



Report on Plans for Online Sales of Traditional Lottery Games

As required by the
2011 Joint Chairmen's Report
Page 25

By

State Lottery Agency

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Introduction

Language on Page 25 of The Joint Chairmen’s Report (JCR) for the 2011 Session requested the State Lottery Agency (SLA) to report on the sale of traditional lottery games over the Internet, including efforts made by other jurisdictions and the federal government in this area; review of federal and state laws; detail the agency’s proposal regarding the development and implementation of Internet lottery sales and the impact Internet sales may have on existing Lottery retailers; and report to the budget committees by December 15, 2011.

As an important source of revenue for the state of Maryland, the Lottery’s core **mission** is to generate money to support vital state programs and services.

The advancement of **web connectivity** has forever changed the way businesses market to potential customers. Consumers from all socio-economic backgrounds are using the web to help them make buying decisions. A survey conducted by the Pew Research Center showed that nearly 74% of American adults (18+) use the Internet, more than half connect wirelessly via a laptop or Smartphone, and 60% use broadband connections at home.¹

Due to the increase in web connectivity, the SLA has already seen a shift in how our players are using the Internet to **interact with and gather information** about games, drawing results, promotions, winners and more. In calendar year 2011, mdlottery.com has generated more than 24 million visits and more than 57 million page views. According to the fiscal year 2011 SLA segmentation tracker, 53% of players use the website as their primary source for getting winning numbers.² There has also been significant emphasis on interaction within social networks with 12,352 [Facebook](#) likes, 1,591 [Twitter](#) followers and 323,391 total [YouTube](#) upload views. Our direct marketing databases continue to thrive with 40,486 in our e-mail database and more than 24,000 in our mobile database (all stats as of Nov. 30, 2011).

In addition, players continue to gravitate towards **Internet-based promotions** such as Ravens Cash Fantasy and Cruise for Cash. Three years running, Ravens Cash Fantasy continues to be one of the Lottery’s top-selling \$5 scratch-off products. The Internet promotion, which enables players to enter Extra Yards at mdlottery.com/ravens for the chance to win Baltimore Ravens related prizes, continues to help drive sales for the game. In particular, the 2011 game has generated 50,176 registered users across the state. The Cruise for Cash game gave away 31 instant cruise vacation packages, as well as six second-chance vacations. Players attempting to win the second-chance cruises entered at mdlottery.com/cruise. The unique aspect of Cruise for Cash was players were given the opportunity to enter by mail or Internet. By doing so, we learned player preference was to enter on the Internet at a rate of more than 4-to-1.

Technology has had a profound impact on **consumer behavior** including where and when consumers decide to purchase a product. Businesses are utilizing technology in creative ways to better market to

¹ Lee Rainie, “Internet, broadband, and cell phone statistics,” Pew Research Center, January 5, 2010, accessed November 10, 2011.

http://www.pewInternet.org/~//media//Files/Reports/2010/PIP_December09_update.pdf

² Crestwood Associates, “2011 Maryland State Lottery Agency Segmentation Tracker,” August 2011.

potential buyers and their evolving consumer behaviors. “In 2011, retail ecommerce will grow 13.7% on sales of \$188 billion and will continue to see growth with the increased emphasis on mobile and social commerce and daily deal sites.”³ The SLA believes it needs to adapt its business model to incorporate this trend and respond to these new consumer behaviors, giving its players the ability to purchase products when and where it is convenient to them. From small businesses to Fortune 500 companies, businesses are utilizing ecommerce to complement brick-and-mortar retail locations to grow their bottom line and **remain competitive**. Otherwise, they risk falling behind the curve. The Maryland Lottery is no exception.

Ecommerce Complements Brick-and-Mortar

Ecommerce has become an increasingly important part of doing business since the mid-1990s. The key to ecommerce is launching a productive platform while generating continued success for the brick-and-mortar retail base. Most importantly, the SLA views ecommerce as an avenue to **complement brick – and-mortar retailers**, not to compete with or replace them. Treating each sales funnel as an integral part of the Lottery’s overall business mission would in turn help expand the player base retailers have established through the years.

An FY11 SLA segmentation tracker revealed that 50% of Maryland adults 18+ had played the Lottery in the past 12 months. However, two-thirds of this player base has traditionally been 45 years of age and older. This research reveals significant room for growth across the state, and the SLA believes ecommerce can accomplish increased awareness and growth of its products. In addition, the same study revealed that 69% of players and 71% of non-players shop for goods and services on the Internet.⁴ Ecommerce would offer an expanded **customer reach** in order to attract new business from players and non-players alike. By offering an ecommerce platform, the SLA will have the opportunity to capture an even greater market share of traditional Lottery demographics such as Generation X (35-54). “Most Gen Xers are online. eMarketer estimates that 88% of the segment are web users, and that number is expected to increase to 90.9% by 2015. They are slightly more likely than the general population to visit online retail sites and significantly more likely to visit mobile retail sites.”⁵ Concurrently, an ecommerce platform would also provide the SLA with the opportunity to attract traditionally hard-to-reach young adults in Generation Y (18-34), who have become accustomed to purchasing products on their own terms, while influencing peers by using social media and Smartphones.

An ecommerce platform would, for the first time, give the SLA a full understanding of our players’ **consumer behaviors** through a robust player database. The technology would allow the SLA to acquire real-time information relating to consumer demographics, spending habits, sales trends and more. With this information, the SLA would be able to make stronger business decisions through targeted, relevant marketing and sales efforts that are incorporated into our overall business plan with the underlying goal of attracting non-players, bringing back latent players, and turning everyday players into strong brand

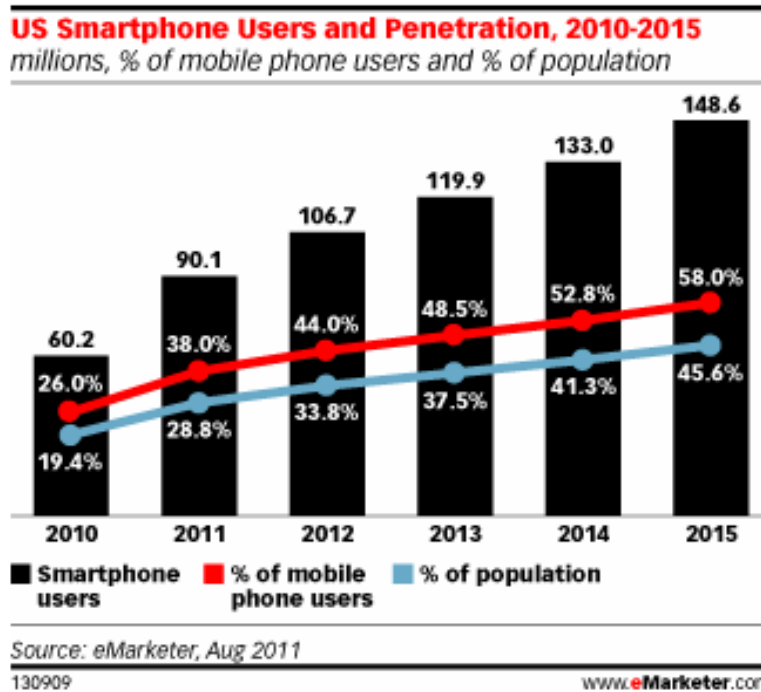
³ Jeffrey Grau, eMarketer, “Healthy Growth for Ecommerce Sales in 2010,” March 17, 2011, accessed October 27, 2011. <http://www.emarketer.com/PressRelease.aspx?R=1008289>

⁴ Crestwood Associates, “2011 Maryland State Lottery Agency Segmentation Tracker,” August 2011.

⁵ eMarketer, “Gen Xers Are Online Media Kings,” August 23, 2011, accessed October 27, 2011. <http://www.emarketer.com/Article.aspx?R=1008554>

ambassadors. The SLA also believes that these long-term marketing efforts would be more financially efficient than traditional advertising efforts.

A strategy involving ecommerce is not complete without implementing a similar experience through **mobile commerce**. “Smartphone penetration will reach 38% of mobile users and 28.8% of the overall population by the end of [2011], according to eMarketer data. The number of Smartphone users is set to increase 49.6% this year to 90.1 million.”⁶



Mobile commerce would help keep the SLA ahead of the curve and attract yet another player market. According to an eMarketer study, the young adults of Generation Y (or Millennials) are significantly more comfortable with m-commerce, better known as mobile commerce. The SLA sees mobile commerce as an important aspect of its overall strategy because it adds an even greater level of convenience, specifically to potential Gen Y Lottery players. According to the study, “Nearly twice as many under-35s versus older respondents agreed that being able to research and buy products on the go was a true convenience.”⁷

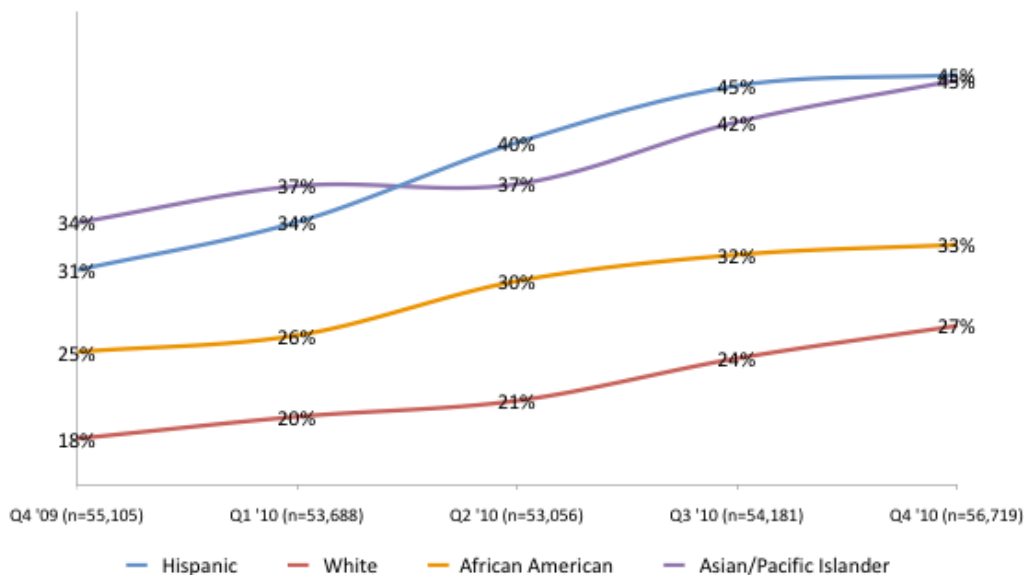
Utilizing mobile Smartphones also would enable the SLA to increasingly reach different ethnicities. As part of the SLA’s first quarter, FY12 demographic profile study, Caucasian players accounted for 69% of current Lottery players, reiterating similar studies and proving that ethnicities outside of the Caucasian market continue to be a growth area for the Lottery. An ecommerce platform featuring an emphasis on mobile commerce would help attract these growth areas, including African-American and

⁶ Stephanie Reese, eMarketer, “Quick Stat: Smartphone Users Account for 28% of Mobile Phone Users,” August 24, 2011, accessed October 27, 2011. <http://www.emarketer.com/blog/index.php/quick-stat-smartphone-users-account-38-mobile-phone-users>

⁷ eMarketer, “Millennials More Comfortable with M-Commerce,” September 16, 2011, accessed October 27, 2011. <http://www.emarketer.com/Article.aspx?R=1008593>

Hispanic/Latino consumers. A Nielsen study revealed that African-Americans (33%) and Hispanics (45%) are more likely to choose a Smartphone as their web enabled device. Mobile commerce would give this player base the opportunity to play Lottery products in a way that is convenient for them.

Smartphone Penetration by Race / Ethnicity - U.S. Q4 '09 - Q4 '10



Source: The Nielsen Company 8

With the exception of the existing check-based subscription service, the SLA has been a cash-only business since its inception in 1973. It is the SLA's belief that this business model is limiting growth areas and that ecommerce is the perfect platform to begin introducing **alternative payment mechanisms**. Consumers are carrying less and less cash, and the SLA believes this trend is having an adverse affect on business growth. New technologies would allow the Maryland Lottery to complete transactions the way consumers are accustomed to in other retail encounters. Near field communications (NFC), quick response codes and mobile phone applications are changing the way people pay for goods and services, and businesses across the world are adapting to the trend. In fact, [PayPal recently predicted the end of the wallet by 2015](#)⁹ and, as demonstrated by these stories, other brands are well aware of the trend:

- [Starbucks is paving the way for mainstream mobile payments](#)¹⁰
- Google has introduced [Google Wallet](#), an application that makes your phone your wallet, while giving you the ability to tap, pay and save virtual cards and offers on your phone¹¹

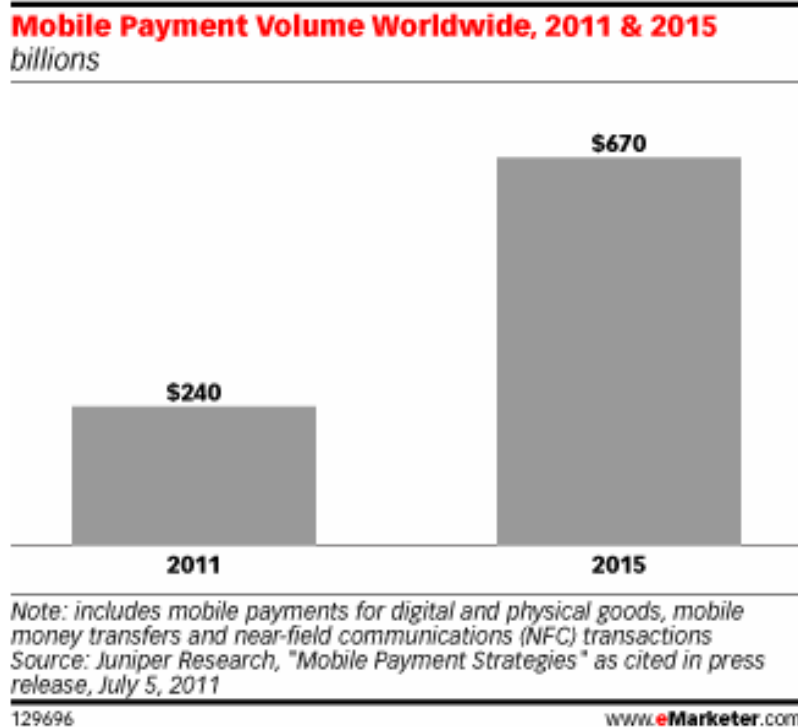
⁸ Don Kellogg, nielsenwire, "Among Mobile Phone Users, Hispanics, Asians are Most-Likely Smartphone Owners in the U.S.," February 1, 2011, accessed October 27, 2011. <http://blog.nielsen.com/nielsenwire/consumer/among-mobile-phone-users-hispanics-asians-are-most-likely-smartphone-owners-in-the-u-s/>

⁹ Ben Parr, Mashable, "PayPal Predicts The End of the Wallet by 2015," June 29, 2011, accessed October 27, 2011. <http://mashable.com/2011/06/29/paypal-100-million/>

¹⁰ Jennifer Van Grove, Mashable, "How Starbucks is paving the way for mainstream mobile payments," June 28, 2011, accessed October 27, 2011. <http://mashable.com/2011/06/28/starbucks-mobile-pay-tech/>

- [Verizon, AT&T and T-Mobile are investing \\$100M](#) to compete with Google in this growing market¹²
- [PayPal wants to Turn your Remote Control into a Digital Wallet](#)¹³
- [Kuapay Lets Mobile Users Pay with QR Codes \[VIDEO\]](#)¹⁴
- [The Future of Mobile Payments \[INFOGRAPHIC\]](#)¹⁵

Dramatic growth is ahead for the mobile payment market, and the SLA believes it should get out in front of the m-commerce opportunity in conjunction with an ecommerce platform. It is believed that more than 80% of point-of-sale systems will accept mobile payments by 2016.¹⁶ The introduction of alternative payment mechanisms would help ecommerce complement the brick-and-mortar experience even further by creating a streamlined customer experience online and off.



¹¹ Google Wallet, accessed October 27, 2009. <http://www.google.com/wallet/>

¹² Todd Wasserman, Mashable, "Verizon AT&T and T-Mobile Invest \$100M in Google Wallet Competitor," August 29, 2011, accessed October 27, 2011. <http://www.google.com/wallet/>

¹³ Jennifer Van Grove, Mashable, "PayPal Wants to Turn Your Remote Control into a Digital Wallet," November 18, 2010, accessed October 27, 2011. <http://mashable.com/2010/11/18/pay-pal-t-commerce/>

¹⁴ Jennifer Van Grove, Mashable, "Kuapay Lets Mobile Users Pay With QR Codes," August 16, 2011, accessed October 27, 2011. <http://mashable.com/2011/08/15/kuapay/>

¹⁵ Ben Parr, Mashable, "The Future of Mobile Payments [INFOGRAPHIC]," July 8, 2011, accessed October 27, 2011. <http://mashable.com/2011/07/08/the-future-of-mobile-payments-infographic/>

¹⁶ Jennifer Van Grove, Mashable, "Kuapay Lets Mobile Users Pay With QR Codes," August 16, 2011, accessed October 27, 2011. <http://mashable.com/2011/08/15/kuapay/>

Responsible gambling is an issue that the SLA takes seriously. Technology would allow the SLA to implement significant safeguards to ensure that players are having a positive, yet responsible, experience. A variety of configurable limits can, and should, be built into the player experience including, but not limited, to:

- Age restrictions
- Geographical restrictions
- Spending limits
- Wallet deposit limits
- Temporary, permanent and game-specific exclusion
- Marketing preferences

Also links would be provided to the [Maryland Alliance for Responsible Gambling](#) website from the ecommerce platform so players can get responsible gambling information on demand.

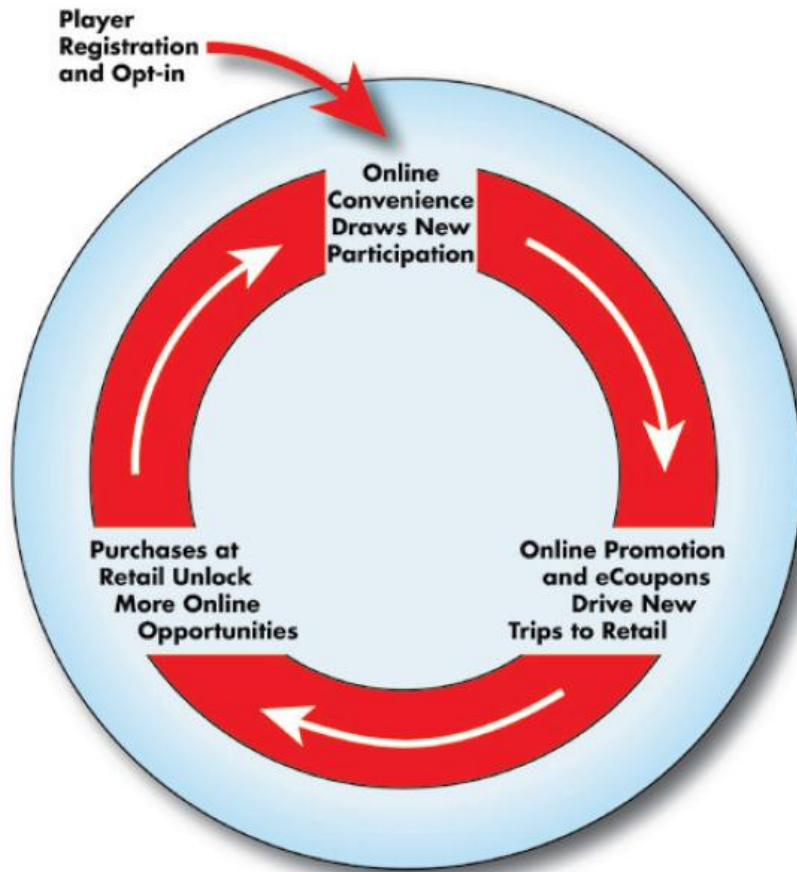
Selling Online Improves Retail Performance

“Virtually every consumer industry understands that their customers are online, and that it is now mandatory for them to build Internet-based sales channels...or risk obsolescence.”¹⁷ The lottery industry is playing catch-up to this trend. The challenge the SLA faces is introducing an ecommerce platform that is **seamlessly integrated** with our established retailer network to drive sales (see chart below.)

Many well-known brands have successfully integrated an online sales channel with brick-and-mortar locations including Apple, Best Buy, Babies R Us, Verizon Wireless and Under Armour, to name a few. Implementing marketing and sales strategies such as e-coupons, promo codes, daily deals, social gaming, promotional overlays and player loyalty programs can accomplish integration and drive traffic to retailers to not only increase lottery participation and sales but also sales of the retailers’ other products. It is a point of emphasis for the SLA to collaborate with brick-and-mortar retailers to launch creative marketing concepts that would help both sales funnels thrive. Digital promotions are slowly replacing weekly circulars, particularly among younger consumers. “It is estimated that overall, 88.2 million US Internet users will redeem an online coupon for either online or offline shopping [in 2011], up from 83.6 million in 2010. Digital’s ability to attract new buyers and provide solid redemption rates makes online coupons stand apart.”¹⁸ Consumers are thinking twice before they spend extra dollars on Lottery products and when they do, they want more value than ever for that dollar. The SLA believes an ecommerce platform could help deliver increased value to consumers to further its mission and that of its retail partners. Lotteries abroad, and a small minority in the United States, are already capitalizing on ecommerce.

¹⁷ Sciplay, “Lottery Internet Sales: The Untapped Potential Leading to a Win-Win for All,” January 2011

¹⁸ eMarketer, “Online Coupons Boast High Redemption Rate,” August 18, 2011, accessed November 10, 2011. <http://www.emarketer.com/Article.aspx?R=1008547>



The sale of lottery products through the Internet can be used to drive players to the retailers and vice versa

UK LOTTERY CASE EXAMPLE¹⁹

The UK National Lottery introduced Internet sales in 2003 and is a relevant case example of the possible impact on overall Lottery revenues, plus the direct effect on traditional retailer sales.

The UK National Lottery commenced Internet sales in 2003. This new channel has been cited as a key reason for the Lottery’s solid sales growth since that time. Total sales grew from GBP £4.6 billion in 2003 to almost GBP £5.2 billion in 2009. In 2009, Internet sales exceeded GBP £677 million or 13% of total sales.

Retail commissions grew 8.2% during the UK Lottery’s Internet introduction.

During the same time period, retailer commissions (a proxy for retailer sales) grew from GBP £229 million to GBP £248 million, or 8.2%. This is reflective of continued growth in sales of Lottery games at traditional retail outlets, even while the Lottery was building its new Internet channel.

¹⁹ Sciplay, “Lottery Internet Sales: The Untapped Potential Leading to a Win-Win for All,” January 2011

- UK National Lottery is one of the world's fastest growing interactive lotteries:
 - 2.9 million active players
 - 8.8 million unique site visitors per month
 - 15% of total UK Lottery wagers
 - More financial transactions per year than Amazon.co.uk
 - Retention is stable at 80%

iGaming in the United States

“Edwin McGuinn, chief executive officer of eLottery of Stamford, Connecticut, projects that a state with online lottery sales would increase revenue 15% within five years and attract a demographic that doesn't traditionally go into a convenience store to buy a ticket at a time when many states are grappling with budget deficits. He said that, in Britain and Finland, the online portions of government lottery sales are 15% and 25%, respectively.”²⁰

States across the country are amending their lottery business model to incorporate ecommerce functionality. Several states already are selling subscriptions on the Internet, and other states are looking to evolve with various forms of legislation.

[Illinois Lottery](#)

Illinois recently launched a new ecommerce platform using a Subscription Visa Prepaid Card to purchase their Mega Millions, Lotto and Little Lotto games.

- The card allows a player to access funds loaded or deposited to the account.
- The card is not connected to a checking, savings or any other account.
- Values between \$1 and \$2,500 can be loaded onto the card.
- Funds can be added to the card up to two times per day, four times per week and ten times per month.
- Once the card has funds available, players must register online, where they can then enjoy subscriptions of varying lengths.
- To incentivize players, half and full-year subscribers receive discounted rates.
- Winnings are immediately deposited onto the player's card.
- Players must be at least 18 years of age to play.

[Minnesota Lottery](#)

Minnesota allows players to purchase subscriptions on the Internet for Powerball, Mega Millions, Hot Lotto, Gopher 5, Northstar Cash and Daily 3.

- Subscriptions are available for periods of six weeks to one year.

²⁰ Rob Jennings, USA Today, “States considering online lottery sales,” June 10, 2011, accessed October 27, 2011. http://www.usatoday.com/news/nation/2011-06-09-state-lotteries-online-sales-New-Jersey_n.htm

- Players use account profile to manage their subscription and wallet, purchase new subscriptions, participate in group play, and claim winnings.
- Players pay for purchases by electronically transferring funds through ACH processing.
- Players must be at least 18 years of age to play.

“The Minnesota State Lottery began selling online lottery subscriptions for up to a year on Nov. 18, 2010 for games such as Powerball and Mega Millions,” says Jenny Canfield, the state Lottery's director of operations. [With no marketing devoted to the program] Canfield said the Minnesota Lottery had sold 8,772 subscriptions as of last week, generating \$333,476.”²¹

New Hampshire Lottery

New Hampshire offers subscriptions for Powerball, Mega Millions, Megabucks Plus and Hot Lotto.

- Subscriptions are available for 26 draws (three months), 52 draws (six months), and 104 draws (one year).
- All players must be 18 years or older.
- The purchaser and recipient must have a New Hampshire mailing address.
- Consistent with its state laws, New Hampshire allows players to complete the purchase of their Lottery subscription with a personal credit card.
- When a player proceeds to checkout they can choose among Visa, MasterCard and Discover to complete the transaction.

New York Lottery

New York offers subscriptions services for Mega Millions and New York Lotto.

- Players create a user account to order, renew and manage their subscription online.
- Subscriptions are available from 10 draws (five weeks) to 104 draws (one year).
- Winnings are automatically sent to prize account or paid by check.
- Players can manage multiple subscriptions within the same account.
- Players can purchase gift cards for \$25, \$50, \$75 and \$100.
- All players must be 18 years or older.

North Dakota Lottery

North Dakota’s subscription service is available for Powerball, Mega Millions, Hot Lotto, Wild Card 2 and 2 by 2.

- Subscriptions are available in 26 draws (three months), 52 draws (six months), and 104 draws (one year).
- Players can submit their purchases online through debit, credit card and ACH transactions.
- Players must be at least 18 years of age to play.

Virginia Lottery

Virginia allows online purchases of Mega Millions and Win for Life subscriptions.

²¹ Rob Jennings, USA Today, “States considering online lottery sales,” June 10, 2011, accessed October 27, 2011. http://www.usatoday.com/news/nation/2011-06-09-state-lotteries-online-sales-New-Jersey_n.htm

- Players can play for 26 draws (three months), 52 draws (six months) or 104 draws (one year).
- Players must be at least 18 years of age, have a valid checking account and a Virginia mailing address.

A GamblingCompliance.com report indicates that in 2011, 15 bills addressing regulation of various forms of Internet gambling have come before lawmakers in eight states and Congress in Washington, DC. Among these bills, two proposals – in the District of Columbia and Nevada – were passed into law, while casino regulators have been asked to submit a formal study on Internet poker in Iowa and a similar requirement is pending in Massachusetts.²²

The summary below includes a snapshot of current pending Internet gambling legislation compiled by GamblingCompliance.com.

California

Two Internet gambling bills are pending including intrastate poker and a public-private partnership for the legalization of other forms of online gambling beyond poker. Although neither progressed out of committee in 2011, informal hearings were held on both and are due for reconsideration in 2012.

Florida

In 2010 and 2011 a bill was introduced to create an intrastate Internet poker network to be provided to the public via the state’s licensed card room operators through a network operated by licensed Internet poker hub operators. Both instances failed to gain the needed momentum to pass out of committee. Internet poker bills are expected to be reintroduced in 2012.

Hawaii

The bill would create a new regulatory agency – the Peer-to-Peer Gaming Commission – tasked with overseeing the implementation of Internet poker games including Texas Hold ‘Em and Omaha. The bill failed to pass out of the Hawaii House Finance Committee.

Iowa

The state continues to look to authorize Internet poker at Iowa’s existing casinos creating a network operated by a single operator. A bill was passed, and on December 1, 2011, the Iowa Racing and Gaming Commission submitted a report to the Iowa General Assembly detailing the framework for state regulation.

Massachusetts

Having already authorized casino gambling, Massachusetts is currently considering an amendment to the bill requiring the newly-formed casino commission to analyze and develop recommendations and model legislation with respect to the issuance and implementation of Internet poker licenses. If the amendment is included in the final legislation, the commission is to report its finding and recommendations, together with any drafts of proposed online poker legislation by July 31, 2012.

Nevada

Nevada was the first state to legalize intrastate Internet gambling 2001. Ten years later, in 2011, regulators are developing regulations to implement that law to position Nevada for potential

²² Gambling Compliance, “U.S. iGaming: A Legislative Overview – 2011”

legalization of online poker under a federal law. Regulations must be in place by January 31, 2012. Despite rules to allow for intrastate gaming, Nevada licenses are not expected to be awarded imminently pending possible movement on federal legislation regarding online poker.

New Jersey

In January 2011, New Jersey approved a bill that would have permitted Atlantic City casinos to offer Internet gaming, including poker and casino games, within New Jersey under a regulatory scheme similar to that which regulates the state's casinos. In March 2011, Governor Chris Christie vetoed the bill, citing state constitutional concerns. In August, a new Internet gaming bill was reintroduced addressing some, however not all, of the governor's concerns. There is also legislation pending in New Jersey that would legalize the same of lottery tickets via electronic means, such as the Internet.

Washington, DC

On December 21, 2010, the District of Columbia Council voted to pass the Lottery Modernization Amendment Act of 2010, which provided the legislative framework for the DC Lottery to offer Internet gaming. The measure was passed as part of the city's budget, which is subject to congressional review. The budget, including the measure, passed the review period on April 7, 2011, and became law. The DC Lottery has since unveiled plans to deploy a website allowing registered playing within Washington's borders to participate in peer-to-peer poker tournaments as well as blackjack, bingo, and slots-type games. However, local political and public concerns have been expressed, and on September 20, a bill was introduced to repeal the law. The repeal bill has not been scheduled for a committee hearing. The DC Lottery plans on beginning free play of its service in January 2012 followed by pay-for-play in April 2012.

US Federal Implications

There are three Internet gaming bills pending in the US House of Representatives.

1. On March 17, 2011, Rep. John Campbell (R-CA) introduced an amended version of Rep. Barney Frank's bill from the 2010 congressional session to legalize and regulate all forms of online gaming except sports-betting.
2. On June 16, 2011, Rep. Jim McDermott (R-CA) introduced a bill to allow for the taxation of Internet gambling should it be legalized.
3. On June 24, 2011, Rep. Joe Barton (R-TX) drafted an Internet poker bill seeking to establish a shared regulatory regime between the U.S. Department of Commerce and qualified state and tribal authorities for non-banked poker only.

No legislation has been introduced to the Senate to date. However, speculation continues to grow that Sen. Harry Reid (D-NV) may introduce legislation in the near future.

The State and Federal Law

Maryland State law is basically silent on much of this content area. The Maryland Lottery Law (Title 9 of the State Government Article) makes no specific mention of Internet sales or lottery subscriptions. The SLA has a long history of operating a subscription program, as noted in the December 1973 SLA publication **Wishbone News**: "*Subscription Tickets Applications.*" SLA regulations in effect during the

1980s allowed for a mail-in program of weekly subscription games. (See former COMAR provision 14.01.03.01; repealed effective March 6, 1989.)

Two federal statutes must be considered prior to initiation of an Internet sales program in Maryland. In addition, state law considerations must be addressed. It is believed that these can be optimally satisfied in the long term through legislation but that, in the short term, regulatory action by the SLA could address the most immediate concerns.

Two federal statutes have potential implications on a Maryland Internet sales program. One, the Federal Interstate Wire Wager Act of 1961, 18 U.S.C. 1084 (the Wire Act), provides:

- (a) Whoever being engaged in the business of betting or wagering knowingly uses a wire communication facility for the transmission in interstate or foreign commerce of bets or wagers or information assisting in the placing of bets or wagers *on any sporting event or contest*, or for the transmission of a wire communication which entitles the recipient to receive money or credit as a result of bets or wagers, or for information assisting in the placing of bets or wagers, shall be fined under this title or imprisoned not more than two years, or both. (*Emphasis added.*)

A former official of the United States Department of Justice (DOJ) indicated that it was the DOJ's position at the time that subsection (a) of the Wire Act meant that all forms of online gambling, including the purchase of lottery tickets over the Internet, were legally suspect. See letter from Deputy Assistant Attorney General Laura H. Parsky to Illinois Lottery Superintendent Carolyn Adams, May 13, 2005. Other commentators and virtually all industry professionals contend that the Wire Act does not bar an **intrastate program** of lottery sales. It is telling that, with several intrastate lottery programs coming into operation since 2005, the DOJ has remained silent with respect to this issue, even when, as noted below, it has been invited to comment.

There is little relevant judicial interpretation of the Wire Act and none that is local. Although two federal trial courts have held that the Wire Act has a somewhat broad application,²³ in what is generally regarded as the leading case on the issue, a higher court -- the U.S. Court of Appeals for the Fifth Circuit -- ruled that the Wire Act's prohibition on the transmission of wagers applied *only* to sports betting and *not* to other types of online gambling. See *In re MasterCard Int'l, Inc.*, 132 F.Supp.2d 468 (E.D.La. 2001), *aff'd* 313 F.3d 257 (5th Cir. 2002).

The other federal statute that has potential implications on an Internet lottery sales program is the Unlawful Internet Gambling Enforcement Act of 2006, 31 U.S.C. §§ 5361 - 5367 (UIGEA). Section 5363 of UIGEA provides that "[n]o person engaged in the business of betting or wagering may knowingly accept, in connection with the participation of another person in unlawful Internet gambling" various forms of financial instruments, such as credit cards, electronic fund transfers, and checks. UIGEA specifically provides that the term "unlawful Internet gambling" *does not include* a bet or wager that is initiated and received or otherwise made "exclusively within a single state" or where "expressly authorized by and

²³ *U.S. v. Lombardo*, 2007 WL 4404641 (D. Utah 2007) (unreported); *U.S. v. Gary Kaplan, et al.*, (U.S.D.C. E.D.Mo. March 20, 2008), No. 4:06CR0037 CEJ/MLM, "Report and Recommendation of United States Magistrate Judge Regarding Gary Kaplan's Motion to Dismiss Counts 3 – 12," pp. 3 – 7 (citations omitted).

placed in accordance with the laws of such State, and the State law or regulations include ... age and location verification requirements reasonably designed to block access to minors and persons located out of such State.” § 5362(10)(B).

As noted above, several state lotteries have already begun Internet sales programs. In Illinois, a 2009 state law authorized the Illinois Lottery to conduct a pilot Internet lottery sales program on an intrastate basis if the DOJ “does not object to the implementation of the program within a reasonable period of time after its review.” 20 ILCS 1605/7.12. In 2009 and 2010, Illinois and New York engaged in discussions with the DOJ seeking an acknowledgement that federal laws are not violated when a state lottery offers its lottery products for sale in the Internet in accordance with the intrastate exception of UIGEA. Mark Hichar, “*State Lotteries Eye Jackpot Through Internet Sales,*” **Gambling Compliance**, May 21, 2010. In December 2009, the New York Lottery wrote the DOJ specifically asking for clarification on the issue. The DOJ has not responded to either of these requests for clarification or comment. There was also no response from the DOJ to a letter from the Minnesota State Lottery putting the DOJ on notice that it planned to begin operating an Internet lottery subscription program unless the DOJ objected to the program.

Given the above, it would appear that, although it is not entirely clear, Maryland could initiate an Internet-based intrastate lottery program provided certain protections were put into place. These protections, required under UIGEA, could be accomplished by the SLA implementing regulations that specifically provide for a subscription program and establish protections limiting access to the program by minors and people outside the state.

Conclusion

Technological innovation is occurring all around the world to improve productivity, education and business. The SLA believes it is time to take the necessary steps to offer its products on the Internet to remain competitive and accomplish our core mission. “Selling Lottery products online is all about protecting the base business from near-term erosion and long-term obsolescence. Additionally, it’s about broadening reach into new player segments. Typically, lotteries can expect to generate total sales growth in the range of 12-18% as their Internet selling initiatives achieve maturity. This growth comes from a combination of sales over the Internet channel and increased sales at traditional retailer outlets.”²⁴

Distribution over the Internet would expand the market opportunity for everyone involved with the Maryland Lottery, including the State of Maryland, its players and its retailers.

²⁴ Sciplay, “Lottery Games and the Internet: Leveraging an Online Sales Channel to Grow Sales Responsibly,” February 2011