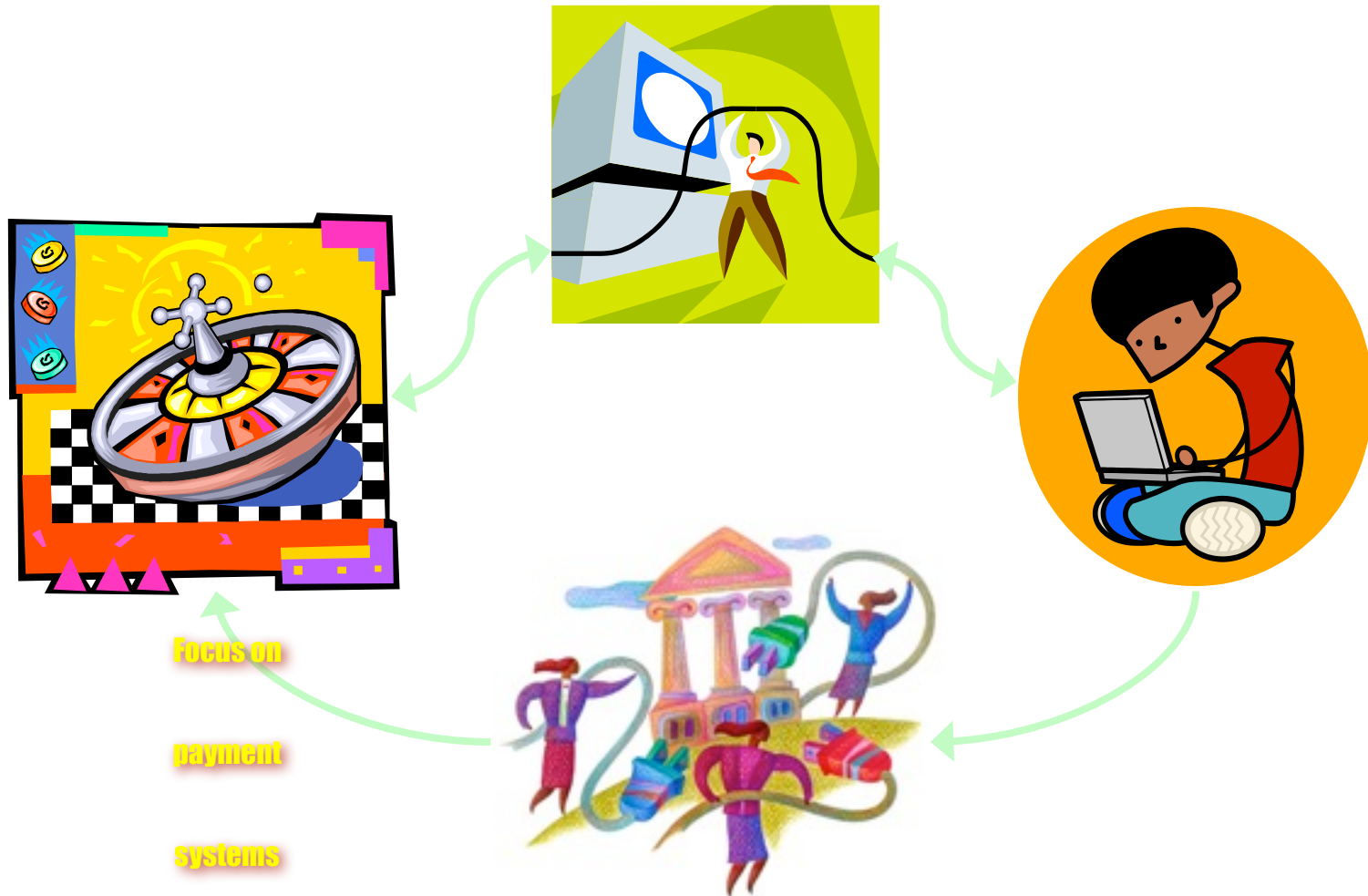


Internet Gambling Basics

Open Internet
First Amendment



Internet Gambling Basics



UIGEA – What Does It Do?

- Clarifies application of state and federal gambling laws to Internet
- **Provides enhanced enforcement tools targeted to the unique environment of Internet gambling**

UIGEA – What Does It Do?

Any enforcement against individual gamblers is left up to the States.

Federal law addresses the other three groups.



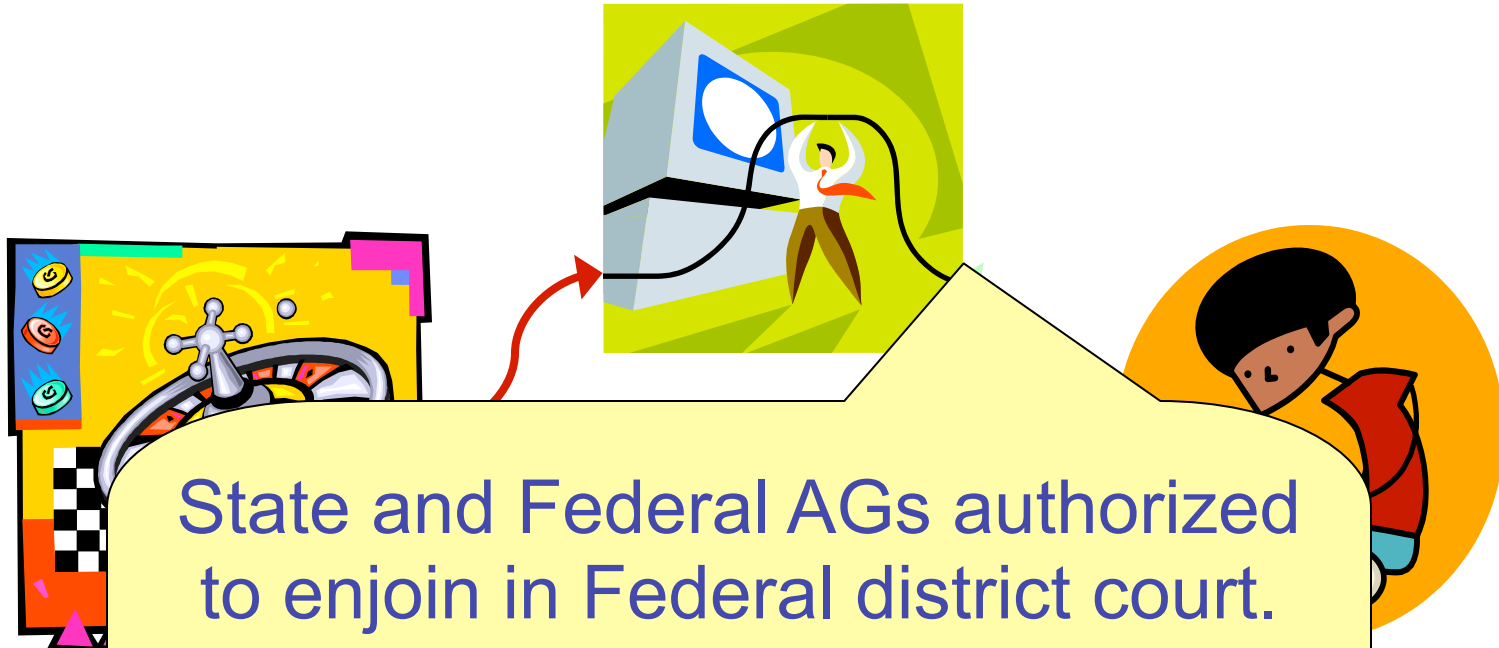
UIGEA – What Does It Do?



Acceptance of \$
related to Internet gambling
+
violation of State or Federal
law where bet is initiated or
received
=
new Federal crime.



UIGEA – What Does It Do?

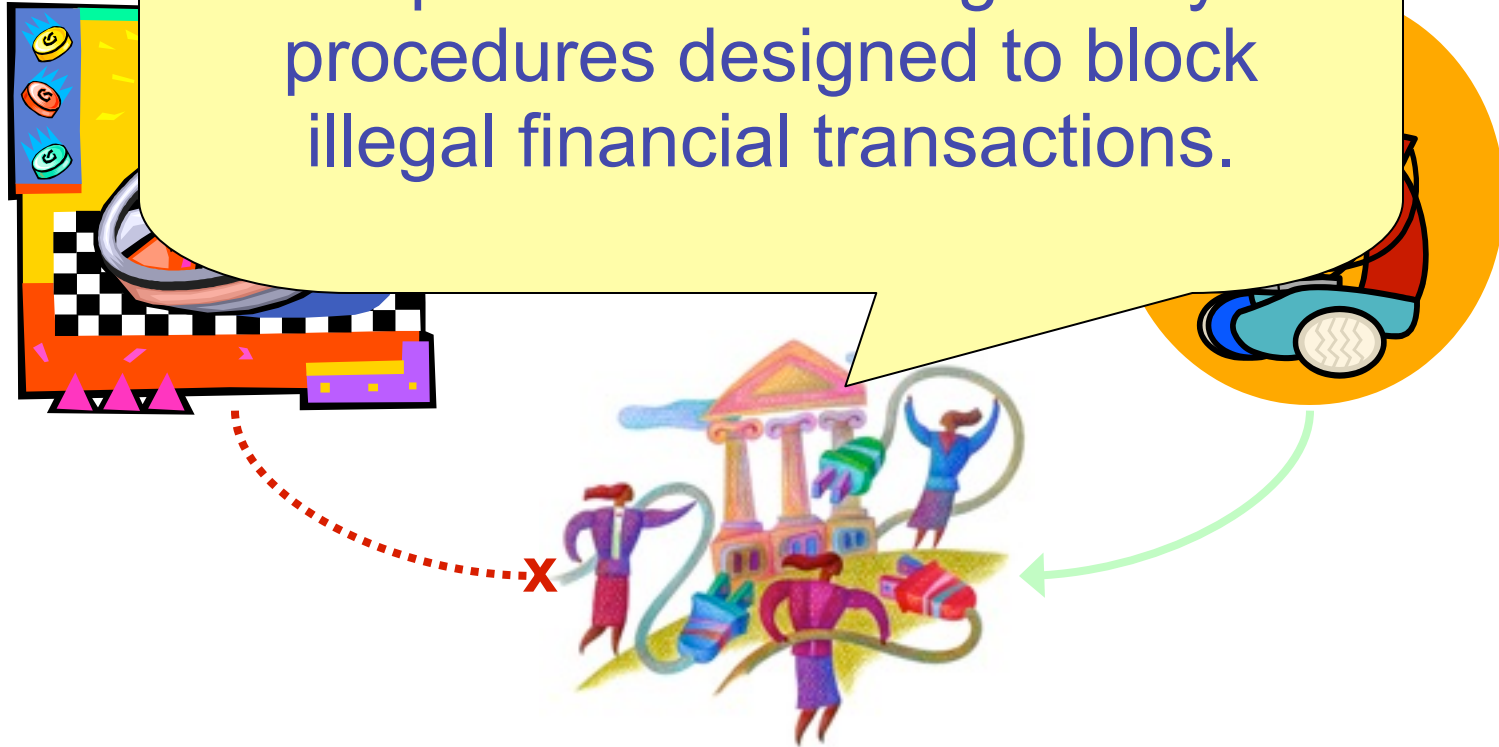


State and Federal AGs authorized to enjoin in Federal district court.

Only applies to websites and hyperlinks under ISP's control (hosting and advertising)

UIGEA – What Does It Do?

Treasury and Federal Reserve
required to issue regulatory
procedures designed to block
illegal financial transactions.



UIGEA – Unfinished Business

- Deadline for prescribing regs 7/10/07
 - Notice of Proposed Rulemaking 10/1/07
 - Final Regulation published 11/18/08
 - Original compliance deadline 12/1/09;
Delayed to 6/1/10
- ▶ **STILL no enforcement of key provisions of UIGEA**

Anti-UIGEA Legislation

- UIGEA regulation delay
- Online gambling legalization

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Regulation Delay – H.R. 2266

- Delays effective date of UIGEA regulations to December 1, 2010
- Chairman Frank partially achieved goal without legislation by convincing Treasury and Federal Reserve to delay compliance deadline
- Distinct issue from legalization

Legalization – H.R. 2267 (Frank)

- Treasury will license online gambling sites; may deputize state gambling commissions to license and regulate, even nationally
- State Governors may restrict gambling services allowed for state residents by providing notice to Treasury
- Licensees get EXEMPTION from any other State or Federal law if activity is authorized under and has been carried out lawfully under the Frank bill (*de facto* repeal of Wire Act)

Legalization – S. 1597 (Menendez)

Key Differences from Frank Bill:

- Poker and other “skill games” only
- Requires Treasury to develop list of unlawful Internet gambling enterprises, and to revise UIGEA regulations to block transactions with entities on the list
- New taxes and tax reporting requirements for gambling businesses; excise tax for gamblers on illegal gambling proceeds

Internet Gambling Myths

- UIGEA was not well-considered
- UIGEA does not reduce online gambling
- Legalization will address social ills better than prohibition
- Legalization will provide politically costless tax revenue
- Trade commitments require legalization

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Was UIGEA Rushed or Ill-Considered?

- Began in 1995, prompted by State Attorneys General
- National Gambling Impact Study recommended banning payments for Internet gambling in 1999
- Internet gambling bills passed at least one house by overwhelming margins in 5 successive Congresses
- UIGEA favorably reported by the House Financial Services Committee on a voice vote 3/15/06, with text nearly identical to final law
- In July 2006, broader version incorporating Judiciary Committee contributions passed House 317-93 with support of the majority/Leadership of both parties

Does UIGEA Reduce Online Gambling?

- Many of the largest Internet gambling operations pulled out of U.S. market immediately when UIGEA passed
- The 2007 National Annenberg Survey of Youth documented precipitous decline of Internet gambling and problem gambling among college-aged youth in months after UIGEA passed
- Online gambling IS still somewhat accessible, but this is not surprising because UIGEA regulations still have not been implemented

Will Licensing Better Address Social Ills?

- Legalization makes gambling more socially acceptable and accessible, causing more of it to happen
- Making government dependent on gambling revenues guarantees government promotion of gambling
- Even if good licensing regulations were possible, unregulated offshore sites will continue to lure minors and problem gamblers unless effective enforcement measures (i.e., UIGEA) are fully implemented

Will Legalization Benefit Balance Sheets?

- Revenue estimates are commissioned by gambling industry with no transparency
- Without strong enforcement, most gambling activity continues through illegal, untaxed channels because transaction costs are lower
- Online gambling siphons revenues from state-regulated gambling
- Estimates ignore socioeconomic costs of gambling

Do Trade Agreements Require Legalization?

- In 2005, WTO found that U.S. GATS commitment to free trade in “recreational services” includes gambling, and pre-UIGEA restrictions (such as the Wire Act) violate that commitment
- In 2007, U.S. Trade Representative began treaty-authorized process of revising trade commitments to withdraw gambling
- Antigua is hold-out to finalizing process, but U.S.T.R. can take to arbitration to conclude
- Antigua has testified that legalization bills would still violate trade commitments (if not withdrawn)

Conclusion

- Effective UIGEA regulations must be implemented to enforce the law
- Nationalizing gambling policy usurps traditional State authority and revenue
- Social policy issues aside, legalization and regulation will not work without strong enforcement against unlicensed operators
- Beware of myths concerning UIGEA's passage and purposes
- Beware of Trojan horses