



Sports Betting With A Mobile Component In New York State

New York Senate Standing Committee On Racing,
Gaming and Wagering

James Kilsby, Vice President - Americas
5/8/2019

An analysis of the revenue potential for mobile sports wagering in New York State and an overview of regulatory approaches to mobile sports betting being adopted by other U.S. states and international jurisdictions.

Introduction

Chairman Addabbo and members of the committee, my name is James Kilsby, Vice President – Americas for GamblingCompliance, a subscription service based in Washington, D.C. and London that provides business intelligence on regulatory issues in the global gaming industry.¹ For the past twelve years, we have specialized in helping industry operators, providers, regulators, advisors and investors to understand emerging legal and policy trends related to online sports betting and online gaming in the United States, Europe and other parts of the world.

I should emphasize that GamblingCompliance is an independent service unaffiliated with any particular stakeholder within the gaming industry. As such, it is not my intention today to advocate for the State of New York to adopt any specific regulatory model for mobile sports wagering, or to opine on whether or not this state should move forward with legislation at all. Nor will I address specific legal issues – related to the New York Constitution, tribal gaming compacts and federal gambling laws, among others – or state-specific matters of public policy that undoubtedly will all form part of this committee’s analysis regarding mobile sports wagering.

Instead, I intend to provide some independent projections on the potential size of a mobile sports-betting market in New York, update the committee on how fellow U.S. states and international jurisdictions are moving to regulate mobile sports betting, and finally to outline some of the policy questions that may be taken into consideration by legislative bodies such as this one which are being charged with formulating sports-betting laws with a mobile component.

¹ For more information about GamblingCompliance please visit our website: <https://gamblingcompliance.com/>

How big is New York’s mobile sports-betting market?

Based on prevailing market trends in New Jersey and in European countries, there can be little doubt that New York’s sports-betting market – and the state tax revenue derived from it – would be far larger with a mobile component, than without.

As the committee will no doubt learn from other witnesses today, online/mobile sports wagering is already accounting for the lion’s share of activity in New Jersey, where sports betting began last summer. In every month so far this year, around 80 percent of the total amount wagered (the “handle”) in New Jersey was placed online, with only one-fifth of bets being made via physical sportsbooks at racetracks and Atlantic City casinos.

GamblingCompliance similarly projects a mobile sports-wagering market in New York would outstrip one confined to retail locations.

According to our recently-updated forecasts, a sports-betting market limited to physical sports wagering lounges at the site of the four Upstate New York commercial casino-resorts would generate gross wagering revenue² of approximately \$8m in its first year of operation, rising to \$13m by year five. If taxed at the 10 percent rate set by the current terms of 2013’s Upstate Gaming Economic Development Act, the state could expect to derive tax revenue of just a few million dollars annually.

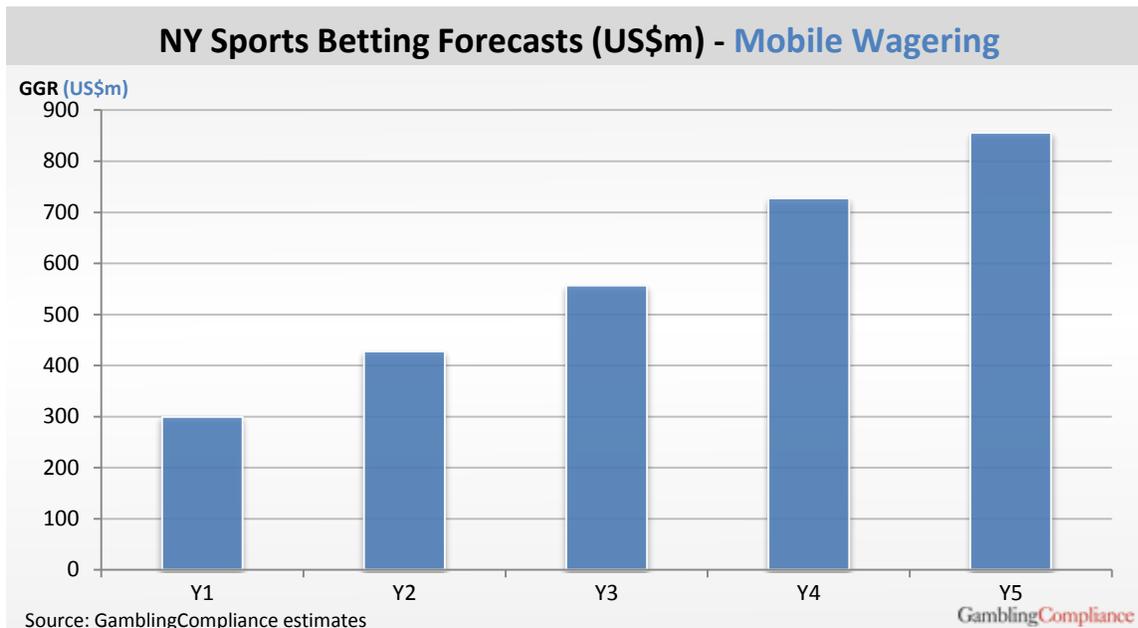
A retail-only sports wagering market that also includes participation by tribal casinos and New York’s racetrack/video lottery locations would be much larger – reaching an estimated \$90m in revenue by the fifth year of operations. A

² Sports betting or wagering “revenue” as referenced in this testimony describes the taxable amount ‘won’ by sportsbook operators after paying out winning bets to patrons. It should not be confused with “handle”, or the total amount wagered.

retail market would be larger still with participation by additional locations, such as off-track betting facilities, sports arenas, or other convenience venues that could conceivably host wagering kiosks.

Still, all of those scenarios are overshadowed by the potential size of the mobile sports-betting market in New York. According to GamblingCompliance forecasts, New York’s online/mobile sports wagering market would be worth \$299m in revenue in its first year, rising to \$856m by year five. If taxed at a rate of 12 percent as per the most recent legislation introduced in the Senate, the State of New York could expect to earn around \$100m in annual tax revenue from mobile sports wagering within five years of launch.

CHART 1: Projected Revenue From Mobile Sports Betting In New York



It is highly likely that authorization of mobile wagering would quickly establish New York’s as the largest sports-betting market in the country, based on the assumption that mobile sports wagering is unlikely in the near-term in California.

Furthermore, the development of a mobile sports-betting market in New York would be significant on a global scale. While smaller than that of the UK, the world's largest regulated online betting market, a mature New York mobile market worth in excess of \$850m annually would surpass the current size of the national markets in each of Australia, France, Italy and Spain.

Online sports betting in a national and international context

Should the State of New York elect to legalize mobile sports betting, it would not be stepping out into the unknown, but rather joining an international trend toward regulation that had been gathering momentum for more than a decade before arriving in the U.S. last May with the ruling of the Supreme Court to invalidate the federal prohibition on expanded sports wagering.

Of the eight states where full sports betting is operational today, five have laws or regulations that allow for statewide mobile wagering.³

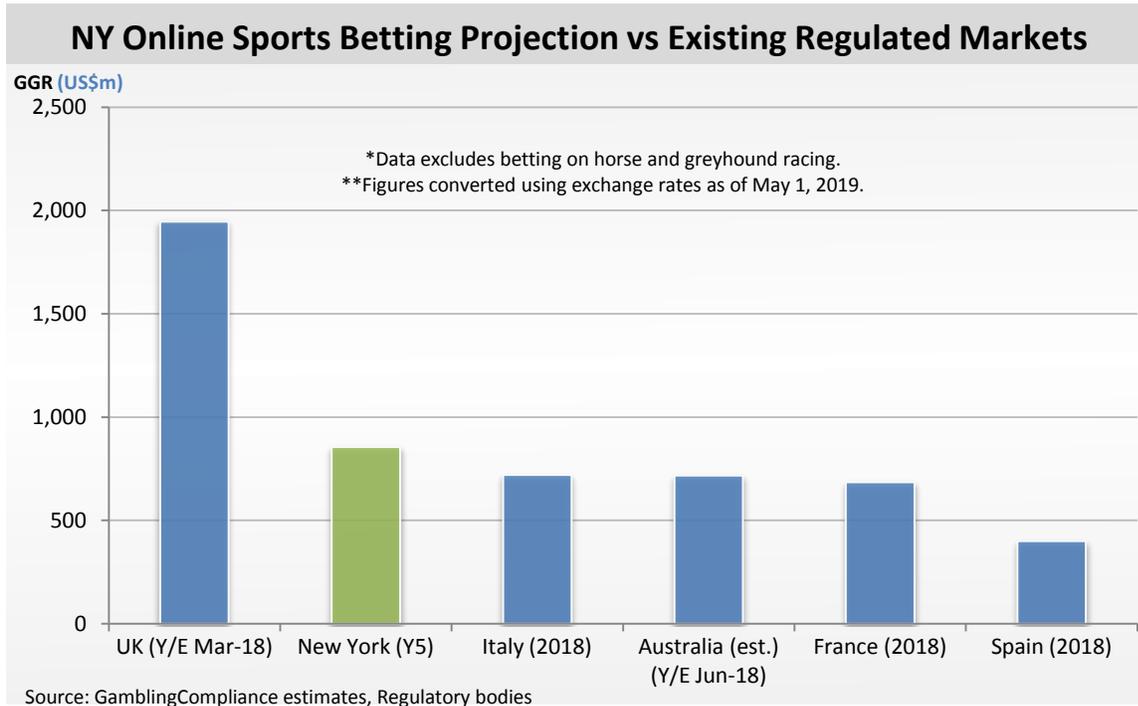
The District of Columbia and Oregon are both actively preparing to launch mobile sports betting via their lotteries. In addition, four of the five state legislatures that have all passed sports-betting bills within the past month are proposing to regulate mobile wagering as part of their new laws, should they receive gubernatorial approval.⁴ Indeed, the House and Senate in Tennessee even passed a first-in-the-nation bill last week that would authorize only mobile sports betting, without any accompanying provisions to allow for in-person wagering at retail locations.

³ Mobile sports betting is authorized in Nevada, New Jersey, Rhode Island, Pennsylvania and West Virginia but not in Delaware, Mississippi or New Mexico. Source: Gambling Compliance's [U.S. Sports Betting Tracker](#).

⁴ Since April 14, sports-betting bills have passed the full legislature in Colorado, Indiana, Iowa, Montana and Tennessee and are awaiting the requisite approval of those states' governors. Of these, only legislation in Montana excludes the prospect of statewide mobile wagering.

Mobile sports betting is extensively regulated in international jurisdictions outside the United States as well.

CHART 2: Forecasted NY Mobile Betting Revenue vs. International Markets



Online betting is either expressly regulated under a licensing system or offered by government-sanctioned national lotteries in every member country of the European Union. Elsewhere, mobile sports wagering is regulated in Russia, across Australia, and in South Africa plus various other countries on the African continent. Regulations are also either in effect or under development in the four largest countries in Latin America – Argentina⁵, Brazil, Colombia and Mexico.

In the more immediate vicinity, it is highly likely that New York will see itself surrounded by states with lawful mobile sports betting within the coming

⁵ Gambling activities are regulated independently by each of Argentina’s 23 autonomous provinces. The province and city of Buenos Aires both passed laws in December 2018 to regulate mobile sports betting and other forms of online gaming.

years, regardless of how this state chooses to legislate for the activity within its own borders.

The members of this committee will already be aware that New Jersey has been offering regulated mobile sports wagering since last August. Pennsylvania, having already opened a half-dozen physical sportsbooks at land-based casinos, is also expected to launch mobile sports betting within the coming weeks in accordance with a 2017 gaming law.

The governor of Massachusetts earlier this year proposed legislation for online sports wagering, with discussion of that and other bills expected to kick off in earnest later this month and approval possible either later in 2019 or in 2020. Connecticut and Vermont are likewise considering legislation to allow mobile sports wagering, while the New Hampshire House of Representatives in March passed a bill supported by the state's governor that is currently awaiting approval in the Senate.

The legislative activity does not stop at the U.S.-Canadian border. Last month, the provincial government of Ontario announced plans to establish a competitive market for online gambling and step up its efforts to lobby Canada's federal government for a change to a Canadian federal law so that single-event sports wagering can be part of that new regime.

In summary, online sports betting is anticipated to be lawful in at least ten states – and perhaps more than a dozen – before the conclusion of 2019 and it would not be remiss of New York legislators to assume that most, if not all, of its neighbors will offer mobile wagering within the next two to three years.

Policy issues to consider

Based on the legislation and regulations adopted in different states to date, it is apparent that there is no one-size-fits-all model for mobile sports betting. As such, lawmakers in New York and other states should expect to make determinations in several nuanced policy areas that will greatly influence the shape of their markets.

While far from an exhaustive list, several of these policy areas are highlighted below and summarized in the table included as an appendix to this testimony.

Tax rate: State taxes on mobile sports wagering revenue range from 6.75% in Iowa and Nevada, to 14.25% in New Jersey and 36% in Pennsylvania.⁶

License fee: While some states have applied modest or even no fees for casinos to acquire additional sports-wagering licenses, Pennsylvania has required a payment of \$10m and Illinois is considering an upfront fee of the same amount.

Skins: Even if sports-wagering licenses are restricted to incumbent land-based casinos, states' laws or regulations may still define how many betting operators casinos can partner with and the specific number of branded sites or 'skins' that can be deployed. Pennsylvania has limited its casinos to just one online betting skin each, with Iowa proposing two skins per casino, and Indiana, New Jersey and West Virginia allowing up to three skins.

⁶ In Delaware and Rhode Island, sports betting is conducted directly by the state (via the state lottery) with the state retaining the bulk of revenue before paying commissions to technology vendors and casinos that host sportsbook operations.

Account registration: Nevada, Iowa and Rhode Island require patrons to establish their mobile betting accounts in-person at a land-based casino, whereas bettors in other states can register remotely via their mobile devices.

Royalty for sports leagues: To date, no state has adopted a law allocating a percentage of sports-betting handle for sports leagues as a royalty or ‘integrity fee.’ However, there is international precedent for broadly similar constructs in France and Poland in Europe, the states of New South Wales and Victoria in Australia, New Zealand and – most recently – Brazil.

Official data: Should states require operators to use the official statistics and authorized data streams of sports leagues in order to settle specific types of bets on their games, such as in-play wagers? Tennessee last week became the first state to pass a law including such a requirement.

Conclusion

To conclude, a sports-betting market with a mobile component in New York would be far larger in terms of annual revenue and state tax revenue than one restricted to specific physical locations, such as the four casino venues in Upstate New York. As the State of New York debates the constitutional and policy issues involved in the legalization of mobile sports betting, other states are quickly moving forward. Those states, however, are adopting divergent approaches in specific areas, including taxes, fees and limits on the number of operators permitted in their markets.

I thank the committee for this opportunity to provide testimony today and welcome any questions you may have.

Appendix: State Approaches To Mobile Sports Betting⁷

	Operators	Skins	Account Registration	Tax Rate	License Fee	Official Data	League Royalty
NV	Unrestricted licensees (casinos)	N/A	In-person	6.75%	N/A	No	No
NJ	Casinos, racetracks	3 per licensee	Remote	14.25%	\$100k	No	No
PA	Casinos	1	Remote	36%	\$10m	No	No
RI	Lottery via casinos	N/A	In-person	51% (state share)	N/A	No	No
WV	Casinos	3	Remote	10%	\$100k	No	No
CO	Casinos	1	Remote	10%	TBD	No	No
IN	Casinos	3	Remote	9.5%	\$100k	TBD	No
IA	Casinos	2	In-person (until 2021)	6.75%	\$45k	No	No
TN	Open licensing	N/A	Remote	20%	\$750k annually	Yes	No
NY (S.17A)	Casinos (inc. tribal)	1	Remote	12%	\$12m	Yes	Yes

Source: GamblingCompliance research/[U.S. Sports Betting Tracker](#)

⁷ Legislation allowing for mobile sports betting is in effect in Nevada, New Jersey, Pennsylvania, Rhode Island and West Virginia (Rhode Island has yet to adopt implementing regulations). Legislation has passed the state legislatures in Colorado, Indiana, Iowa and Tennessee but will not take effect until each state's governor has taken the requisite action to enact the bills into law. New York provisions reflect those of bill S.17A, filed on May 2, 2019.