

# United States Senate

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July 8, 2014

The Honorable Eric J. Holder, Jr.  
Attorney General  
U.S. Department of Justice  
950 Pennsylvania Ave, NW  
Washington, DC 20530

Dear Attorney General Holder:

I write today to request background and clarification from you on the Department's position concerning Internet gaming. As you may be aware, Virginia is one of a relatively small number of states which does not permit casino gambling. As a former Governor and now U.S. Senator for Virginia, I know that Virginians feel strongly about the issue of gaming and believe that states have a right to control gaming within their borders. I also have concerns about the potential implications of an opinion issued by the Department's Office of Legal Counsel (OLC) on December 23, 2011. That opinion asserts a new interpretation of the Wire Act, finding it no longer prohibits all forms of gambling involving wire communications but only sports betting.

Based on the OLC opinion, three states have already passed legislation authorizing non-sports related Internet gaming, and other states are considering similar action. This trend could lead to numerous states entering this space, creating a patchwork of regulatory regimes and ineffective enforcement mechanisms to ensure against taking bets from individuals within Virginia or other states that have not authorized Internet gaming. The OLC opinion could also usher in significant changes to how gambling is conducted in this country, taking it from an activity requiring physical presence at a bricks-and-mortar location and turning it into an activity nearly every American could access at all hours simply through an app on their cell phones.

Despite its broad implications, the OLC opinion appears to be based on legal interpretation alone and does not provide background on the extent to which consideration was given to social, economic and law enforcement implications. It is also unclear to me as to whether or not the opinion involved consultation with Congress; input from state and local law enforcement and governments; or opportunity for public comment.

I have concerns about Internet gambling in general, concerns that I believe we share. I appreciate the comments you made in 2010, for instance, in relation to offshore Internet gambling that "[w]hen one looks at the negative impact that that has had on the lives of individuals, potential that it has for problems that it might create, even on a community-wide basis, it just seems to...us that that is not something that we necessarily want to support."

Given my constituents' concerns about Internet gaming, my own concerns about its potential impact on Virginians, and the need for Congress to play a role in shaping the laws governing interstate commerce and communications, I ask that you provide insight into the methodology and reasoning behind issuing the OLC opinion. I also ask that you provide additional detail on the process involved in issuing the opinion, what stakeholders were involved and how their input was considered, as well as how you plan to work with Congress in the future to develop a federal policy on this issue. Thank you for your attention to this important matter.

Sincerely,

A handwritten signature in blue ink that reads "Mark R. Warner". The signature is written in a cursive, flowing style.

MARK R. WARNER  
United States Senator