



A MINUTE WITH

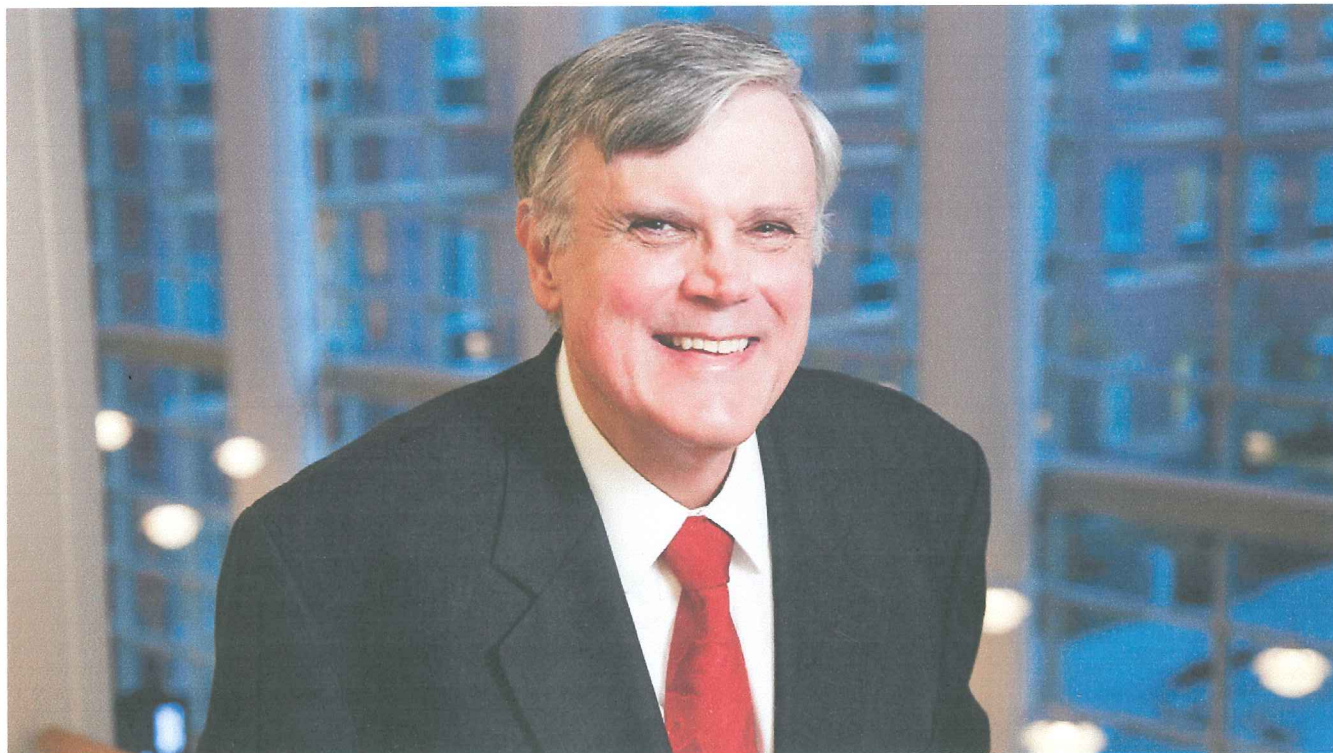
FACULTY INTERVIEWS

blog navigation

blc FACULTY INTERVIEWS

Has fantasy sports crossed the line to become another form of online gambling?

OCT 9, 2015 10:00 AM BY PHIL CICIORA



"A majority of legal experts would say fantasy sports has probably crossed the line into online sports gambling, which is illegal in the U.S." Professor Emeritus John Kindt

Photo by L. Brian Stauffer

Images

blog posts

John Kindt, an emeritus professor of business and legal policy at the University of Illinois, is a leading national gambling critic who has testified before Congress about the societal, business and economic impacts of decriminalizing gambling. The author of a forthcoming book on sports gambling, Kindt spoke with **News Bureau Business and Law Editor Phil Ciciora** about the legality of online fantasy sports.

The fantasy sports companies FanDuel and DraftKings recently had to defend themselves against accusations of insider trading, prompting calls for Congress to draw a clear line between fantasy sports and online gambling. Is fantasy sports merely a game or a semi-legal form of online sports gambling?

A majority of legal experts would say fantasy sports has probably crossed the line into online sports gambling, which is illegal in the U.S.

To be fair, there is an exception for fantasy sports in the Unlawful Internet Gambling Enforcement Act of 2006, and the fantasy sports companies argue that they are able to skirt the law through that loophole. But that's because, at the time, fantasy sports was thought of as just a game, not a moneymaking juggernaut. The stakes were low, and you were playing for season-long

bragging rights – not daily dollars.

Most online games these days aren't about bragging rights. They're about winning money – in some cases, up to a million dollars. And when substantial sums of money are involved, that's when it starts edging closer to illegal gambling. When there's an exchange of money based on artificial risk – whether you call it an “entry fee” or a “prize” – it's gambling, plain and simple.

Furthermore, even the provisions in the loophole are now generally ignored, which places fantasy sport companies and other companies associated with them at extreme legal risk.

When my colleagues and I testified before Congress in 2006 about this issue, there was concern about the loophole, which we argued should be eliminated during the bill's markup. But the loophole was retained, and now the problems it has created are enormous. During congressional hearings in March 2015, my colleagues and I again urged lawmakers to close the loophole.

Clearly, Congress needs to take another look at the law and pass even more stringent anti-gambling statutes because the industry's self-regulation is a sham. And if there's insider trading going on, maybe it's something for the office of the attorney general to look at.

Since the seasons of the four major sports league span the calendar, someone could conceivably play daily fantasy sports games year-round. Why not legalize and regulate online fantasy sports?

When fantasy sports becomes someone's year-round occupation or primary source of income, that makes it more like bookmaking. And if they're playing year-round for a couple dollars here and there – well, that's still gambling. We already have legal sports gambling in Las Vegas and a few other jurisdictions. We don't need to create more ways to bet on professional sports.

The recommendation of the U.S. National Gambling Impact Study Commission, which included members of the gambling industry, was to keep gambling on the Internet illegal. The reason why: If you have Internet gambling, it will bankrupt families and destabilize the economy. That recommendation looks even more prescient, now that everyone has a smartphone in their pocket, a computer on their desk and a tablet on their nightstand.

Everyone loses with Internet gambling. In their segment “The Bet That Blew Up Wall Street,” “60 Minutes” exposed how the elimination of anti-gambling laws via the Commodity Futures Modernization Act of 2000 helped catalyze the market crash that precipitated the Great Recession.

You can't regulate online gambling. You can only prohibit it.

Not only is fantasy sports popular among sports fans, but many powerful interests – from the sports leagues themselves and their players unions to companies such as Comcast, Fox and Google – are backing the leagues. Should the public be concerned that this phenomenon has gotten out of control?

The public ought to be concerned. Sports gambling is a multibillion-dollar industry – up to \$95 billion per year, according to some estimates, the majority of it illegally wagered. All of that money is disposable income that could otherwise have been spent on goods that contribute to our economy: education and health care, as well as consumer goods like cars and appliances.

I think the entire industry is ripe for increased public scrutiny through another congressional hearing. I also have serious doubts that fantasy sports companies would be able to justify the legality of their operations during such a hearing. Throwing more sunshine on the industry is definitely necessary.

Likewise, the NCAA and the professional sports leagues should be very

concerned about the integrity of their sports and the connection between fantasy sports and sports gambling, which has its own sordid history from the 1919 Black Sox scandal to Pete Rose. The sports leagues need to recognize that it's a matter of not only protecting the integrity of the sport itself, but also protecting the fans, because sports gambling is particularly attractive to young people. In fact, for the younger generation, the one that has always had access to the Internet and considers it part of everyday life, the medical community delimits fantasy sports as the ultimate gateway drug to gambling addiction.