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THE COMMONWEALTH OF MASSACHUSETTS
MASSACHUSETTS GAMING COMMISSION
PUBLIC MEETING #190

CHAIRMAN

Stephen P. Crosby

COMMISSIONERS

Gayle Cameron

Lloyd Macdonald

Bruce W. Stebbins

Enrique Zuniga

May 10, 2016 1:00 p.m. - 4:04 p.m.

MASSACHUSETTS GAMING COMMISSOIN
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101 Federal Street, 12 Floor
Boston, Massachusetts

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P R O C E E D I N G S :

CHAIRMAN CROSBY: We are calling to order the 190th public meeting of the Mass. Gaming Commission today at our offices on 101 Federal Street at 1:00. Today is May 10, 2016. As the agenda makes clear, we are here to talk today about social gaming. This is a commissioner education session as well as a public education session.

We, as you know, have talked about all different aspects of online gaming. And Rick said in our DFS white paper that it didn't make sense to focus on any one of them because there is an incredible proliferation of online games that are going to be hitting regulators and legislators alike, policymakers alike all of the time.

And we recommended that organizations such as ours and perhaps our Legislature as well look at these holistically. But in the meantime, we want to try to keep ourselves abreast of everything that's going on, particularly aspects of online gaming which

1 have a direct or potentially direct
2 relationship to the casino industry over which
3 we have a regulatory role.

4 With that I'll introduce our
5 executive director who will give a little more
6 thorough introduction of what we're going to do
7 here today.

8 MR. BEDROSIAN: Thank you, Mr.
9 Chairman, members of the Commission. I just
10 want to refresh your memory about the subject
11 matter today, social gaming and how we got
12 here.

13 In March of this year, there was a
14 meeting at Mass. Gaming Commission with
15 representatives of Penn Gaming, the parent
16 company of Plainridge Park Casino. In that
17 meeting, Penn representatives discussed how
18 Penn was going to use social gaming in their
19 business plan.

20 Following that meeting at the
21 Commission's March 29th meeting, it was decided
22 the Commission, Mr. Chairman as you said,
23 should educate itself on social gaming which a
24 very broad term, and specifically casino social

1 gaming as a prelude to hearing from our
2 licensees about how they either intend to use
3 or are using social gaming and whether the
4 Commission has a regulatory role.

5 As you also pointed out, the
6 Commission has played a role in such subjects
7 like daily fantasy sports. Because of the
8 success of daily fantasy sports educational
9 forum, I volunteered Mr. Stempeck from our
10 legal department to help me in this regard,
11 organize the experts who are here today. I
12 want to thank him for that work.

13 In terms of process, members of the
14 Commission, I have a recommendation. Once you
15 hear from our presenters today and ask
16 questions, in the next day or so Mr. Stempeck
17 and I will determine the next steps in
18 scheduling the next presentation with either
19 some more industry experts and/or our
20 licensees. We hope and anticipate that at
21 least one of those follow-up meetings would
22 happen rather shortly.

23 With that Mr. Chairman, I'm going to
24 ask Mr. Stempeck to do a quick introduction of

1 our speakers.

2 MR. STEMPECK: Good afternoon,
3 Commissioners. This afternoon we have four
4 speakers for you. The first two are from
5 MassDiGI which is the Massachusetts Digital
6 Games Institute. Just by way of background,
7 and I'm sure the speakers will get into it in
8 more detail, that is an organization that's a
9 statewide center designated by the Commonwealth
10 to combine academic cooperation,
11 entrepreneurship and the economic development
12 of the video game ecosystem.

13 From MassDiGI, we have Tim Loew who
14 is their executive director as well as Monty
15 Sharma, their managing director. They will be
16 speaking to you first.

17 After the presentation by the
18 gentleman from MassDiGI, we have Luc Delany.
19 He's the CEO of the International Social Gaming
20 Association. He's also the founder and CEO of
21 Delany and Company, a public policy and
22 communications agency. Mr. Delany is a former
23 policy executive of both Facebook and Google
24 and has a broad-based knowledge in the social

1 gaming and social casino industry.

2 And finally, to wrap up today's
3 presentations, we have Keith Whyte, who you are
4 all familiar with. He's the executive director
5 of the National Council on Problem Gaming. So,
6 without further ado, I'll turn it over to the
7 gentlemen from MassDiGI.

8 MR. LOEW: Thank you very much. I
9 should be familiar with these things. It's
10 very reminiscent of my time on the Worcester
11 Zoning Board of appeals, quite different
12 setting but similar technology.

13 CHAIRMAN CROSBY: Our condolences.

14 MR. LOEW: Mr. Chairman, thank you,
15 members of the Commission. We appreciate the
16 opportunity speak here. Staff terrific, thank
17 you for including us in this day.

18 So, MassDiGI is the statewide center
19 for entrepreneurship, academic cooperation and
20 economic development across the games ecosystem
21 here. So, we're based at Becker College in
22 Worcester. We started just a little over five
23 years ago, actually, April 26, 2011. We came
24 about as a result of sort of this

1 collaboration, conversation --

2 CHAIRMAN CROSBY: Excuse me, never
3 mind. I just got it, thanks.

4 MR. LOEW: -- in private/public
5 sector and the higher education sector here in
6 the state.

7 Games have been part of the
8 Massachusetts sort of technology entertainment
9 infrastructure, since the 60s. In fact,
10 probably we're the birthplace of the modern
11 video game here, across the river at MIT.
12 First game was called Space War. That was
13 reminiscent. So, we have a pedigree here like
14 many things gives us a sort of an opportunity
15 to talk about it in a way most other states
16 can't.

17 So, our goal ultimately is to get
18 more games made here in the state. By our
19 games, we're not talking the same as most of
20 the games that you are used to. Our games are
21 mostly the ones that you might play on a
22 console or a PC or on your mobile device these
23 days.

24 We have some support from the US

1 Department of Commerce Economic Development
2 Administration. We're a university center. We
3 receive additional federal funding to build out
4 what we call our new venture center, which will
5 open next year.

6 And that targets supporting what I
7 call sort of novice entrepreneurs, sort of
8 student entrepreneurs from gateway cities in
9 this state, to build the game sector leveraging
10 the relationships we have in those communities,
11 so whether it's Springfield, Lowell and
12 Worcester and those sorts of things. So, we're
13 excited about that.

14 We get up every day and we can be
15 anywhere between Amherst and Boston talking
16 with developers, with students and on occasion
17 to groups like yours about issues that connect
18 with the public sector. And those are the main
19 areas in which we have conversations.

20 We can go to the next slide. And
21 we'll just talk quickly about our major
22 activities fall into these four categories.
23 Here is business and workforce development. We
24 run a big pitch contest each year in Cambridge

1 over at Microsoft. We've got several hundred
2 developers coming in students, professionals
3 pitching new game ideas. They win prizes.
4 It's great time. You guys are welcome to come.
5 It'll be probably next March. We'll let you
6 know.

7 We have a summer innovation program.
8 It's the largest game development internship
9 program of its kind in the country. Hundreds
10 of students from around the world apply each
11 year; we accept 24 of them. They come work in
12 our studio in Worcester. Becker College gives
13 us a dorm. So, they live there for free. It's
14 a great opportunity for them. And it's a great
15 opportunity for us to work with talented
16 students from around the world.

17 Then we have a regular sort of
18 series of mentoring programs, and something we
19 call live studio, which is a multi-
20 institutional course that students at a number
21 of different colleges and universities take.
22 It's sort of a course, but it's really an
23 internship. So, they are working on live
24 product that's in the market, making changes

1 and learning how to understand what the game
2 industry is about.

3 Then we focus on education and
4 research. We do some surveys. We should have
5 one coming out actually in the next month that
6 we are working on with UMass Boston, which is
7 the latest sense of the state of the game
8 industry here in the Commonwealth, how many
9 employees etc., etc. So, I guess that'll be in
10 the next 60 days.

11 We do a lot of outreach in industry
12 marketing. Just a couple of weeks ago PAX East
13 was here. PAX is the largest single event that
14 comes to New England each year. Certainly, the
15 largest event at the Boston Convention Expo
16 Center. They don't quite ever divulge exactly,
17 but I'd say this year was approaching 100,000
18 people attended. It's by far the single piece
19 of business MCCA does.

20 And then we work on various things
21 around advocacy and policy with our industry
22 partners.

23 So, I'll back up a little bit, Monty
24 is there something you want to take from here?

1 COMMISSIONER MACDONALD: Mr. Loew,
2 can I ask you a question? Are you a state
3 agency here or state funded?

4 MR. LOEW: No. We actually have a
5 very little bit of state money, but no, we're
6 not part of state government. We are a private
7 entity that is actually functionally an
8 autonomous department within Becker College.

9 COMMISSIONER MACDONALD: The funding
10 flow comes primarily through Becker?

11 MR. LOEW: Yes, they are our
12 conduit. We are sort of the same thing. Our
13 mission is little bit different. It's one of
14 these interesting things and it's something
15 that I would hope other colleges and
16 universities around the states would look to
17 do, which is sort of turn their abilities and
18 the strengths but they have on campus and
19 utilize them to help build regional and local
20 economies.

21 So, it's something that Becker has
22 done. It's really terrific. President Robert
23 Johnson has been probably the single biggest
24 reason why we exist. His willingness to extend

1 some of the college's resources in support of
2 growing the sector in the state has been really
3 unbelievable.

4 Of course, there is some self-
5 interest there. Becker has one of the top game
6 development academic programs in the country,
7 number five as ranked by the Princeton Review
8 this year. They have nearly 500 students
9 studying game development. I'll touch on this
10 a little bit later.

11 In Massachusetts, we're doing a
12 census later in the summer. We probably are
13 approaching 2500 students studying game
14 development in some shape or form. And that's
15 a relatively significant jump from a handful of
16 years ago, let alone a decade ago.

17 Nationally, I think there are now
18 over 400 colleges and universities with
19 programs in game development. So, it's big.
20 One of the reasons why it's big -- I'll sort of
21 give you the funnel picture here. -- the
22 overall digital economy is enormous right now.
23 The World Economic Forum last year estimates it
24 will be hundred trillion dollars by 2025. I

1 don't even know how many zeroes that is, but
2 it's enormous.

3 CHAIRMAN CROSBY: A hundred
4 trillion?

5 MR. LOEW: Yes.

6 COMMISSIONER ZUNIGA: That's the
7 overall digital economy.

8 MR. LOEW: Yes, global digital
9 economy. Globally, games are expected next
10 year or the year after to be about \$100 billion
11 as a global industry. You'll see various
12 numbers depending on what source you go to but
13 that's about where we are today.

14 In North America, primarily
15 obviously, it's a US market. We are about \$25
16 billion. And these are games that you might
17 see advertised on TV whether they're mobile
18 games or big console games whether it's Call of
19 Duty or things like that that you see
20 advertised during football games.

21 And down to the smaller games that
22 you might play on your phone, although these
23 days I'm not sure you could say that they are
24 smaller. Candy Crush is a big game. I'm sure

1 there are probably people here who play it. We
2 won't ask you to raise your hand but those
3 games make hundreds and hundreds of millions of
4 dollars. In fact, what did Activision buy?
5 King. So, King was a publicly traded company.
6 Last year they were acquired for several
7 billion dollars.

8 It's a very active marketplace.
9 Significantly larger than the music industry
10 and domestic box office. Some people will
11 argue that videogames, our kind of games are
12 the largest form of entertainment on the planet
13 today.

14 In this state, we have on our last
15 survey about 4000 direct and indirect employees
16 in the sector. Probably close to that right
17 now. We've had a little turbulence the last
18 few years as we shifted into more of the mobile
19 marketplace. That mirrors what's gone on in
20 other regions and other parts of the world.

21 The largest sectors are in
22 California, Washington state and Texas and a
23 few other places. New York generally is a
24 corporate headquarters not so much development.

1 And then I think I might have in here somewhere
2 about the number of states, but there are
3 thirty-six or so states. The majority of
4 states that have heavy presence are the
5 beneficiaries of significant tax incentive
6 programs that go to game companies as are many
7 countries.

8 Canada, for example, has been very
9 aggressive in the marketplace. Montréal has
10 10,000 jobs just in the city of Montréal,
11 approximately in the game development sector.
12 That's where the 37.5 percent incentive on
13 payroll. So, the marketplace is --

14 CHAIRMAN CROSBY: Tax credit of 37.5
15 percent?

16 MR. LOEW: Yes, for every dollar of
17 payroll you have, you get 37.5 cents back from
18 the province, let alone the federal incentives
19 as well. That's Canada. That's one
20 marketplace.

21 So, it's a very competitive world.
22 Games are hard to make. What you build today
23 always has to be better than what you built
24 yesterday. So, it's a very fast-moving

1 marketplace. Consumers are fickle. Platforms
2 are changing. Technology's improving. So,
3 there's lots of churn. But it's an enormous
4 market.

5 MR. SHARMA: One of the elements --
6 When we talk about employees, what are we
7 really talking about? There's programmers but
8 there's artists, there's writers, there's
9 musicians. It's a wide range of skills that go
10 into the game sector.

11 And it's essentially adjacent to
12 educational software, social gaming
13 simulations, a wide range of other sectors that
14 are very strong in Massachusetts. This is a
15 place where skilled people can move back and
16 forth interchangeably as the economy moves.

17 CHAIRMAN CROSBY: How do you
18 distinguish between what you're describing, I
19 guess you refer to as gaming and social gaming?
20 You just set that out as --

21 MR. LOEW: Social gaming, we'll get
22 into that a little bit more. But social gaming
23 is a subset. So, there are various genres of
24 games. There are role-playing games. There

1 are sort of action games. There are sports
2 games. There are all these different genres of
3 games just like you might watch on TV. There's
4 those puzzle games. There are word games.
5 Social games are themselves a category. But
6 from our perspective almost all games are
7 social, right, with the exception of solitaire.

8 CHAIRMAN CROSBY: Is there some kind
9 of functional distinction?

10 MR. LOEW: These days, it's really
11 hard to say, because there is multiplayer and
12 those functional components of any game are --

13 MR. SHARMA: Making games social is
14 critical to game success. So, developers
15 are --

16 CHAIRMAN CROSBY: By social, you
17 mean multiple players?

18 MR. SHARMA: Right. Bringing in
19 your friends, playing against other people,
20 whether you know them or not. All of those
21 elements are key.

22 CHAIRMAN CROSBY: So, if you talked
23 about the videogame industry as the social
24 gaming industry, would anybody say no, no

1 you're mixing apples and oranges?

2 MR. LOEW: Yes. I think they might
3 parse that a little bit to say social games do
4 have some features that not all game share, but
5 all games also have certain social elements.

6 So, let's say you're playing a game.
7 You're online with your console and you're
8 talking to other people on your headset. Well,
9 that's social. Or you're playing a game and
10 you're chatting with people in a sidebar while
11 you're playing the game. That's social.
12 You're playing a game, a word game like
13 Scrabble and you're going back and forth with
14 other people. That's social.

15 So, there's a social element to
16 almost every game that exists. Some are built
17 more around that as a core piece of their
18 monetization model. So, that's probably where
19 we draw the line. By mining your social graph,
20 they are trying to leverage your relationships
21 for their benefit.

22 COMMISSIONER ZUNIGA: Is it fair to
23 say that the social subset has had an increase
24 in recent years because of networking and

1 Facebook and that's how young people are
2 socializing?

3 MR. SHARMA: Yes. It drives the
4 interaction. So, it's very hard to write an
5 artificial intelligence for a game and how do
6 you make it scale well and provide challenges
7 to a wide range of people.

8 If you can get people to play other
9 people, people to play their friends, you have
10 a much larger set of comparators to work with.
11 And that's created an entirely new sector of we
12 call eSports where it gets that intense that
13 people will just watch other people playing.

14 This is something that the last
15 championship for League of Legends was 30
16 million viewers. They fill stadiums to watch
17 these things. So, it's all part of that
18 activity.

19 COMMISSIONER MACDONALD: Mr. Loew,
20 what was that phrase that you used,
21 monocritization?

22 MR. LOEW: Monetization.

23 COMMISSOINER MACDONALD: Oh,
24 monetization.

1 MR. SHARMA: Although I like
2 monocrization.

3 MR. LOEW: But monetization is a
4 term that --

5 COMMISSIONER MACDONALD: I know what
6 that is.

7 MR. LOEW: -- is turning players
8 into money.

9 MR. SHARMA: In general, the games
10 that we talk about are not involved in any sort
11 of gambling or making money other than through
12 the game itself, although there are things that
13 are starting to open up in that space.

14 MR. LOEW: For example, World of
15 Warcraft or League of Legends, you've might
16 have heard of these. League of legends has
17 tens of millions of players globally. It's by
18 far the largest sort of social experiment maybe
19 on the planet. It's amazing. And if you ever
20 have a chance to watch some of these eSports
21 things live, it's an experience. It's on ESPN
22 now so I'm sure you'll have an opportunity.

23 So, World of Warcraft has about 5
24 million active players and they pay a

1 subscription at this point. So, there are
2 different business models behind a lot of these
3 things. League of Legends is a free to play
4 model. So, there are different ways that
5 companies have targeted their audience.

6 But the sort of market breaks down
7 like this. I don't know if everybody can sort
8 of see this but just to give you a sense.
9 These are from a company called NewZoo, which
10 does some of the market analysis. Just to give
11 you a sense of the trend lines over some recent
12 years and where it's going and the different
13 platforms.

14 It's a global marketplace. US is
15 certainly a large market, but Asia is right on
16 its heel. In fact, in mobile China surpasses
17 the US. As I said, it's a large sector. It's
18 something that in the last few years given the
19 proliferation of mobile technology means more
20 people are playing more games on more devices
21 in more places than ever before.

22 So, from a cultural standpoint more
23 people are making more games and involved in
24 the culture around game making. And PAX is a

1 good example of that. It's also a sight to
2 see.

3 COMMISSIONER ZUNIGA: Mr. Loew, what
4 is C-A-G-R in your sheet here?

5 MR. LOEW: It's compound annual
6 growth rate.

7 COMMISSIONER ZUNIGA: Okay.

8 MR. LOEW: Then this is the US game
9 market last year. So, it gives you a sense,
10 also from NewZoo. So, there are number of
11 providers out there. I chose NewZoo today, but
12 they are all in the same ballpark.

13 It's a pretty vibrant marketplace
14 growing consistently. I don't even think in
15 there is virtual reality. I know Monty will
16 have different opinion on the prospects of VR.
17 But VR gaming is on the horizon.

18 CHAIRMAN CROSBY: What is VR?

19 MR. LOEW: Virtual reality, so you
20 know those headsets that people wear like
21 oculars and things like that. So, that's a
22 major component. Facebook bought oculars for a
23 couple of billion. These are major investments
24 that big tech companies are making. A lot of

1 people thought games might be the first place
2 where they get some traction in the market.

3 MR. SHARMA: We'll see. I'm betting
4 they will.

5 MR. LOEW: So, these are just to
6 give you some sense of also what people do on
7 these mobile devices. This is from a company
8 called Flury. These are about accurate. So, I
9 think this may be from last year. But about 85
10 percent of the revenue made in the Google Play
11 Store or the App Store are on games.

12 COMMISSIONER ZUNIGA: 80 percent of
13 the revenue you said?

14 MR. LOEW: Yes. So, let's say for
15 example the App Store makes \$1 billion, \$850
16 million of that is in games.

17 COMMISSIONER ZUNIGA: Just one
18 dollar at a time, if you will.

19 MR. LOEW: Actually, they're free to
20 play for the most part. So, you're buying in-
21 app purchases, so on and so forth. In fact,
22 sometimes there's other models.

23 MR. SHARMA: I spent \$50 this week
24 on one game alone.

1 COMMISSIONER CAMERON: You did?

2 MR. SHARMA: I did.

3 COMMISSIONER CAMERON: What game is
4 that?

5 MR. SHARMA: Star Trek Timelines
6 made by a local developer Disrupter Beam,
7 wonderful game.

8 COMMISSIONER CAMERON: You bought
9 extra time?

10 MR. SHARMA: No. What I wanted to
11 do was get Spock with a beard from the
12 alternate universe. And it's a chance. You
13 buy these packs of cards, can you get him, can
14 you not get him. I didn't get him.

15 COMMISSIONER STEBBINS: Things you
16 never thought you'd hear at a Gaming Commission
17 meeting.

18 MR. LOEW: Videogames are great.
19 They cover everything. So, you see a lot of
20 big IP here. There are games in this state.
21 For example, we talked a little bit before
22 about the different skills that go into making
23 games.

24 There's a company in Needham that

1 makes a game called Lord of the Rings online.
2 They title right. They have a consultant and
3 at times they've had employees who speak
4 Elvish, Tolkien's version of Elvish because
5 that is critical to the community that plays
6 that game. So, the authenticity of the
7 experience has to match their expectations or
8 surpass it or they will leave the game.

9 CHAIRMAN CROSBY: This is probably
10 may be getting ahead but is this a digital
11 version of something else we humans have been
12 doing for a long time? Or is this a whole new
13 human experience?

14 MR. SHARMA: There are some elements
15 that are analogous. So, in some cases
16 especially in the early days it's a board game
17 that's converted over. Or it's a motion game
18 where you're Space Invaders. Something is
19 moving and I'm shooting at it.

20 But as time has gone on, game
21 developers are really going through
22 interactions. How do we experience things?
23 What makes us feel good? That's fundamentally
24 what it comes down to. And is there a sense of

1 achievement and progress in what we're doing.

2 That happens all sorts of ways.

3 There's a class of games called idle
4 games where essentially you tap, not a lot of
5 strategy involved. You just tap. And then if
6 you tap enough, it'll start going on its own
7 and you can come back later and tap some more.

8 MR. LOEW: That's it literally.

9 MR. SHARMA: That is the gameplay.
10 This sounds insane. In fact, I said it was
11 insane when I first started playing it. And
12 hours later I still thought it was insane and
13 my finger hurt.

14 These sorts of things that you see a
15 lot of people doing second screens. They're
16 watching TV and they're playing games. And
17 they're games that don't take a lot of
18 cognitive overhead, spend time doing that.

19 Virtual reality is an element to
20 bring that wider sense where the world gets
21 closed off around you. And it's fairly
22 significant. I don't doubt the eventuality of
23 the technology. I just think it's more years
24 off than others do.

1 MR. LOEW: But games have been part
2 of the human experience for thousands of years.
3 So, whether it's --

4 MR. SHARMA: All mammals play games.

5 MR. LOEW: -- dice, chess, the
6 litany of games that we've made to entertain
7 ourselves or to train ourselves for some
8 purpose has a history as long as our species
9 for all intents and purposes. So, this is an
10 extension of that long line of interests.

11 CHAIRMAN CROSBY: With technology
12 being a massive force.

13 MR. LOEW: Yes. As I said, it's
14 allowed tens of millions of people to be
15 playing the same game at the same time.

16 CHAIRMAN CROSBY: Right.

17 COMMISSIONER STEBBINS: Why the
18 heavier weight on people playing games off
19 their tablets as opposed to their phones?

20 MR. LOEW: Because they're not
21 making calls. They're texting for the most
22 part.

23 COMMISSIONER STEBBINS: Anything to
24 do with the size of the screen?

1 MR. SHARMA: You can do different
2 things with a larger screen. So, you can get
3 more complex games. When I was younger, I used
4 to play X based board games. And those
5 translated to the tablet and work very well.
6 So, you can spend a lot of time currently a
7 Civil War game. Historically accurate, very
8 interesting but it takes hours to play a
9 session.

10 COMMISSIONER STEBBINS: How do you
11 guys see the difference between social gaming
12 and skill-based gaming? Do they overlap in too
13 many places?

14 MR. SHARMA: We define social gaming
15 as games that have a social element to them.
16 To be clear, every game other than the tapping
17 game essentially requires some form of skill.
18 What you do with that skill I guess is really
19 the question.

20 CHAIRMAN CROSBY: It's a different
21 kind of a cut. They're not vertical
22 categories. They're horizontal categories.

23 MR. LOEW: And what your motivation
24 to play that game is different. Skill-based

1 game that might have some kind of reward at the
2 end of it, may attract a different kind of
3 player than a social game where you're just
4 sort of playing words with friends or something
5 like that. There's so many different kinds.
6 There's as many kinds of player profiles almost
7 as there are players.

8 COMMISSIONER MACDONALD: These pie
9 charts here, the category of utilities is that
10 texting and emailing?

11 MR. LOEW: I think that's what they
12 mean by that. To tell you the truth, I'm not
13 sure.

14 MR. SHARMA: Utilities, I have
15 something that tells me forecast my bandwidth
16 usage. There's things like that just little
17 tools, calculators, currency exchangers.

18 MR. LOEW: Just to give you a sense.
19 And that number shifts around a little bit as
20 the platforms come online, new technology gets
21 deployed, bandwidth expands, LTE expands
22 globally. Particularly in emerging-markets
23 where they don't have to build out for a
24 physical infrastructure. Put up some towers

1 and you're in.

2 Just to give you a sense this is
3 from the Entertainment Software Association.
4 They do a biannual look at this. So, a lot of
5 people think the average videogame player might
6 be a teenager, not true. These days in fact,
7 not only is that not true but I think that
8 gender numbers are beginning to change people's
9 understanding of games as well.

10 So, it's the sort of industry where
11 you wait five minutes and something different
12 has happened. Certainly, in the last few years
13 the game industry has been able to attract more
14 and more women to play games.

15 COMMISSIONER CAMERON: Same games or
16 different games?

17 MR. LOEW: I think they're playing
18 different. So, I don't think women are playing
19 Call of Duty or Madden at the same rate that
20 they might be playing Candy Crush or some of
21 the others. That was always a challenge I
22 think in the industry. And they've sort of
23 solved that and been able to attract more and
24 more players.

1 MR. SHARMA: A lot of it is
2 location-based. Apparently, women do much more
3 in society than the men do. They are busier.
4 So, they tend to play mobile games while
5 they're waiting in line and doing something
6 with the other hand. So, there's a different
7 category.

8 MR. LOEW: So, here's where we get a
9 little into sort of what we define and sort of
10 think of as social gaming. So, you're playing
11 games that allow or require you to interact
12 with other players whether it's you're on a
13 quest and you need somebody else's help to
14 solve a particular problem.

15 That sort of social interaction or
16 it's Words with Friends where you're handing
17 off it's your turn now that sort of
18 interaction. It's a significant chunk of the
19 -- particularly mobile game. Once again this
20 is from the Entertainment Software Association.

21 Forty-six percent play social games.
22 Where casual comes in there because they're not
23 what we call sort of core gamer which are
24 people who might spend -- It's their

1 entertainment. They spend hours if not
2 hundreds of hours a year or month playing games
3 as part of who they are. That's how they
4 define themselves.

5 I'm a gamer. I do this; I play
6 that. It's what they might do instead of going
7 to movies and things like that. So, it's where
8 they choose to spend their entertainment time
9 and dollars.

10 MR. SHARMA: So, some of the things
11 that we see in again, what we consider social
12 gaming. We focus a lot on the decay curve of
13 players.

14 So, you're getting players in these
15 games that are free to play. So, everybody can
16 come in the door. My sort of marketing effort
17 to get you to spend five dollars is way down.
18 But then I need to keep them. So, in a very
19 good game seven days into it you've lost 70
20 percent of your players.

21 So, there is a high degree of churn.
22 The game has to grab you very quickly or you'll
23 walk away because there's many other free
24 games.

1 Game companies are always working
2 through this thing of viral growth, what we
3 call the K factor. And that is can I get my
4 friends to play because I like this game. And
5 if I can do that then the game company is
6 getting players for free. If they can't then
7 it's a cost per install basis. Right now in
8 the US, a mobile game costs you somewhere
9 between two and four dollars to get a player to
10 start playing a free game. So, that's your
11 advertising costs and things like that. So,
12 you've got to find a way to retain and manage
13 across all these areas.

14 Essentially, they've come to find
15 that the longer you can hold the player the
16 more money you make. It seems relatively
17 obvious. And there's emerging models of
18 revenues. So, there is absolutely in-app
19 purchases where people will spend money to do
20 things faster.

21 There is advertising which is
22 growing quite heavily. In fact, the strongest
23 one of digital advertising on mobile is in
24 games something called rewarded video. Watch

1 this video and I'll give you something in the
2 game. Between advertising and in-app
3 purchases, this is a growing market size.

4 Developers are really looking at how
5 do I keep somebody playing longer. That is the
6 element on the social side is if you're playing
7 with your friends, so, Words with Friends, it's
8 a little hard to drop off if your grandmother
9 is sending you back to the board. So, you're
10 going to keep playing because you went in to
11 answer her, you'll send something to somebody
12 else. And that keeps that network engaged for
13 a larger period of time.

14 In the more complex games, it's
15 finding a competitor that's evenly matched with
16 you. So that you're playing a game and so the
17 matching algorithms that some of these large
18 game use is a very sophisticated to quickly
19 figure out who you should playing against to
20 make sure you're not always losing, you're not
21 always winning. You're walking away with a
22 feeling of satisfaction of competition.

23 And then the ultimate thing in
24 gaming is it comes down to analytics and AV

1 testing in ways that we don't see in most other
2 industries. We can see everything the player
3 does. How long they've looked at something,
4 what they clicked. What they didn't click,
5 combinations of things.

6 With all of those things, game
7 companies are issuing update after update to
8 try and increase that retention level. So,
9 heavy analysis is all part of what happens in
10 the game sector.

11 MR. LOEW: In fact, that might be
12 one of the hardest to fill jobs for most local
13 game companies is your data analyst or your
14 data scientists. These are in some cases the
15 largest like League of Legends when you have
16 the amount of data and you're trying to balance
17 a community that large representing that many
18 cultures is an incredible task.

19 It's one that I think presents a lot
20 of opportunity. Actually, we talk to a lot of
21 students about that in the context of game
22 industry careers.

23 MR. SHARMA: So, one of the elements
24 is brand matters. Angry Birds is a movie, is a

1 theme park, is a Cartoon Network in Finland.
2 It's building out based on the brand. So, a
3 lot of these brand values like the Star Trek
4 brand I spoke of or Game of Thrones, brands are
5 beginning to get involved in gaming in a much
6 more significant way. And it moves a lot.

7 Advertising in terms of public
8 television advertising was something that was a
9 big question until the last year. The Game of
10 War came out. They started with Kate Upton,
11 Mariah Carey. They did a \$20 million
12 advertising campaign. It was a significant
13 television campaign. And it paid off.

14 So, the users they got and the money
15 they spent exceeded what it cost to do the
16 advertising. It was a very good deal, which
17 then leads to stronger growth in that space.
18 You have to make a bigger game to justify a \$20
19 million ad spend which means you've got to get
20 users, you've got to work them through.

21 In these free to play games, most of
22 the money comes from what are called whales
23 coming from the casino model, and what we
24 categorize as the top five percent of spenders.

1 Tend to be male, two-thirds of them are male.
2 They're about 30 years old. So, it's not kids
3 pounding away at it. It's people who are a
4 little older.

5 And they are playing 26 hours a
6 week. That is somewhat deceptive for these
7 things because they're not sitting focused 26
8 hours a week. I have my breakfast and I play
9 little bit. I'm watching TV and I play some
10 more. I put it down when I talk to my family.
11 Otherwise, it's just something that they do and
12 they do it over an overextended period of time.

13 COMMISSIONER STEBBINS: How does
14 that translate -- Of what you define as the
15 whales, what percentage of the overall industry
16 revenue are they?

17 MR. SHARMA: In terms of free to
18 play, they're a substantial part of the
19 revenue. They're a very small part of the
20 player base. One of the things though that's
21 different from a casino is I can't take out a
22 loan to play a video game. I've usually
23 prepaid or it's going onto my credit card.
24 That's all I can do. And it's limited; it's

1 driven.

2 You are spending money for the
3 satisfaction you get. So, you don't have to.
4 There's another game that I've played for three
5 years, and I haven't given them money in two
6 and a half years.

7 CHAIRMAN CROSBY: There's a
8 disconnect when you say free to play and then
9 you talk about the highest revenues.

10 MR. SHARMA: Exactly.

11 CHAIRMAN CROSBY: Would you explain
12 the monetization models? It sounds like free
13 to play ought to be free but apparently it's
14 not. What are the monetization models here?

15 MR. LOEW: If you downloaded an app
16 lately on your phone, for example, you'll see
17 it says get now. It used to say free. They
18 changed that to get. It means you can get the
19 game for free and you can play in many cases
20 almost the entire game.

21 But if you want to accelerate your
22 progress, if you want to say your character you
23 what him to have more interesting hat --

24 MR. SHARMA: -- or Spock with a

1 beard.

2 MR. LOEW: -- or Spock with a beard,
3 you have opportunities to then buy those sorts
4 of things or unlock other things in the game.

5 CHAIRMAN CROSBY: So, that's
6 referred to as free to play?

7 MR. LOEW: Yes.

8 CHAIRMAN CROSBY: But the
9 monetization strategy is it basically
10 enhancements?

11 MR. LOEW: Yes.

12 MR. SHARMA: Enhancements or
13 advertising are the two main things.

14 MR. LOEW: Virtual goods.

15 MR. BEDROSIAN: Mr. Chairman, I'll
16 give you an example. I have never hit a golf
17 ball over 200 yards in my life. I play a golf
18 game. They offered me for \$1.25 I can
19 routinely hit 300 yards. In my world it was
20 worth \$1.25 well spent.

21 CHAIRMAN CROSBY: There's a sucker
22 born every minute.

23 COMMISSIONER CAMERON: Better than a
24 golf lesson.

1 MR. SHARMA: One of the things we
2 should note on free to play games is for I'm
3 going to so many of them but I believe it's
4 most if not all, they tend to have an energy
5 mechanic which limits how much you can play in
6 a day.

7 So, you could spend a little money
8 to play more in a day but it limits that. And
9 part of that is the belief in terms of the game
10 developer that if I let you play a lot in a
11 short period of time, you're going to burn out
12 on this game. People burn out on games.

13 And if you burn out on the game, I
14 don't have that extended relationship with you.
15 That's not good. So, I want to keep you
16 playing for a little bit. I want you to check
17 back three times in the day, but I don't want
18 you to play 20 hours straight.

19 COMMISSIONER CAMERON: But if you
20 pay money, you can do that.

21 MR. SHARMA: So, in one of the games
22 I'm currently playing, I can only do it so many
23 times a day. Then I am still limited to that.
24 So, there is that element.

1 MR. LOEW: And there are other
2 models too. So, there is still the model that
3 you can go to the mall and you can go to
4 GameStop and you pay 60 bucks for the latest
5 release and take it home and install it into
6 your console. That model still exists.

7 There's all these business models.
8 Some work better on certain platforms than
9 other. Free play has certainly done really
10 well on mobile platform. But there are
11 subscription models that still work. There are
12 sort of the box game model that still exists.

13 MR. SHARMA: It's substantial.

14 CHAIRMAN CROSBY: In order of
15 magnitude is free to play sort of where it's at
16 and the other stuff is marginal?

17 MR. SHARMA: No. On the mobile
18 side, free to play is, I'm going to say, a very
19 large part of the margin. When you get to
20 things like console game, so PlayStation, Xbox,
21 there's very few free to play games there. And
22 they're nowhere near that size of the market.

23 On the PC, they're mainly straight
24 up paid games but there's growth from free to

1 play. Free to play really is this element
2 where it's become cheaper and easier to build a
3 game.

4 A kid in high school, actually we
5 saw one this year, can put together a perfectly
6 decent game. But how do you get somebody to
7 play it. If I'm going to ask you \$10 to play
8 my game, I've got to do a lot of convincing to
9 get there. So, play it for free. If you like
10 it then watch a video so I get a few cents.

11 CHAIRMAN CROSBY: When I was in the
12 sales business, we used to call them puppy dog
13 close. Take it home, see if you like it. If
14 you don't, you can bring it back.

15 Is there a gambling dimension to all
16 of these? You could bet I'll do better than
17 you do.

18 MR. SHARMA: In terms of formally,
19 there's I'll say two categories emerging. For
20 the most part, no. eSports is coming out. And
21 these are major competitions with lots of
22 people watching. Gambling is nowhere near
23 close to the Kentucky Derby. There is no
24 formal line of players in the industry that it

1 needs regulation. It needs other things before
2 that emerges. Right now, they're just trying
3 to build big competitions. But you can see it
4 go down the sports betting path.

5 MR. LOEW: It's coming. I do think
6 that some of the daily fantasy sites were
7 poking around at that because they see it as an
8 emerging opportunity. I do think there are
9 probably some parts of the world where there is
10 active gambling culture around eSports just
11 like there is horse racing or football or
12 whatever. We just don't see that here.

13 MR. SHARMA: Most of the skills-
14 based stuff where you sort of trying to beat
15 somebody at something, you don't get money
16 back. Game companies have worked very hard to
17 make it difficult for you to extract money from
18 the game. And they'll use analogues and things
19 like that just don't make it worthwhile.

20 CHAIRMAN CROSBY: Is there any
21 indication that informally, ad hoc people are
22 gambling on it?

23 MR. SHARMA: Not the people I know,
24 which is not great data set, but it's nothing

1 that comes up in conferences. It's nothing
2 that we're deeply concerned about.

3 MR. LOEW: I don't see it as much as
4 -- It's not necessarily part of this culture.
5 It's not like I'll bet I can do better than you
6 at Madden. It's more like let's play against
7 each other in Madden. And that's where it
8 ends.

9 If there probably were a space where
10 there's be some that's sport side, FIFA is
11 probably most popular of those big games, the
12 soccer game.

13 We just don't see it that much. But
14 there are and I think you'll hear a little more
15 about the social casino component of that
16 broader social gaming sector and where those
17 lines might be there. We do have a couple of
18 companies in this state that operate in that
19 space or produce games that are sold into that
20 space, but it's not the majority of what goes
21 on here.

22 Most of it is for the entertainment
23 market and then simulation market, education
24 market, healthcare company. This is

1 interested. They just raised \$30 million to
2 take their game through the FDA approval
3 process so that their game can be prescribed by
4 doctors.

5 COMMISSIONER MACDONALD: You said
6 FDA?

7 MR. LOEW: FDA approval so they can
8 obviously get reimbursement.

9 COMMISSIONER CAMERON: What is that
10 game?

11 MR. LOEW: I think it's an ADHD
12 game. The company is called Achilles Labs.
13 So, we haven't seen it yet but it's in testing
14 at the moment through that whatever trial
15 process that you go through.

16 So, games are across the sector and
17 it's fairly amazing what game players can do.
18 There's another game that's relatively famous
19 called Foldit. It's made by University of
20 Washington. And it's a protein folding game.
21 They were able to -- The human mind is superior
22 to a computer in many, many ways. And spatial
23 recognition is one way that it's far superior.
24 They are able to fold proteins and give these

1 researchers a significant sort of piece --
2 solve a piece of the puzzle --

3 MR. SHARMA: It would have taken 20
4 years for the computer to figure out how these
5 proteins fit together.

6 MR. LOEW: They had tens of
7 thousands of players working on the problem.
8 So, sort of citizens science, crowd source
9 information like that. There's another one
10 working on a -- These things happen with
11 regularity. So, the games do that massive
12 social network not only for fun but they solve
13 real problems as well.

14 MR. BEDROSIAN: So, Mr. Chairman, I
15 would just suggest to keep this on time, Mr.
16 Loew and Mr. Sharma are going to stay that we
17 move up Mr. Delany and Mr. Whyte. Then you can
18 ask them questions as they go. And then at the
19 end if we have sort of panel questions for
20 everyone, they'll still be here.

21 CHAIRMAN CROSBY: Okay, great.

22 MR. BEDROSIAN: Just a point of
23 reference, a special thanks to Mr. Delany who
24 traveled here from London to be with us.

1 CHAIRMAN CROSBY: Thank you.

2 MR. DELANY: Mr. Chairman and
3 Commissioners, thank you very much for having
4 me. It's a privilege to be here addressing you
5 today. It's great to see a whole Commission
6 taking such an interest in this vibrant,
7 exciting new space of social games.

8 You just obviously heard from our
9 colleagues before just how important sector
10 this is for the states, the US as a leading
11 country in the space.

12 I myself have actually worked for
13 some of this country's biggest tech giants in
14 Facebook and Google. I obviously work with the
15 social games industry now and also have worked
16 with other giants of technology from this
17 country like Uber and Airbnb and others.

18 My background has always been in
19 online media looking at policy and regulation.
20 I signed the European Safer Social Networking
21 Principles with European Commissioner Vivian
22 Reding some years ago. And I've continued to
23 try and take the knowledge that I've taken from
24 learning about social media onto social games.

1 We have a slightly different
2 definition of social games than our colleagues
3 earlier. But I intend to drill down really
4 into social casino as a subgenre and address
5 the question of play for fun, which I know has
6 been of particular interest to this Commission.

7 To try not to repeat what the
8 colleagues of MassDiGI has already said, social
9 games are a rapidly growing form of
10 entertainment, consumption tied to Internet and
11 mobile growth. As you know in fact all forms
12 of media and entertainment have moved online
13 and are now growing with Internet penetration,
14 the use of smartphones, etc.

15 We have an estimated over 750
16 million players of social games worldwide. And
17 social games, as we've already seen are
18 consistently the most popular form of app in
19 the Apple and Google stores.

20 COMMISSIONER MACDONALD: Excuse me,
21 you said that you have a slightly different
22 definition of social games. What is your
23 working definition so that we can follow the
24 meaning of these bullet points?

1 MR. DELANY: We consider social
2 games to be the casual, quick to learn, easy to
3 play bite-sized games that people play on their
4 smartphones, on their tablets, on social
5 networks. The kind of the social name of the
6 category of game has really come because they
7 started on some of the social platforms like
8 Facebook.

9 We don't consider -- Within our
10 membership we don't have for example the World
11 of Warcraft games which have a highly social
12 element. They are built on social but they are
13 not the kind of game that you play on your
14 phone when you're waiting for a bus, for
15 example.

16 CHAIRMAN CROSBY: Say again, what is
17 the distinction?

18 MR. DELANY: We talk about games
19 that are played on mobile, on tablets, quick,
20 easy to learn games, sometimes called casual
21 games as well. And they started originally
22 really on the social networks.

23 CHAIRMAN CROSBY: And they started
24 on social networks that's the key. Because the

1 other games can be casual, quick to learn and
2 can be played on tablets.

3 MR. DELANY: The primary route to
4 these games are through the app stores. And
5 those apps stores are found on mobile and
6 tablet computers.

7 CHAIRMAN CROSBY: Is there some
8 reason why you describe it that way? Why would
9 it not include -- Why would you industry not
10 include the war games for example?

11 MR. DELANY: The origins of the
12 games have come from different routes really.
13 Those big platform games have come from
14 computers, from consoles and they've added
15 social elements as the games have developed and
16 become networked. Whereas these games have
17 started as typically a small game that have
18 grown through the prevalence of social media.

19 CHAIRMAN CROSBY: But don't they get
20 pretty much to the same place? Is there some
21 rational business reason or functional or
22 psychological reason?

23 MR. DELANY: The way the game is
24 played is different. It's normally a short

1 timeframe, play for a few minutes here, play
2 for a few minutes there. The other larger
3 games are typically got bought differently, got
4 paid for differently. You need equipment use
5 them like a console or a computer
6 traditionally. So, it's really the smaller
7 bite-sized kind of game that we talk about.

8 COMMISSIONER ZUNIGA: The delivery.

9 MR. DELANY: Delivery and the access
10 and the approach that people have to when they
11 go to play them. As we've seen before, the US
12 is at the forefront of developing social games.
13 And it's estimated that 155 million Americans
14 play video game, many of which play social
15 games as a subcategory.

16 About the International Social Games
17 Association. We founded the association just
18 over three years ago. It is a global nonprofit
19 trade association established to provide a
20 unified voice for the social games industry on
21 social, commercial, legal and regulatory
22 issues.

23 I am based in the UK in London as
24 you heard before. But we represent a global

1 membership and I have (INAUDIBLE). We
2 represent a cross-section of social games from
3 boutique startups like Abzorba and Plumbee,
4 although Plumbee has actually just been bought
5 by one of your local games companies here, to
6 some of the larger and more establish players
7 such as Playtika and Zynga.

8 The association is committed to
9 researching and understanding social gameplay;
10 working with policymakers such as yourselves
11 for a balanced and proportionate rules base;
12 upholding industry best practice. In fact,
13 setting best practices one of the first things
14 we did as an association.

15 And we continue to evolve those on
16 the basis of new evidence or new understanding
17 of the industry. And we promote safe and
18 responsible gameplay through our portal
19 smartsocialgamers.org. I launched that myself
20 in Washington, DC last November at the Family
21 Online Safety Institute's annual meeting.

22 There we provide players with
23 information from some of the more
24 straightforward things such as where do I

1 download games from safely. What is an in-app
2 purchase? How do I pay things? But we also
3 try and tackle some of the harder questions
4 that people may have around if they consider
5 themselves to be playing for too long or they
6 have unwanted contact from strangers, those
7 kind of issues.

8 We commissioned work from clinical
9 psychologists to write that piece so that we
10 have real expert's advice for players.

11 Actually, one of the experts as we
12 heard earlier, social games can be used to help
13 people who have for example social anxiety,
14 ADHD and others. So, there are real benefits
15 to games as well as pure entertainment.

16 CHAIRMAN CROSBY: Is there also the
17 same propensity for addictive behavior? Is it
18 another area that is prone to addictive
19 behavior?

20 MR. DELANY: We in our second
21 research project looked at the prevalence of
22 gameplay. And you heard a little bit about
23 whales earlier. The consumption bell curve was
24 exactly in line with other forms of

1 entertainment consumption.

2 So, there certainly are people who
3 play perhaps a disproportionate amount or we
4 might consider to be disproportionate or may
5 spend a disproportionate amount but it's in
6 line with people spending money on too much
7 golf or too many subscriptions to Netflix,
8 Amazon and Google Play which are all the things
9 we have in our house.

10 So, yes, there are some people who
11 have issues with overspend and overplay,
12 however that is the same in every single
13 entertainment center.

14 CHAIRMAN CROSBY: Don't be defensive
15 about it, I'm just trying to get information.

16 MR. DELANY: I'm sorry, I didn't
17 mean to be.

18 CHAIRMAN CROSBY: Has there been any
19 study on comorbidities? Is there any -- Do
20 people who tend to play too much, also tend to
21 smoke too much, drink too much have other
22 problems? Has there been any research on that?

23 MR. DELANY: I don't have that
24 research. So, about social games, about how we

1 define them. So, obviously all games are
2 social they always have been. Games innovation
3 has always followed technology innovation.

4 Our first research project looked at
5 the evolution, use and impact of social games.
6 One of the things that I found most interesting
7 within that was how the developments of the
8 steam engine and trains drove people to
9 miniaturization of games. And cribbage became
10 very popular because it was a way you could
11 take your little set with you in your pocket.
12 And actually portable games, thanks to the
13 steam engine, became more popular than some of
14 the less portable ones.

15 Social games are really just the
16 next innovation. It's simply just going with
17 you in your pocket as it may have been a deck
18 of cards before. Of course, the scale is
19 different and the usage is different.

20 The first point of interactive games
21 where people were playing with balls and things
22 were they pinball machines of the '30s based on
23 Bagatelle. More advanced versions of these
24 games were developed with bumpers, flippers and

1 the two-play games within pinball. And the
2 first digital screens and counting were
3 actually introduced in the mid-60s.

4 70s and 80s we get onto arcades,
5 PacMan, Space Invaders. We're actually paying
6 \$.20 or five cents even to get three lives to
7 play for as long as you can was the norm. Not
8 too dissimilar to some of the free to play
9 freemium model that I will look into later.

10 Personal computers, game consoles
11 developed with the 90s and the early 2000's.
12 Now with the miniaturization of devices, mobile
13 Internet, smartphones, etc. has led to this
14 more mobile portable consumption of social
15 games.

16 So, how do we define social games
17 and who plays them? As I said, we consider
18 them to be social, casual games that are quick
19 to play and learn. They are part of a changing
20 consumer preference towards bite-sized
21 entertainment videogame experience. Perhaps
22 when they're out and about, there's an
23 appetizing break to ties to the television or
24 they're waiting for a friend at the bus stop.

1 We heard the free to play phrase
2 used earlier. We tend to use the word freemium
3 because I think it's actually perhaps clearer
4 for the consumer to understand that there is an
5 element that is free and premium. So, it's a
6 corruption of the two words freemium.

7 So, access is free. You can get the
8 games in the app stores for no cost. However,
9 the additional features, additional time, a
10 bigger sword, a better hat, a beard for Spock
11 could all be purchased through in-app
12 purchases.

13 The vast majority of players do not
14 spend any money whatsoever. It's up to 10
15 percent of players in general ever spend money
16 within a game.

17 The average player in the US spends
18 \$7.20 per month.

19 CHAIRMAN CROSBY: That's the average
20 player that spends?

21 MR. DELANY: That pays.

22 CHAIRMAN CROSBY: That pays.

23 MR. DELANY: Yes. So, of the five
24 to 10 percent they will spend on average about

1 \$7.20 per month. This is less than the average
2 American spends on reading materials, less than
3 the average American will spend on -- those who
4 spend money on console games as well. Well-
5 known examples include Farmville, Candy Crush
6 and Angry Birds.

7 People of all ages and genders play.
8 Obviously, there is a variation across genders.
9 I have a graph to show some of that split in
10 demographic and game style.

11 Social casino games are a subgenre
12 of social games. They are frequently using in
13 the same game mechanics. They fit with the
14 same genre. You find them in app stores as
15 well. They take inspiration from the most
16 well-known real money casino games such slots
17 or roulette. But they are delivered in an
18 innovative, mobile way. And we think people
19 enjoy them because they actually are familiar
20 with the games, but they don't have any risk
21 because they're not gambling.

22 COMMISSIONER STEBBINS: What's the
23 age of the population you find playing social
24 casino games?

1 MR. DELANY: The average age is
2 around 40 years old and skewed toward women.

3 COMMISSIONER STEBBINS: Playing
4 social casino games?

5 MR. DELANY: Playing social casino,
6 yes. Mirrorball slots and Slotomania are a
7 couple of good examples of social casino.
8 These games do not involve gambling. They are
9 not gambling. And I'll explain a little bit
10 more about that in a moment.

11 Gambling of course I don't need to
12 tell you guys involves consideration, chance
13 and price. Social games have no requirement to
14 pay to play. There is no consideration. The
15 vast majority of people don't spend any money.

16 I use the word spend very
17 deliberately. When people go to a casino, they
18 think -- you may say that they spend money as
19 well but they are betting. They are placing a
20 stake. And that requires an expectation that
21 there may be a financial return.

22 Within all social games, there is no
23 expectation of a financial return. So, even if
24 you are spending money, the player always knows

1 that they're never going to see that money
2 again. They're never going to get it back.
3 They are putting money in for the purpose of
4 entertainment only.

5 The average monthly spend again is
6 \$7.20. There is no tangible reward from
7 gameplay. The games are based on the virtual
8 credits typically. So, there may be what we
9 might refer to as Monopoly money. There is no
10 opportunity to exchange these credits for any
11 money. And as you referred to earlier, there
12 are no secondary markets where you can trade
13 these either.

14 COMMISSIONER MACDONALD: Is there a
15 community though of people who are playing
16 these games competitively and staking on the
17 outcome?

18 MR. DELANY: I've never heard of it
19 or seen it.

20 COMMISSIONER MACDONALD: I almost
21 can't imagine it.

22 MR. DELANY: Typically, the average
23 player is picking it up because they are at the
24 bus stop and they've got five minutes to kill

1 or they're waiting for a meeting to start.
2 They are not playing for intense period of
3 times to level up and build things.

4 There are games where people do
5 that. That tends to be the more traditional
6 console, PC type of game. It's just not the
7 consumption model here.

8 COMMISSIONER MACDONALD: To use your
9 phrase, it's quite descriptive, bite-sized.
10 So, if it's a bite-sized game, you almost don't
11 have enough time to set up a competition.

12 MR. DELANY: People could but also
13 you are playing often against hundreds of
14 millions of people potentially within your
15 network. I think trying to game the network to
16 try and establish to make sure you're just
17 playing within a particular pool may technology
18 be quite difficult as well. So, social casino
19 games --

20 CHAIRMAN CROSBY: I think you
21 skipped your last bullet point.

22 MR. DELANY: I'm sorry, yes. So,
23 social casino games are found in the app
24 stores, on the digital platforms, on Facebook

1 just as the rest of the social games are. They
2 are not connected to real money gaming. There
3 are however, some uses of social casino games
4 in the use of marketing. I think this is where
5 the phrase play for fun has been used.

6 CHAIRMAN CROSBY: So, what are
7 those?

8 MR. DELANY: I'm going to explain
9 that in one moment.

10 COMMISSIONER ZUNIGA: Can I back up
11 a little bit of the prior slide? So, they are
12 not gambling because they've removed one of the
13 three elements, right, price?

14 MR. DELANY: There's no
15 consideration either. You don't have to spend
16 any money at all.

17 COMMISSIONER ZUNIGA: You could if
18 you were in the freemium model, correct?

19 MR. DELANY: Correct.

20 COMMISSIONER ZUNIGA: And I know
21 that's a subset. But there's value in some of
22 the attainment in some of these games; isn't
23 there? This may not be the case for social
24 casino games, but there are other games that

1 were being described before. Isn't social
2 status potentially valuable to some people?

3 MR. DELANY: Certainly. You have
4 bragging rights for people who want to talk
5 about how well they're doing and compare
6 themselves to others. That's part of the
7 social element, yes.

8 COMMISSIONER STEBBINS: How often do
9 you think somebody is playing -- We hear a lot
10 about I don't want to go sit at a blackjack
11 table because I don't want to biff it for the
12 guy sitting next to me because I take an extra
13 card.

14 Do you get a sense of how often
15 people are playing a social casino game to
16 learn the rules of the game, get comfortable
17 with the game before they actually step into a
18 live bricks-and-mortar facility?

19 MR. DELANY: We've been looking at
20 the market. And we've seen no evidence of
21 people converting from social to real money.

22 There are certainly people who are
23 gamblers will also be interested in social
24 casino because it's something that they enjoy.

1 Equally, they'll be watching ESPN to watch
2 gambling coverage on there. Equally, they'll
3 be on YouTube looking at tactics and things as
4 well.

5 So, yes, there is going to be an
6 overlap between some social casino players and
7 real money gamblers. However, there is no
8 causal link and there are many other forms of
9 entertainment that are associated with gambling
10 that they will also be consuming.

11 COMMISSIONER STEBBINS: Okay.

12 MR. DELANY: So, this grid here
13 looks at age and gender percentage of the
14 various different games. You can see things
15 like strategy games, shooter games, racing car
16 games skew to a younger male audience. Games
17 like slots you can see here, actually this grid
18 suggests around the age of 45 and 70 percent
19 female.

20 We actually have a wealth of data on
21 who plays social casino games. They simply
22 don't have a young demographic, which obviously
23 youth play is something that's been raised as
24 a potential concern, but the data doesn't bear

1 it out.

2 CHAIRMAN CROSBY: Are there fewer
3 younger people playing social casino games than
4 other social games?

5 MR. DELANY: Absolutely.

6 CHAIRMAN CROSBY: Really?

7 MR. DELANY: There are almost --
8 Well, I'll go through a little bit of the data
9 now. Actually, social casino games are
10 renowned amongst developers as being an older
11 demographic, which actually makes it more
12 appealing because older people tend to have
13 some money that they can spend within a game.
14 So, it's a stable player base who are able to
15 pay.

16 The UK Gambling Commission have done
17 work looking at social casino specifically.
18 I'll go into this particular investigation by
19 the UK Gambling Commission later on in my slide
20 when I look at some of the other regulatory
21 concerns that have been raised. And they found
22 that having looked at real data from gaming
23 companies who provided the data directly to
24 them, the number of under 18s on an average day

1 was comfortably in single figures.

2 In fact, they could find three
3 people under the age of 18 just playing social
4 casino in that data set. So, we're talking a
5 very few number of people at all. And that's
6 real numbers three not a percentage.

7 Harvest Research is actually an
8 Australian --

9 CHAIRMAN CROSBY: That's out of
10 hundreds of thousands of players they found
11 three?

12 MR. DELANY: Yes. Harvest Research
13 is an Australian-based research firm that we
14 commissioned to look into real player data as
15 well. They had access to 12 million data sets
16 with players across Europe, US and Australia.
17 That was real data coming from real social game
18 companies, only social casino game companies.
19 They found only .74 percent players were under
20 the age of 18. And of those only half a
21 percent were paying. So, that comes out to
22 something like 0.00 --

23 COMMISSIONER CAMERON: How would you
24 know? Until you buy something, you wouldn't

1 know the age of the individual, correct?

2 MR. DELANY: Typically, these people
3 have plugged in through a social network or
4 they've downloaded the app through an app
5 store. So, the game providers do get data from
6 the app stores where they provide the games
7 through or the social media that they have
8 connected through to the game in order to
9 connect with their friends.

10 COMMISSIONER ZUNIGA: All of those
11 games analyzing those two data pieces are not
12 illegal for an 18-year-old to play or younger,
13 right?

14 MR. DELANY: Absolutely not. So,
15 these games are accessible on the app stores.
16 The app stores set the age rating. Typically,
17 a minimum age is set for 13 for social games.
18 That actually is a historical thing to do with
19 COPPA regulation here and nothing to do with --

20 CHAIRMAN CROSBY: To do with what?

21 MR. DELANY: The Child Online
22 Privacy Protection Act. Within in the US,
23 you're not allowed to collect data from a minor
24 without parental consent. And trying to get

1 parental consent is difficult. So, it's about
2 historic data protection regulation rather than
3 anything else.

4 These games are accessible through
5 the app stores to anyone. That's simply not
6 interesting for young people who would rather
7 be on an adventure in a more immersive
8 environment than spinning a wheel or playing
9 cards.

10 Play for fun, which I think is
11 really where your interest was initially
12 sparked. Social games can be used as a
13 marketing tool. We see cross promotions across
14 games and brands all the time. And social
15 games, as you have seen, have hundreds of
16 millions of players worldwide. Anyone doing
17 some marketing wants to have access to an
18 audience. Social games is another channel for
19 them.

20 They are frequently white labeled,
21 cross branded for marketing purposes. Angry
22 Birds, for example, have done work with Star
23 Wars, McDonalds. I think they actually had a
24 reward scheme with McDonalds. And you'll see

1 it across clothes stores as well as with casino
2 companies.

3 Some casino companies do use social
4 games as a tool to engage their clients when
5 they're outside their venues. This is
6 sometimes referred to as play for fun. And
7 they're casino styled games. And they're all
8 located on the bricks-and-mortar casino
9 website. So, the access point is from the
10 gambling location through their website. So,
11 it's being targeted at gamblers.

12 The games look very, very similar or
13 have exactly the same game mechanics as the
14 rest of the games industry including social
15 casino. However, the casinos will often want
16 to put some of their own branding in, share the
17 titles, icons, etc. so that people are familiar
18 when they go back to the bricks-and-mortar
19 casino. But this is specific to this
20 application and use.

21 You also have the freemium model
22 where people can buy credits as with the rest
23 of the industry. Loyalty programs may be in
24 place. They're also in place in other parts of

1 the game sector as well. However, the terms of
2 service clearly state that the practice for
3 success does not imply future success in real
4 money gambling.

5 We've done analysis of the sites
6 that you have been referring to earlier. And
7 those terms of service are there and they're
8 clear on those websites.

9 CHAIRMAN CROSBY: One of the things
10 that has come up is the concern that the
11 algorithms are different that the likelihood of
12 winning is different. That if you play the
13 free games, you get a sense that winning is
14 relatively easy. And then you go to the
15 machine and it's different.

16 Are there statistics or models or
17 evidence one way or the other on that?

18 MR. DELANY: We have obviously
19 spoken to the companies that do provide those
20 games. And in fact, I believe they've publicly
21 stated how their math models are identical to
22 the games that they provide in the casino.

23 People go to casinos because the
24 games work and they enjoy them. And there is

1 obviously a balance between the model that
2 casino has found that continues to engage
3 people and they come back to play and the
4 amount of money that they spend. That actually
5 maps to social in general as well.

6 To give people inflated payout rates
7 or percentage would make the game less
8 interesting. The balance in payout rates to
9 spins needs to be the right compelling number.
10 And there is no evidence to suggest that these
11 games are trying to manipulate people in some
12 way.

13 People would simply switch off. If
14 I just won every time, where's the challenge?
15 If I lost every time, where's the challenge?
16 There is the sweet spot. And it seems to be
17 analogous with real money and in social.

18 COMMISSIONER ZUNIGA: Do you know if
19 that's an area in the UK or in Europe where
20 that's regulated by some of the bodies like us?

21 MR. DELANY: Yes. It should be
22 mentioned that social casino games in general
23 don't have an equivalent in the real world.
24 Social casino games in general are within their

1 own universe using their own content.

2 Where there are real money
3 equivalents of the game and they are
4 specifically used for marketing, there are two
5 markets that spring to mind, New Jersey and the
6 UK where the online game may have -- it is
7 specifically used to allow people to gamble
8 online as well.

9 So, you have a one for one game
10 which is play this game, try before you buy and
11 then come directly to our online casino. That
12 doesn't exist in this state and most of the
13 states because there isn't a one for one
14 transfer. So, you can't say I played this and
15 therefore I have that expectation.

16 So, the law in the UK essentially
17 says if you have a like for like game for your
18 online game and you are using it to entice
19 people to go to the next one then your math has
20 to be the same.

21 COMMISSIONER ZUNIGA: That came
22 about because there's online gambling that's
23 both legal in New Jersey and the UK.

24 MR. DELANY: Correct. As I hope I'm

1 making clear, the use of these games for
2 marketing purposes is differentiated from the
3 rest of the social game space. The access is
4 different. It's through a bricks-and-mortar
5 casino website and is used for engaging
6 gamblers. It is not the same as people going
7 to be entertained through an Apple App Store.

8 Social games in general are governed
9 by an extensive consumer protection framework.
10 In the US, social games like any form of
11 consumer activity including video gaming,
12 eCommerce are subject to a wealth of federal
13 and state consumer law.

14 For example section 5 the Federal
15 Trade Commission Act and state-by-state little
16 FTC Acts cover a full gambit of consumer
17 protection from false advertising, unfair and
18 deceptive trade practices, fraud, data
19 protection and so on. There's also wide range
20 of federal regulations covering the social
21 media platforms in app stores that people
22 typically access these games through and spend
23 money through.

24 The social games that means there is

1 a particular framework around transparency,
2 accountability, consent in relation to
3 monetization and in-game purchases. And I'll
4 give a couple of examples later on how that law
5 has actually been used to good effect.

6 Similarly, in the EU, the use of any
7 online service is regulated by the eCommerce
8 directive as well as consumer rights directive,
9 distant selling and others. So, there is a
10 full set of consumer protection regulations for
11 consumers. They're used to it. The same set
12 that covers their use of Amazon will cover
13 their use of Apple.

14 COMMISSIONER MACDONALD: Has this
15 space been controversial to any significant
16 extent in the EU or the UK?

17 MR. DELANY: The UK has done an
18 investigation into social casino in particular.
19 And I'm about to present their findings.

20 COMMISSIONER MACDONALD: What about
21 just in general? That last slide had to do
22 with the EU.

23 MR. DELANY: Yes. So, in-app
24 purchases have been a concern.

1 CHAIRMAN CROSBY: What purchases?

2 MR. DELANY: In-app purchases, so
3 that is where you pay some money within the
4 app.

5 COMMISSIONER MACDONALD: Oh, within
6 the app. I thought you were saying inept.

7 CHAIRMAN CROSBY: Inept I thought
8 you said.

9 MR. DELANY: In-app, we are
10 separated by a common language here. So,
11 within an application is when you do spend that
12 money. There have been concerns in the US and
13 in Europe about people perhaps being misled
14 when they are making these purchases or that
15 young people or children who have been given
16 devices overspend.

17 Again, that happens in other forms
18 of online media as well. I just read an
19 article about a child who bought a car on eBay.
20 So, there's some shared responsibility there.
21 Yes, there's been some work on in-app
22 purchases.

23 Essentially, the laws that we have
24 in place for consumer protection work. They

1 have had to be reinterpreted for the new use of
2 the way people are buying and spending money.
3 But I'll give a couple of examples now where
4 they've been applied well.

5 First of all, the conclusion of the
6 UK Gambling Commission's scoping review. So,
7 in January of last year, the UK Gambling
8 Commission completed a two-year scoping review
9 of the social game sector. And they said that
10 there is no compelling reason to impose
11 gambling regulation on social games.

12 As I referred to earlier, they had a
13 large-scale data set from social games
14 companies. They have supplementary data about
15 the applications, how they were used, who was
16 using them. This is the largest scale
17 investigational study by a regulative authority
18 anywhere in the world so far.

19 They cited the extensive framework
20 of existing consumer protection regulation
21 which already governs that sector. And other
22 factors that they highlighted include the
23 moderate amount of time and money that most
24 people spend within the games. There's no

1 increase in portion of young people
2 participating in social gaming or real money
3 gambling despite revenue growth by sectors.
4 The absence of evidence that social games are a
5 cause of real money gambling participation in
6 young people or otherwise.

7 And I believe this presentation will
8 be available later where that link will work.
9 But that takes you through to the UK Gambling
10 Commission's full review.

11 As I said, to quote from the report,
12 "We are clear that there is no compelling
13 reason at the moment to impose additional
14 gambling regulation on the social gaming sector
15 given that it is subject to an extensive set of
16 consumer protection regulation."

17 COMMISSIONER ZUNIGA: In this study
18 -- And I look forward to the link, thank you.
19 -- were they studying social casino games or
20 all social games?

21 MR. DELANY: Social casino
22 specifically.

23 CHAIRMAN CROSBY: Oh, this is social
24 casino?

1 MR. DELANY: Yes.

2 CHAIRMAN CROSBY: So, we're clear
3 there is no compelling reason at the moment to
4 impose additional gambling regulation on the
5 social casino gaming sector is what this meant
6 to say. What the study was about --

7 MR. DELANY: It was studying social
8 casino.

9 CHAIRMAN CROSBY: Okay.

10 COMMISSIONER ZUNIGA: That is their
11 mandate, I guess.

12 MR. DELANY: I'm sorry?

13 COMMISSIONER ZUNIGA: That is their
14 mandate, they're the gambling commission.

15 MR. DELANY: Exactly. So,
16 specifically to Commissioner Macdonald's
17 question before about European interest in some
18 of these areas, particularly with the in-app
19 purchases when you're spending money within the
20 games, we have worked with European Commission
21 to look at the application of existing consumer
22 protection regulation within the space of
23 social games in particular. And we've been
24 praised by the European Commission for doing

1 so.

2 In the US, there's been a positive
3 reaction by the industry to well-publicized FTC
4 enforcement actions against Amazon, Facebook
5 and Google. This is where those companies have
6 essentially refunded money to players on a
7 large scale because of deemed infractions of
8 consumer protection. So, the law has worked
9 here in the US.

10 And the majority of platforms now
11 offer easy to use mechanisms for restricting or
12 preventing unwanted spending both on Apple
13 devices and Google devices, which has the
14 largest market share of the phones.

15 We at the ISGA updated our best
16 practice principles to incorporate European
17 guidance. And we were praised by the European
18 Commission to do so. This for example is
19 addressing purchases should be fair,
20 transparent, people understand what they are
21 doing.

22 An industry has an equivalent within
23 the US with the FTC guidelines. This started
24 actually with the Office of Fair Trading in the

1 United Kingdom setting out the principles for
2 app-based games. Again, this is intended to
3 protect consumers from unwanted purchases or
4 being led into misleading versions of the game.

5 This is perhaps coming back to the
6 question of is free a misleading term when it's
7 freemium. You have to pay to play. Well, you
8 don't have to pay to play but there is the
9 option.

10 The Consumer Protection Cooperation
11 Network of European Consumer Enforcement
12 Authorities have also launched a review of some
13 of these concerns and launched a common
14 position paper. So, this is the national
15 consumer protection ombudsman or regulator, if
16 you like, across every single European member
17 state.

18 So, some of the misconceptions that
19 we are faced with about social casino perhaps
20 in particular or social games in general.
21 Social casino mechanics, again, Mr. Chairman
22 you asked me about earlier. Social games do
23 not offer higher percentage payouts to give
24 inflated expectations or encourage real money

1 gambling participation.

2 As we've heard before, this is a
3 multi-billion-dollar industry. If people were
4 trying to get people to leave their games,
5 they'd be cannibalizing themselves. It simply
6 does not make logical sense to move people from
7 a highly profitable growing game sector to try
8 and do something else.

9 CHAIRMAN CROSBY: So, your
10 conviction is that when a casino company is in
11 a social casino game, it's in it for the
12 revenue stream in the freemium model not in it
13 for purposes of switching people to traditional
14 games.

15 MR. DELANY: Absolutely. There are
16 perhaps two use cases here that we shouldn't
17 confuse. One is where social games companies
18 may have casino companies who are their parent.
19 They may also have television companies, film
20 companies who are also their parents.

21 As I've said, many people in the
22 entertainment industry in general are trying to
23 learn about this industry and get in on it.
24 The social games, social casino games that may

1 have a gambling parent are typically run as
2 standalone businesses. And to link them to
3 real money gambling would in fact be in breach
4 of their gambling licenses in the vast majority
5 of markets, which would be antithetical to
6 them. It would make no sense.

7 So, if you have a social casino
8 company with a gambling parent, there is likely
9 to be absolutely no link in the games
10 whatsoever or to drive people to real money
11 gambling.

12 CHAIRMAN CROSBY: Other than brand
13 cross promotion.

14 MR. DELANY: You don't see brand
15 cross promotion either.

16 CHAIRMAN CROSBY: Really?

17 MR. DELANY: Playtika for example is
18 an entirely standalone business in the social
19 casino space. It's very, very popular. It's
20 in the top five, I believe. And it happens to
21 be owned by Caesars. But it is not driving
22 people to any Caesars' property online or off.
23 It's an entirely standalone business.

24 And we addressed again earlier the

1 concerns about where it's used as a marketing
2 tool, where games are used on the bricks-and-
3 mortar website to engage with gamblers. Those
4 companies have explained, I believe that they
5 are offering equivalent payout rates. And
6 we've seen no evidence of games offering
7 inflated rates at all.

8 Also, as mentioned before, the vast
9 majority of social casino games actually don't
10 have a real world equivalent. So, if I did
11 have a Luc's Lucky Slots that was offering a
12 payout rate that would be considered to be
13 high, there isn't Luc's Lucky Slots in a real
14 casino anywhere. So, there couldn't be that
15 misleading connection.

16 Higher percentage rates are
17 antithetical to the freemium business model.
18 And actually, within our best practice
19 principles we make it clear that games must
20 state that social casino games does not equate
21 to real world success. So, that's part of our
22 best practice principles.

23 It reminds me somewhat of the idea
24 that violent videogames will lead to violent

1 actions. Or that driving fast cars in a video
2 game will convert people to be driving poorly
3 in the real world. But both cases have been
4 proven that to be untrue. Of course, we should
5 investigate and see but there's no evidence at
6 all that this kind of conversion or that people
7 are so stupid that they may confuse the two.

8 COMMISSIONER STEBBINS: Where is
9 that information or where is that message
10 shared with the player, at what point or stage
11 in the game?

12 MR. DELANY: It's within the terms
13 of service of the game. Actually, I can show
14 you here. There's a screenshot. This is in
15 the app store. This is before someone has
16 downloaded it. They can look at the details of
17 the game. They can understand it.

18 Just as a note, within the social
19 casino genre, the ISGA represents approximately
20 82 percent of the genre. So, we have a very,
21 very broad coverage of the social casino genre.

22 A look at youth gambling and
23 problem gambling. One of the concerns about
24 social casino has been this question about

1 convergence of people by playing social casino
2 converting or going to real money gambling.
3 There is no evidence that social casino games
4 are a cause of gambling in young people.

5 Rates of prevalence of gambling and
6 gambling addiction are both in young and old
7 have changed very little over time, over recent
8 time. And we have figures that actually in the
9 UK that rate has been slowly declining.

10 We're talking about during a time of
11 massive growth of social casino over a number
12 years. And we are sometimes challenged as an
13 industry to prove that social games are not
14 doing something, but to prove a negative is of
15 course impossible.

16 But the data just simply -- You
17 would expect logically if social casino did
18 have such a negative impact that the numbers of
19 prevalence or problem gaming would be spiked in
20 some way or at least a bump, an uptick,
21 something. And there simply hasn't been that.
22 There is just no evidence of this conversion or
23 this impact of social casino.

24 And the most recent national

1 replication survey in the US shows that problem
2 gambling rates have also continued to remain
3 stable. So, that for this market, rates have
4 remained stable despite half of the adult
5 population playing social games, many of which
6 who will be playing social casino.

7 CHAIRMAN CROSBY: In that second
8 bullet point, those percentages are as the
9 entire population not the adult population?

10 MR. DELANY: I would like to verify
11 that before I answer that. I'll have to get
12 back to you on that. I believe it's for the
13 whole population, but I don't want to give you
14 the wrong information.

15 CHAIRMAN CROSBY: If it's adult
16 population -- It'd be interesting to know what
17 that is.

18 MR. DELANY: Yes, absolutely. So in
19 summary, social games are a very popular form
20 of entertainment. They are enjoyed by hundreds
21 of millions of people worldwide.

22 Social casino is a popular genre of
23 social games, has an older demographic. Social
24 games can be used for marketing. Social

1 casinos used for marketing bricks-and-mortar
2 casinos tend to be referred to as play for fun.

3 Whether any oversight of play for
4 fun is necessary or not is evaluated on a
5 jurisdiction by jurisdiction basis. Obviously,
6 this is what you are interested in looking at
7 at the moment.

8 CHAIRMAN CROSBY: Excuse me, I
9 probably missed something. Rationalize the
10 statement that casino companies like Playtika
11 don't cross market to Caesars and this
12 statement that social games are used to market
13 bricks-and-mortar casino games.

14 MR. DELANY: I'm sorry. There are
15 some social games companies like Playtika that
16 do social casino games. They have a parent
17 company that happens to be casino company.
18 They're not driving people to their properties
19 at all.

20 The example that has come about in
21 Massachusetts has been a website belonging to a
22 gambling company has put a social game on it in
23 order to engage gamblers when they are outside
24 of the casino. That's a separation. That's

1 the difference. That social games is being
2 used to specifically to engage gamblers when
3 they are outside of that property.

4 CHAIRMAN CROSBY: Does Playtika, for
5 example, do that as well?

6 MR. DELANY: No.

7 CHAIRMAN CROSBY: So, Penn National,
8 the company that we have has also a
9 freestanding division, I believe, that is their
10 social gaming that includes social casino
11 games. They do have play for fun games?

12 MR. DELANY: Correct.

13 CHAIRMAN CROSBY: Playtika does not.

14 MR. DELANY: Yes.

15 MR. BEDROSIAN: Mr. Chairman, as I
16 understand it, Penn actually has two different
17 versions. One of which they own might be
18 proprietary which may fall into the Playtika
19 category. And one in which they like many
20 other companies have put their own marketing
21 skin on, for lack of better term, which is the
22 one that they are interested in marketing.

23 I think what we are hearing is, and
24 correct me if I'm wrong, is there are casino

1 companies that own --

2 MR. DELANY: -- social games --

3 MR. BEDROSIAN: -- maybe as a profit
4 center not as a marketing tool. Then they can
5 contract usually with other entities for the
6 marketing purposes; is that correct?

7 MR. DELANY: Indeed. It is about
8 the intent of the game and how it is marketed
9 and how it is accessed. When you're on a
10 casino website you are clearly engaging
11 gamblers. And the play for fun category
12 therefore is a use of social games or social
13 casino to engage with gamblers.

14 Playtika, and others, Plumbee for
15 example, has been bought by GSN but it's also
16 been heavily invested by Endemol who is a
17 television production company. They are
18 standalone. They are not used for marketing.
19 They are not used to draw in people to a
20 bricks-and-mortar. They are an entirely
21 separate space.

22 CHAIRMAN CROSBY: But your data and
23 opinion and apparently data suggests that the
24 play for fun games don't have the effect of

1 acting as a gateway, as an acquisition.

2 MR. DELANY: No. I don't consider
3 any of the social games that are accessible
4 through the app stores as play for fun. Play
5 for fun is a specific marketing tool accessed
6 through a gambling website.

7 CHAIRMAN CROSBY: What's the
8 difference between the games, a play for fun
9 game? Is that because it replicates all the
10 casino games?

11 MR. DELANY: It may replicate the
12 casino game. It may be casino branded. And
13 the purpose is to engage gamblers. So, it's
14 been targeted to the existing audience of the
15 casino. You're accessing it through a casino
16 website.

17 CHAIRMAN CROSBY: But if the game
18 can be essentially the same game as in the app
19 store, why would it not have the same function
20 in the app store?

21 MR. DELANY: Why would Playtika
22 drive people to spend money elsewhere when they
23 are profitable standalone businesses? It's one
24 of the few growth centers for many of these

1 companies in fact who may have dwindling casino
2 revenues. Social games is a vibrant,
3 profitable, exciting business center for them.
4 And driving people elsewhere would be bad
5 business.

6 They spend a lot of money on these
7 companies when they bought them. They are not
8 trying to drive people away.

9 COMMISSIONER ZUNIGA: You may not be
10 talking about the same game; is that a fair
11 statement? When you talk about play for fun
12 games that replicate the casino games to engage
13 gamblers, etc. that's similar to say slots, one
14 of the slots in the casinos may not be the same
15 game as what you referred to as what we saw
16 when you talk about Playtika or could they?

17 MR. DELANY: The games may look very
18 similar, but it's about who is the audience.
19 What is the intent? What are they trying to do
20 with it? So, you might have an Angry Birds
21 game that is purely just a straightforward game
22 but they may cross brand it with Star Wars
23 because they're trying to sell Star Wars
24 merchandise.

1 So, that's the intended difference.
2 It's a marketing tool and how people are driven
3 somewhere else is the purpose of the game.

4 Here the social casino sector is a
5 standalone profitable industry. They have no
6 desire to drive people away from their Playtika
7 for example.

8 CHAIRMAN CROSBY: That may be true
9 for standalone companies that aren't owned by
10 casino companies, but --

11 MR. DELANY: I'm sorry, but it's
12 also true for companies that are owned by
13 casino companies.

14 CHAIRMAN CROSBY: Okay. That's what
15 I'm getting at. You're saying that's the case.

16 MR. DELANY: Yes.

17 CHAIRMAN CROSBY: And I take your
18 word for it that Playtika for example does not
19 cross promote, but I gather the Penn National
20 Company does, online gaming company, social
21 gaming company does.

22 MR. DELANY: They'll have two
23 separate arms. They have a profitable social
24 games business. There are also gambling

1 companies who wish to white label their
2 services for specific purpose of engaging a
3 specific audience. That is this play for fun
4 category.

5 COMMISSIONER ZUNIGA: What would you
6 attribute that to that the audiences are just
7 simply different?

8 MR. DELANY: The purpose is to
9 engage gamblers with their brand when they're
10 outside the bricks-and-mortar casino. The
11 purpose of a standalone social game is for
12 people to stay and be entertained and play.

13 It's like using my AMEX card is
14 actually a Virgin Atlantic one because they
15 want me to continue to fly with them. But I
16 also have a Visa card that is not co-branded.
17 It's simply for spending. And I choose where
18 to spend my time depending on my motivation.

19 So, if my motivation is I'm a
20 gambler. And I want to engage with my brand and
21 potentially play and be rewarded with a voucher
22 for a burger at the end of the month, then me
23 as a gambler then that's my motivation.

24 The social games regardless of who

1 their parent company is are growing profitable
2 businesses. When you are looking at the
3 distinction, I think you have to look at what
4 is the motivation of the game. Is there cross
5 branding? Are they driving people to casino
6 properties? What is the commercial intent of
7 the provision of this game? And how is it
8 accessed? If it's on a bricks-and-mortar
9 casino website, it's very likely that the
10 purpose of that is to continue to engage people
11 with that casino brand.

12 The games within the app stores
13 simply don't have that cross branding. They're
14 not driving people. They're not trying to get
15 people. It's a separate use. It's a separate
16 standalone business.

17 COMMISSIONER MACDONALD: Who are
18 your members of the organization? What kind of
19 companies or groups comprise it?

20 MR. DELANY: We have 12 members.
21 They are some of the world's biggest social
22 game. Zynga you may have heard of who own some
23 of the biggest titles in social game, all of
24 the way down to some smaller developers based

1 in the US, UK, Europe, Australia as well.

2 COMMISSIONER MACDONALD: Did you say
3 just 12 members?

4 MR. DELANY: Just 12, but of the
5 estimated 750 million players, we probably have
6 about 40 percent coverage of the player base.
7 And within this specific genre of social casino
8 that goes up to about 84 percent. The vast
9 majority of questions about the social game
10 space come down to casino questions.

11 COMMISSIONER STEBBINS: And no
12 currently active casinos are members?

13 MR. DELANY: We wouldn't have them.
14 We don't represent casinos. We don't represent
15 real money gambling. It's not our industry.

16 CHAIRMAN CROSBY: So, the games can
17 be used to market bricks-and-mortar casino
18 games if you choose to use them that way?

19 MR. DELANY: Yes.

20 CHAIRMAN CROSBY: But they
21 oftentimes are not and sometimes are. Your
22 industry does not obviously because you don't
23 want to drive people out of your industry and
24 into somebody else's bricks-and-mortar. But

1 your evidence is that even though they could be
2 used to market (A) they're not and (B) there is
3 no evidence in any appreciable way that
4 suggests that they are having that effect.

5 So, you're not studying people who
6 are playing social casino games that are owned
7 by casino companies because they're not in your
8 -- were they in --

9 MR. DELANY: We have members who are
10 owned by casino companies.

11 CHAIRMAN CROSBY: Oh, you do. Okay.

12 MR. DELANY: Playtika is an example
13 of a member company who is owned by casino
14 company, by Caesars. They have nothing to do
15 with the casino business. They're not cross
16 branding. They're not promoting. They're not
17 driving people away.

18 And the vast majority of these games
19 of all social casino don't have a real world
20 equivalent. You couldn't pop to an arcade or a
21 casino bricks-and-mortar or elsewhere online
22 and find an equivalent.

23 CHAIRMAN CROSBY: They don't have
24 Jeopardy on the social casino floor, probably

1 not you're saying.

2 MR. DELANY: I've not seen it. I've
3 seen Jeopardy in a real money casino but it's
4 also on television. It's on YouTube. It's
5 entertaining.

6 CHAIRMAN CROSBY: Your conclusion is
7 that regulators don't need to worry about
8 social casino games as a gambling regulatory
9 model unless they're being used for gambling
10 essentially.

11 MR. DELANY: Yes. That's a fair
12 summary. So, social games, social casino
13 games, they're covered by consumer protection
14 regulation. That regulation has been
15 demonstrated to work in this country and
16 elsewhere in the world. Consumers are used to
17 that consumer protection regulation.

18 And the impact of the social games
19 industry is akin to the rest of the
20 entertainment industry in terms of consumption,
21 of behavior models. How a casino chooses to
22 market itself I think is somewhere that a
23 gambling commission has an interest to assess
24 how they are marketing themselves.

1 They also use more traditional media
2 forms and mail shots and email. And we've seen
3 some today in fact. And how they behave in
4 their marketing communications, I understand
5 absolutely is an area for a gambling commission
6 to understand how they work. But we urge
7 caution and the risk of unintended consequence
8 of throwing in the lot of the rest of the
9 social games or even the rest of social casino.

10 COMMISSIONER ZUNIGA: Thank you.

11 CHAIRMAN CROSBY: Anybody else
12 questions before we move on? Thank you. This
13 is really, really interesting. You finished?

14 MR. BEDROSIAN: Yes.

15 MR. DELANY: No, I think we covered
16 everything. Thank you very much for your time.

17 CHAIRMAN CROSBY: Thank you. That
18 was very helpful. Let's take a real quick
19 break. And we'll come back for our next
20 speaker.

21
22 (A recess was taken)
23
24

1 CHAIRMAN CROSBY: We are reconvening
2 at five minutes before three public meeting
3 190. And Justin, is somebody going to
4 introduce our next guest or do I do that?

5 MR. BEDROSIAN: I'd just say I don't
6 think he needs an introduction. He's been here
7 before.

8 CHAIRMAN CROSBY: I should welcome
9 back Keith Whyte. Thank you for all your time
10 you've put in with our organization. We
11 appreciate it.

12 MR. WHYTE: The pleasure is ours, an
13 active engaged regulator, and a progressive
14 regulator is the best friend for advocates.
15 So, again we commend you for your approach on
16 a wide range responsible gaming issues and
17 responsible play issues. And again, I'm happy
18 to be here on social casino gaming.

19 I do have to say that the white
20 paper approach that Chairman Crosby mentioned
21 before, looking at various forms of online
22 gambling type games, we absolutely agree with
23 and endorse that approach. Because I think
24 with daily fantasy sports, with social casino,

1 with other types of activities that may be
2 coming down the line, there is a need to get
3 beyond traditional definitions of gambling and
4 gaming.

5 We think there are some consumer
6 protection concerns at the intersection of
7 gaming and gambling. But there's also other
8 solutions. That's what I'm happy to talk about
9 today.

10 Because of course as we've heard
11 from the previous speakers, I think we looked
12 at the social gaming industry broadly defined.
13 Luc talked a lot about social casino which is
14 obviously a subset. Then we're going to talk
15 about a further subset which are mainly those
16 people who monetize at social casino and/or who
17 may have problems.

18 So just to be clear, the National
19 Council of course is neutral on legalized
20 gambling. We are of course neutral on social
21 casino gaming, gambling whatever you want to
22 call it. We are not calling for regulation.
23 We believe as Luc said, I think the UK Gambling
24 Commission got it quite well.

1 Frankly, there may be concerns and
2 we will certainly demonstrate a few of those
3 but there's also solutions. And at this
4 moment, if we continue to be able to engage
5 with the operators and vendors in the social
6 casino space, I do think we can come up with a
7 set of voluntary, commonsense practical
8 guidelines that build on what ISGA has already
9 developed.

10 And I think we can achieve a pretty
11 good homeostasis, a pretty good balance of
12 consumer protection while protecting that very
13 small percentage of people who may have a
14 problem while allowing this industry to grow
15 and flourish.

16 You asked about ISG membership. I
17 would just note that many of their members are
18 also or several of their members are members of
19 the National Council. So, there is certainly
20 an overlap in this space.

21 So, for those of you who don't know,
22 and again it is a pleasure to be up and down on
23 this shuttle quite frequently to work with you
24 all. The National Council, we are the national

1 advocates for programs and services to assist
2 problem gamblers and their families. Again, as
3 stated, we are neutral on legalized gambling.

4 Again, a lot of our work here with
5 you with the Commission, who is also a member
6 of the National Council, and thank you for
7 that, a lot of our work with you and our
8 various members and various stakeholders in the
9 legislative, regulatory, operator, vendor,
10 health and advocacy communities is just to do
11 this, bring together folks around common
12 concerns and then provide commonsense
13 solutions.

14 Definitions are interesting. One of
15 the things that we would say, we would try and
16 help provide some clarity and kind of sharpen
17 the edge, if you will on this discussion. When
18 we talk about social casino, it's gambling
19 games that include at least one but not all
20 three elements of the traditional definition of
21 gambling.

22 So at least temporarily prize,
23 chance and/or consideration have been removed
24 from the game. Again, as you know certainly

1 with the freemium model, which we agree is a
2 much better term than FTP, with the freemium
3 model you may remove that temporarily.
4 Theoretically you could even remove it for just
5 one spin of a slot and then require play.
6 Again, we'll get into some --

7 CHAIRMAN CROSBY: Or you can remove
8 it forever.

9 MR. WHYTE: You can remove it
10 forever, sure. And you can remove various
11 things at various times. Again, technology
12 allows us really unlimited opportunity to alter
13 these games as developers see fit.

14 So, there are three basic models.
15 This is not a perfect nomenclature because
16 again there's a lot of innovation in this. But
17 generally on the free to play or freemium
18 model, you've removed obviously consideration.

19 Sweepstakes models are also like
20 this. So, many of these games that we have
21 seen are based on a not very opaque -- not very
22 transparent but sweepstake model where since
23 there is the possibility for free entry you can
24 even reward prizes because it's like the

1 sweepstakes on the back of a cereal box, or a
2 McDonalds game which is not required purchase.
3 Sweepstakes have always been traditionally held
4 to you're allowed to participate for free.

5 So, there is a real interesting set
6 of social gaming mechanics all around
7 sweepstakes play. And I'll get into this.
8 There are some big gaming companies that are
9 using versions of this to be able to reward
10 valuable prizes.

11 And then obviously, you can remove
12 chance. So, there is a fair amount of
13 literature in the gambling space about adaptive
14 or reflexive models that the game essentially
15 plays you. The algorithm adapts to your play.
16 It's very hard to tell who's using these and
17 who isn't, because again, a lot of the terms
18 and conditions are not very transparent.

19 I will say this model does not seem
20 to be as popular as the freemium model or the
21 sweepstakes model, but it may exist out there.
22 It's just very hard to find because one of our
23 big concerns, one of our big solutions is of
24 course a little bit better transparency in how

1 the results are calculated.

2 Being able to allow consumers and
3 advocates and regulators frankly a little bit
4 more clarity into what exactly the model is the
5 game -- is underneath the game. It's general
6 equivalent of having a par sheet. If you
7 wanted to, you could go on the floor right now
8 and find a par sheet for the machine there.
9 And that would tell you the odds and the math
10 and how that outcome is generally determined.

11 Now no one can actually read those.
12 Again, theoretically you could. Again, that's
13 one of the things we'll talk about in a little
14 bit. And then there's obviously play for fun.
15 You can remove the prize.

16 CHAIRMAN CROSBY: This conversation
17 goes quickly into angels dancing on the head of
18 a pin. But I would've said that the three
19 elements are not consideration, chance and
20 prize. It's consideration, unknown outcome and
21 prize.

22 There is a lot of debate about
23 chance versus -- skill versus chance but that's
24 only one dimension. There's plenty of gambling

1 which is not merely a matter of chance. It's
2 unknown outcome but skill might affect the
3 income.

4 MR. WHYTE: Sure. And we'll cop to
5 that. There is certainly skill involved in
6 almost all this stuff just as long as there's
7 chance involved.

8 CHAIRMAN CROSBY: I'm not saying
9 what should be gambling. As a practical
10 matter, if you want to gamble on throwing
11 darts, nobody would say that's about skill
12 versus chance.

13 MR. WHYTE: Oh, yeah, they would.

14 CHAIRMAN CROSBY: Well, whatever.
15 But we don't have to get into the debate about
16 whether there's skill versus chance to talk
17 about whether you've got gambling or not.

18 MR. WHYTE: We absolutely agree.
19 That really drives us down a road that we have
20 no interest in going down. We're not going to
21 debate the percentage of chance versus skill,
22 absolutely not.

23 We'll be down and many of us will be
24 down in Washington tomorrow on the daily

1 fantasy hearing where much will be made about
2 skill versus chance.

3 CHAIRMAN CROSBY: But this slide
4 suggests that chance is one of the three
5 elements of gambling.

6 MR. WHYTE: Yes. And I think you
7 can also remove it from some of these games, if
8 you'd like, because you can determine it based
9 on almost any metric.

10 So, you may think you're playing a
11 slot machine, but really you're playing a
12 predetermined outcome. It can determine the
13 outcome in any way you'd like. It just appears
14 the wheels appear to spin and the outcome, it
15 may appear to be random to you but to the
16 mechanic of the game, it's absolutely either
17 predetermined or it's based on how frequently
18 you've played, your reward status.

19 There's almost infinite
20 possibilities you could use to determine the
21 outcome of the game that have nothing to do
22 with a random number generator mechanic.

23 There is as Luc said very well,
24 there is some research here. There's more

1 every day. We welcome that. We really commend
2 ISGA for their approach to make some of this
3 available. There's also some academic studies,
4 mainly coming out of Australia.

5 As mentioned before the UK Gambling
6 Commission really performed a valuable service
7 and really dug into this. And we'll certainly
8 reference some of their findings again further.

9 There is, I think, a rich source of
10 information that I'll share with you a little
11 bit. It's industry and analyst information.
12 Many of these companies are publicly held.
13 They do report their performance to Wall Street
14 analysts. That information is available if you
15 know where to look. It helps us get a better
16 sense of the size and scope of the social
17 casino industry.

18 The National Council has another
19 source of information which are people that are
20 starting to come up, very, very few in number.
21 Maybe I can count on one hand the number people
22 over the past several years that have reached
23 out to us directly for help.

24 There's lots of reasons why people

1 who get in trouble with this might not reach
2 out directly to us for help. Clearly, the fact
3 that they may not see it as gambling. But we
4 have had, and I've personally talked to people
5 who have reported they have been negatively
6 affected by excessive play on social casino.

7 Again, I don't want to over
8 exaggerate this at all. We think is a very
9 small issue. We don't have a good number. I
10 don't know anybody that does have a good number
11 of the percentage of social casino players who
12 may or may not have a gambling problem. As
13 we'll argue there are both concerns and
14 solutions. There's some things that may argue
15 it's a little bit higher risk. There's some
16 things that argue it's lesser risk. Certainly,
17 monetization and the fact that the vast
18 majority of people never monetize is one of the
19 most significant.

20 So, I want to be very clear that
21 we're not saying that this is an epidemic. We
22 wouldn't expect to see huge rates of increases
23 in gambling problems. But it does not mean
24 that there aren't concerns. And it does mean

1 we need to take a little bit more active -- I
2 think the UK Gaming Commission is perhaps a
3 little too passive on this.

4 We would favor an approach that has
5 a little bit more engagement from the major
6 stakeholders to make sure that we're doing
7 everything we can to minimize harm. Because
8 frankly the structures in the United Kingdom
9 and European Union are a little bit different.

10 I would argue that United States
11 customers have far less consumer protections
12 than are in European Union. So, perhaps we
13 need to do a little bit better. And we could
14 do a little bit better on some voluntary
15 responsible play features. And we'll talk
16 about that.

17 So, I think Luc is right. We're
18 probably going to split hairs a little bit.
19 They would say players can't lose money in
20 these games. And I think technically yes,
21 you're not losing money in the game itself. Of
22 course, when you're spending a lot of money and
23 then you lose those credits you have then
24 credits that is credits you paid for that you

1 have then lost. And you may need to buy more
2 credits again.

3 So, it's perhaps a distinction
4 without a difference but we would certainly
5 agree that they are games that are generally
6 free to play. But we would also stipulate and
7 as we'll show later that there are people that
8 are paying an awful lot of money to play these
9 games.

10 Of course, that does not in and of
11 itself mean it's gambling or mean that it's
12 problematic, but it does mean that there is the
13 potential to spend a considerable amount of
14 money in this space to play these games. And
15 therefore, there could be the potential for
16 harm.

17 CHAIRMAN CROSBY: Excuse me though,
18 that's true of shopping at Saks Fifth Avenue,
19 right?

20 MR. WHYTE: Absolutely.

21 CHAIRMAN CROSBY: So, it doesn't
22 have much to do with a gambling commission that
23 problem.

24 MR. WHYTE: That may or may not be

1 true. These are gambling type games. We're
2 not arguing again that you necessarily should
3 regulate this. We're not necessarily saying
4 that this is your -- but we are saying as I'll
5 go further, there is some linkages here.
6 That's again what we're saying.

7 There's areas of concern that may
8 rise to the level of concern or that may fall
9 within your purview.

10 The UK Commission broke it down I
11 think it's very illustrative, three types of
12 risk. Problem gambling type risks, people are
13 spending too much not just money -- and time.
14 And that's something we're going to talk a
15 little bit about. Traditional type risks.

16 CHAIRMAN CROSBY: Keith, I'm sorry,
17 there's a really important distinction here.
18 You're saying problem gambling type risks is
19 people spending too much time and money.

20 Yes, you can call that a problem
21 gambling type of risk, but it's any other kind
22 of spending. It's an addictive personality
23 risk. It's an addictive behavior risk.

24 Incidentally, it has some of the

1 same features as gambling problems. But to
2 suggest that the two have something to do with
3 one another, there is no more to do with a
4 gambling type problem than it is to be a retail
5 shopping type problem or an eating type
6 problem.

7 MR. WHYTE: Respectfully, yes. We
8 would say that if you have a gambling addiction
9 and you're spending excessive amounts of time
10 and money on a social casino product that is a
11 problem. And the people that are seeking help
12 are experiencing gambling addictions.

13 So, while they may also have other
14 problematic behavior in other areas of their
15 life that's not what we're concerned about.
16 And frankly as a commission, I'm sure you're
17 not either.

18 Our concern is of course people with
19 gambling addiction who are playing these games
20 and who may or may not also develop problems on
21 these games and who may or may not have
22 connections to the regulated casino space.

23 Again, I would absolutely agree with
24 you that the cause-and-effect is interesting.

1 These may be people that have other comorbid
2 issues. And we've long known in the gambling
3 industry that causation is separate.

4 That if someone has a problem on the
5 floor of your casino or in a social casino
6 owned or operated or sponsored by a licensed
7 regulated operator that is a problem for us as
8 advocates and for you as a commission and for
9 them as a society.

10 So, yes, I want to be clear. We're
11 not assigning causation. A lot of this is
12 associational. We're not calling on
13 regulation. We're not saying that because, but
14 we are saying that something -- Again, this is
15 an informational hearing. This is something to
16 really think about.

17 CHAIRMAN CROSBY: I understand that
18 but I think it's a little bit -- concerned
19 categories could say addictive behavior type
20 risks as opposed to problem gambling type
21 risks. The language you're using is suggesting
22 a relationship. I don't think that's the kind
23 of risk this is. This is an addictive behavior
24 type risk.

1 MR. WHYTE: We'll see. Because when
2 you simulate gambling and when people are
3 participating in gambling activities, whether
4 or not it's for real currency and money I think
5 you can absolutely develop a gambling problem
6 or exacerbate a gambling problem.

7 COMMISSIONER ZUNIGA: On that note I
8 was going to ask is it possible to decouple?
9 You mentioned there's concerns on gambling type
10 risks of spending too much time and money. If
11 you are spending too much time but not too much
12 money or not money at all, could that by itself
13 begin to signal an element of risk of problem
14 gambling?

15 MR. WHYTE: It could, but it's very,
16 very low risk and again the harm there. I
17 think too, when we look at risk-based
18 regulation or risk-based responsible play
19 concerns, our concerns are primarily focused on
20 people that are spending money at all and then
21 spending too much money. So, again this is a
22 subset of a subset of a subset.

23 Concerns about people spending too
24 much time, it's relevant to us. But there's

1 much less harm there. Preoccupation is
2 certainly one feature of gambling addiction and
3 it's not something to be overlooked, but it's
4 not again our primary concern, our concern at
5 all within this population. It's a very, very,
6 very small concern, I think.

7 We're much more focused on the harm
8 caused through excessive spend rather than
9 excess of time. Again, the UK Commission noted
10 that it is possible and it's something we've
11 seen as well.

12 There have been instances in the
13 infancy of the social casino industry where
14 companies reported to us that they dealt with
15 customers who they felt, their own customer
16 service people felt were excessive by giving
17 them just lifetime free coins.

18 These are people who were bugging
19 them so much to buy more coins or act in ways
20 even their customer service people felt were
21 excessive, they said fine. Just go away.
22 We're just going to give you unlimited coins
23 for life.

24 Whether or not that causes harm to

1 that individual just allowing them to play
2 obsessively over and over and over again maybe,
3 maybe not. It's not my concern. That's not
4 what I'm here today to really talk about. But
5 it does happen.

6 And as Chairman Crosby said, there's
7 excessive play in lots of things. Again, we
8 don't want to over exaggerate the risks. We do
9 want to say that these are some of the
10 categories that we're thinking about that we're
11 pursuing. We're talking with our industry
12 partners about. We're talking with other
13 advocates, healthcare professionals.

14 This does get into things like
15 excessive videogame play, which is very hard to
16 wrap your hands around. The levels of time and
17 energy that people spend on this to me seems a
18 lot but to this next generation that may be
19 normative.

20 I appreciate your point, because we
21 want to be very careful when talk about these
22 types of risks. We're just saying this is what
23 could be a risk. Or that these are risks that
24 have been identified or these are risks that

1 we're talking about.

2 This is not necessarily here's the
3 case why X should happen based on excessive
4 play.

5 COMMISSIONER MACDONALD: I'm getting
6 a bit confused or I'm experiencing mixed
7 signals from you. On the one hand you appear
8 to be saying that you agree or least not take
9 issue with Mr. Delany's report to us and
10 evaluation of whether there are sources of
11 concern in this area.

12 But on the other hand, you've got a
13 slide up there that identifies three concerns
14 of problem gambling type risks, transitional
15 risks and consumer protection risks. Why do
16 you --

17 MR. WHYTE: I think they're risks.
18 They're mitigatable. So, I agree mostly with
19 Luc and ISGA. We certainly have some
20 differences in degree as we'll talk about but I
21 think the important point for us is if there is
22 indeed some risk, either theoretical or real,
23 how do we address it. And let's move forward.

24 We are arguing about definition

1 still. I think it's pretty clear there are
2 some risks. So, I'd rather focus our
3 discussion on the solutions. Let's try and
4 figure out how that we can minimize whatever
5 there is. Do more research certainly.

6 But we are stuck in this
7 definitional thing which I understand, but we
8 very much want to move to the pragmatic part
9 and let's talk about solutions. So, again,
10 while these risks are there, some are greater
11 than others. Some are more theoretical, some
12 are more apparent. I think the only response
13 can be some better voluntary responsible play
14 measures.

15 So, I can go through this real
16 quick. Again, these are risks that are non-
17 zero. There's certainly aggressive
18 monetization which we'll talk about. There are
19 some people that the curve -- If most people do
20 not monetize, and even those who monetize only
21 do very little then that means that there is
22 certainly a very sharp small tail.

23 And that in and of itself is
24 probably normative spend on a wide range of

1 consumer behavior. It's not in and of itself
2 problematic. But it indicates to us at least
3 some of those people who may be spending lots
4 of money may be doing so because they have
5 something that is or looks like a gambling
6 addiction.

7 We know the high frequency and speed
8 of play are correlated. When talked about the
9 energy mechanic, I'll show you some examples of
10 that. In some ways, the energy mechanic,
11 encouraging people to come back every day or
12 every hour, for the vast majority of customers
13 may be a fine way to prevent them from burning
14 out. But for a very small percentage of people
15 who are prone to addictive behavior might be
16 quite dangerous.

17 I've talked a little about
18 transparency. We'll focus on that. Autoplay
19 has been regulated out of many slot machines.
20 It is a feature found in some casino -- in some
21 of the social casino space. Loss disguised as
22 win. I'll show you. Again, that's permissible
23 in most slots. I think a loss disguised as a
24 win represents itself in social casino with

1 massively inflated both bets and win sizes can
2 be a little bit interesting.

3 And there's not a lot of responsible
4 play features. That's again where we want to
5 encourage people to go. If there is potential
6 harm, let's try and get on top of this now.
7 Let's try and use of these social mechanics
8 frankly to do it perhaps even better than we
9 can do.

10 Frequency, on the screen you'll see
11 play every day to increase your bonus. While
12 this is a legitimate energy mechanic, it's also
13 if you have someone who is potentially a
14 problem gambler or addictive gambler or
15 compulsive gambler that exhortation to play
16 every day or every hour could be difficult,
17 especially if they're monetizing.

18 You would not see this for various
19 reasons I think in the regulated space. Rarely
20 would you see I think a casino ad saying come
21 back and play every day. But it is possible in
22 this space. It's frequent. It's not an
23 inappropriate mechanic. It's just we have to
24 look at that one percent not the 99 percent.

1 This may be an appropriate mechanic
2 regardless, but I think for people who are at-
3 risk, and that again is our concern the one
4 percent, for people who are at risk this could
5 be problematic.

6 What do we do about is another
7 question. And again, we would argue not that
8 this should be illegal or band or prohibited,
9 but perhaps there's a little bit more
10 disclosure and transparency.

11 So, loss disguised as wins, this is
12 as you can see a bet of 3000 credits. And a
13 few machines, maybe penny machines can get up
14 to 3000 credits but most traditional slot
15 machines are going to be far less, 3000 coins.

16 I've spun and won 1500. Although of
17 course on a 3000 credit bet, I actually lost
18 1500. I'll demonstrate a little bit on a game.
19 I've got a quick video of a typical social
20 casino game, which we'll play right now.

21 The very first spin, I hit max bet.
22 Just so you know, this is of course play for
23 fun casino. In Luc's nomenclature, this is
24 kind of a marketing thing. The very first spin

1 as you'll see, I go to Jungles Wild. The very
2 first spin, I hit max bet. So, it's 6000. And
3 I've won 1000.

4 This will be over in just a second,
5 but I wanted to give you sort of a sense. And
6 now that I'm out credits, of course, I need to
7 monetize. And the video ends here.

8 So, packed in that 30-second
9 presentation are many of the monetization
10 mechanics that we've been talking about. And I
11 wanted to demonstrate those to you a little
12 bit.

13 Again, this is all well and good,
14 but you saw the levels. Leveling up is a big
15 mechanic. What you can't see on there is some
16 leader boards and other things. This is what
17 the monetization screen would look like. You
18 can see here you're buying credits and there's
19 bonuses. And there are quite a lot of
20 different monetization things packed in here.

21 There's some real interesting lens
22 into consumer behavior. Again, we would not
23 suggest that these are at all unethical or
24 illegal or need to be regulated but you can see

1 it's pretty aggressive monetization. For a
2 game that is free to play or even a freemium
3 model, \$249 for those credits that's a
4 significant amount of money.

5 CHAIRMAN CROSBY: Are there similar
6 such purchase prices for other social games?

7 MR. WHYTE: For social casino games,
8 yes.

9 CHAIRMAN CROSBY: No, other social
10 games.

11 MR. WHYTE: I don't know. So, I
12 don't play Candy Crush a whole lot, but I would
13 suspect it is very similar to the rest of the
14 social gaming as broadly defined.

15 CHAIRMAN CROSBY: Luc is nodding
16 yes.

17 MR. WHYTE: If Luc says yes, it is.

18 CHAIRMAN CROSBY: So, this kind of a
19 purchase chart, credit purchase chart could
20 represent social games across the board.

21 MR. WHYTE: I would assume so, yes.
22 Again, we're focused on social casino. Another
23 one that's a little bit of a different, and
24 this includes some other neat mechanics that

1 are fun. As you can see here, it's denominated
2 in trillions. So, the least you can buy is a
3 trillion credits.

4 I would note that the game is
5 denominated in billions. So, you can't bet
6 less than a billion, obviously. So, a trillion
7 credits goes actually relatively quickly.

8 Then again some more mechanics,
9 which are just of interest to you maybe. Bonus
10 for inviting friends. The socialization,
11 wanting to have friends to play. Giving you
12 money to invite your friends or giving you
13 virtual currency to invite friends to play is a
14 popular mechanic, makes a lot of sense.

15 The bonus again for regular visits.
16 And whether this is burnout prevention or
17 whether it's encouragement or enticement to
18 play frequently is an open question. It's
19 probably both. These bonuses can scale up.
20 So, the more you play by day, by hour, the more
21 bonuses you get. Again, there's no surprise
22 that people spend a lot of time on device on
23 some of these games.

24 And then bonus for successful games.

1 The more you win, the bigger bonus you get.
2 Again, this is probably not a game that is
3 based on random number generator model. It's
4 hard to tell. But if you are really able to
5 increase your winnings like that perhaps
6 there's some other mechanics at play in there.

7 Again, it just goes back to our
8 fundamental concern about lack of transparency
9 and call to provide greater transparency on how
10 some of these games are performed just to allow
11 the consumers a little bit more information.

12 COMMISSIONER MACDONALD: I'm
13 continuing to get this mixed signal from you.
14 And it just occurred to me that I am wondering
15 if what we have here is the equivalent of Marc
16 Antony's speech on the death of Caesar on which
17 he is saying but Brutus is an honorable man.

18 You're saying that Mr. Delany and
19 his organization are honorable men and
20 honorable institutions and yet you're going
21 through a succession of illustrations here that
22 to use your word raise concerns. At the end of
23 it all --

24 MR. WHYTE: That's up to you. We've

1 certainly called and we've worked in some sense
2 with ISGA and their members. This is for your
3 information. You decide where you're going to
4 go on this.

5 We're not making a recommendation
6 that you aggressively regulate this, but again
7 that's your choice. We're not suggesting
8 anything.

9 I would suggest that there is a
10 reason that they should be working with us.
11 These are the same types of conversations that
12 we've had with the regulated gambling industry
13 for the last 40 years. As advocates for
14 solutions this is the space we operate in.

15 We do point out sometimes
16 inconvenient truths. We do try and find --
17 bring everybody to the table for solutions.
18 But the solution is not to say -- we're not
19 anti-gambling. Fundamentally, we recognize the
20 vast maturity people probably are able to
21 engage in any of these mechanics without harm
22 or without significant harm, and without harm
23 that concerns us from the National Council on
24 Gambling's perspective.

1 CHAIRMAN CROSBY: I think there
2 clearly are risks in social gaming or social
3 casino gaming. The three that apparently that
4 UK or somebody defined those three risks.
5 They're there. And it's perfectly appropriate
6 to pay attention to those risks and not
7 inconsistent with supporting the industry.

8 The issue that I have is that you
9 are the National Council on Problem Gambling
10 not the national council on addictive behavior.
11 Whether this is a gambling problem or not is a
12 legitimate issue.

13 Kids that are too much on videogames
14 is a legitimate issue for concern. We all have
15 experiences with people who have real serious
16 problems with an over ill. But whether it's a
17 gambling issue is another question for me. But
18 go ahead.

19 MR. WHYTE: Absolutely. We agree.
20 So, when we look at monetization again, much
21 has been made of this and I think it's
22 absolutely appropriate to note, the vast
23 majority of social casino players do not
24 monetize and are therefore almost beyond our

1 purview. If you don't monetize, I think your
2 risk of having problems that we're concerned
3 about. You eventually come to seek help from
4 us is almost basically zero.

5 So, again, we're carving out that
6 whole crowd. But of the crowd that do, it's
7 important to note again -- And as we see in the
8 legalized regulated industry, large spend is
9 not indicative of a problem gambling problem.
10 Problem gamblers will spend large amounts of
11 money, but not everybody who spends large
12 amounts of money is a problem gambler, of
13 course.

14 So, the curve when we look at only a
15 small percent monetize and of that there is
16 again a very, very tall but very narrow tail.
17 Just to put this in perspective. So, based on
18 these numbers, if the average social casino
19 game had 10,000 players, between 15 to 75 would
20 account for roughly half of the game's revenue.
21 Just to be clear, I'm not saying that that 15
22 to 75 people all have or any of them have
23 gambling problems, but it's possible. It's
24 certainly possible that some of that might.

1 That's one reason that you might monetize so
2 excessively on a game that you don't have to
3 pay to play.

4 Just to give you a little sense of
5 the scale, and this is from analyst data
6 provided by one of the largest gaming companies
7 who is in the social casino space. I'll
8 explain the acronyms. We're from DC. We love
9 them. DAU is daily average users. So, when
10 you're looking at six and a half million
11 people, it's a significant number.

12 So, the daily average revenue per
13 user is of course in cents. It's \$.35 roughly
14 for this particular company's product. Again,
15 very little evidence of concern.

16 But averages are misleading because
17 of cost of 95 percent of people don't monetize
18 that means when you're doing daily average
19 revenue per user, you're really masking a lot
20 of this. So, when you look at monthly unique
21 payers, so these are users who've paid in a
22 given month, now you've cut it down. Still
23 it's almost a million. So, it's one-sixth,
24 maybe one-seventh of players monetize in a

1 given month, which is actually one of the best
2 performing social casino games out there.
3 That's really heroic. Most people in the
4 social game industry, not casino but social
5 game industry would love to get a percentage of
6 MUPs.

7 And then average monthly revenue per
8 paying user, which I think is a much more
9 relevant metric is roughly \$78 per paying user.
10 So, that's where again you start to see this
11 very, very sharp but narrow tail problem
12 exists. So, averages when you've got millions
13 and millions of players, just a straight
14 average is not really all that descriptive when
15 you are concerned like we are about people that
16 are monetizing.

17 So, when you really start to bear
18 down on the monetization part, you're looking
19 at \$78 per person. And this company is on pace
20 to make about \$1 billion per year in revenue.
21 That's not net. There's certainly costs there.
22 But just to give you a sense of the scale, it's
23 roughly we believe it's roughly about \$2
24 billion in revenue last year from the social

1 casino games segment in the United States.

2 COMMISSIONER ZUNIGA: I think you
3 just answered the question I was going to ask.
4 Where are these figures from, United States
5 only social casino games?

6 MR. WHYTE: Yes. So, there's a
7 broader market I think clearly we're the
8 leader. Luc would know better than I, I
9 believe this represents the US figures.

10 COMMISSIONER ZUNIGA: And there are
11 multiple companies, some of them not
12 necessarily bricks-and mortar casinos.

13 MR. WHYTE: Correct. It's a
14 fascinating space. Just little bit more to it
15 narrow down again and to note that of course as
16 National Council, we are concerned about the
17 intersection of social casino or social gaming
18 rather and problem gambling.

19 There is some research. It's small.
20 It's early stages. I think there's probably --
21 I think it's easy to say and I think it's true
22 to say there always could be and should be
23 more. But when we start to look at some of the
24 studies, they are indicative.

1 This is one study in 2014 that
2 showed that social gaming involvement was not
3 associated with problem gambling in these 10
4 individuals. However, some of those
5 individuals who played social casino games
6 reported that when they played they felt like
7 they or they felt an urge to gamble in the
8 real-life space. And that's not surprising.
9 Not controversial at all. It makes a lot of
10 sense.

11 A little bit larger study looked at
12 problematic social gaming use among problem
13 gamblers and found that social gaming play in
14 general, some of it was associated with the
15 desire to escape. That is a known criteria for
16 gambling addiction, playing to escape.

17 Of course, we all do this, but
18 problem gamblers tend to do it more. They tend
19 to use or they can use games, gambling games as
20 a means of escaping problems in life. So,
21 there is an association there. We are far away
22 from causation and correlation, but there's an
23 association. Which again for us means that
24 this is an area to look at a little bit

1 further.

2 Problem gamblers, people with
3 gambling problems tended to use social casino
4 games much more frequently than gamblers who
5 did not have problems.

6 And then when you look at again
7 another study for social casino gamblers,
8 rRoughly half of them were classified at not
9 problem gamblers at all. Of those people who
10 gambled, a quarter were low-risk gamblers, 14
11 moderate and 4.7 were considered to be problem
12 gamblers.

13 CHAIRMAN CROSBY: Is this in your
14 definition of gamblers meaning that in their
15 play in the freemium model social casino games?

16 MR. WHYTE: No. These are people
17 who are gambling real money.

18 CHAIRMAN CROSBY: This is just a
19 correlation between real problem gamblers and
20 people who play social casinos.

21 MR. WHYTE: It's between gamblers in
22 the general population who also play. Some of
23 those gamblers had gaming problems. Obviously,
24 most of them didn't.

1 But when you look at people who
2 gamble and you look at their social casino
3 play, you start to see. And again, not
4 unexpected, if you've got a gambling problem in
5 the real money space, you might well use and
6 abuse social casino as well. I think that's
7 fairly clear here.

8 They've almost certainly started
9 gambling for real money first. They may have
10 come across a social casino site. Again, we
11 want to be very careful about correlation and
12 causation.

13 So, it has been argued not here but
14 in other venues that people can't become
15 addicted to social casino games because there
16 is no monetary reward. That a virtual currency
17 or virtual credits somehow that the action of
18 gambling if there's not prize, chance or
19 consideration, you can't meet the definition of
20 gambling addiction.

21 I would just call your attention to
22 the fact that the criteria does not require you
23 to have to win money. It's losing money. It's
24 the action of gambling. And we've long known

1 this of course. Most people with gambling
2 problems report they gamble for the action.
3 They gamble to escape. They gamble for lots of
4 reasons. They do not gamble only to win money.

5 So, it's a little bit of a straw
6 man, but I think it's just important to note
7 that a definition of gambling addiction does
8 not depend or is not based on or rely upon
9 whether or not the activity is legally
10 considered under a narrow definition of
11 gambling or not.

12 COMMISSIONER MACDONALD: Can we go
13 back to that last slide and your second bullet
14 point here just so that I can be comfortable
15 that I understand what the point is.

16 For nonsocial casino gamers, the
17 percentages were 84.4(SIC) percent. And
18 presumably that means 84.4(SIC) percent who
19 were non-problem gamblers, 12.8 percent 5.8 and
20 1.0 percent. What is the universe of that
21 second bullet point, just people on the street?

22 MR. WHYTE: Gamblers.

23 COMMISSIONER MACDONALD: People who
24 are gamblers.

1 MR. WHYTE: Yes. So, this was a
2 study in Australia of people who gambled and
3 then they asked them about their social casino
4 play.

5 COMMISSIONER MACDONALD: So, of the
6 universe of people who would be categorized as
7 gamblers, we're now looking at a subset of that
8 which are gamblers but who don't participate in
9 social casino games, right?

10 MR. WHYTE: Correct, those who do
11 and those who don't.

12 COMMISSIONER MACDONALD: I see.

13 MR. WHYTE: Transitional type risks,
14 we've talked about this. I think it's
15 absolutely correct that when you look at the
16 marketing and when you look at the free to play
17 model again this would be an example of what I
18 assume we're talking about would be a more
19 white label type marketing site. Again, play
20 for fun network is sort of part of the
21 description.

22 You can see here, I've blown it up a
23 little bit, play these games online for free.
24 Then pay us a visit to play them on the casino

1 floor. So, it's clearly a marketing, as Luc
2 described very well. There's a flavor of
3 social casino gambling. Very clearly involved
4 in marketing.

5 I guess our only note here is that
6 it's hard for the consumers to tell. It may be
7 easy for those of us in the industry, this is a
8 white label site and this is not. I think that
9 again with a little bit more it might help
10 everyone to have a little bit more clarity for
11 the user so you know maybe which site is which.

12 COMMISSIONER ZUNIGA: Keith what do
13 you mean by white label casino?

14 MR. WHYTE: Luc talked a bit about
15 the free to play model game, sort of a white
16 label product that a regulated gambling company
17 would put on its site in order to help market
18 its gambling in general to users when they are
19 outside the casino. This is an example of
20 these types of games.

21 COMMISSIONER CAMERON: But Keith,
22 isn't it so that to get to that you have to go
23 on the casino gaming -- you have get there
24 through their site? In other words, the only

1 ones that would be going there are those that
2 are already affiliated with that casino?

3 MR. WHYTE: Perhaps. That's not a
4 requirement certainly. You could hang a link
5 up anywhere.

6 CHAIRMAN CROSBY: That's not the
7 case with the Penn National model. They have a
8 separate independent company with separate
9 games. Then integrated into their games are
10 references to their hard casinos.

11 COMMISSIONER CAMERON: I think
12 separately. I think that was the point that
13 was made. They have two different business.
14 One that does not market to the casino and one
15 that does. So, they're targeting their
16 gamblers, right?

17 So, in order to get to this site,
18 you'd have to go through but you're saying
19 that's not necessarily the case.

20 MR. WHYTE: That's the practice now.
21 But there's no requirement that that happen.
22 You could have these games available lots of
23 places. And I think Luc was talking about
24 regulated casino companies. You can also have

1 as we've seen an unregulated online gambline
2 company that could have a social site. And
3 they would then have -- Luc's argument was that
4 the regulated company would have no reason to
5 change the payout percentages because you want
6 to bring the people to your casino. And you
7 want to have the even math.

8 And in some cases like New Jersey
9 and the UK it's required to have the same or
10 similar math. But if your underlying casino is
11 not regulated then that requirement goes away.
12 Dr. Jeff Juravinski has done some studies. And
13 he's looked at some sites that again operate in
14 the unregulated space both online casino and
15 social casino that have had inflated payout
16 percentages.

17 So, we are both correct. If you
18 have a regulated company, you would I think be
19 treading on very thin ice to offer a --
20 knowingly offer a social casino product that
21 had different math, especially if was
22 purportedly the same game.

23 We've never seen any instance of
24 that in the regulated space. For a regulated

1 casino company, we've never seen any instance
2 where they have offered a product, a facsimile
3 product online on a social casino site that has
4 different math. But there are examples of that
5 in unregulated online gambling and unregulated
6 social casinos.

7 But again you really depending on
8 the operators and you're depending on -- And I
9 think that's where we call for a little more
10 transparency and a little bit more working
11 together on this.

12 COMMISSIONER CAMERON: But if
13 they're running an unregulated casino, I don't
14 know that they're worried or they're going to
15 be worried about your concerns, right?

16 MR. WHYTE: I think there is always
17 going to be a black market. We've seen this
18 with the online poker space. We've seen this
19 with frankly numbers in the lottery space. We
20 can only work with those who are going to work
21 with us. We've not omniscient regulators. The
22 Internet and long before the Internet there's
23 always been a parallel market. You don't want
24 to pay taxes or you don't -- that's just the

1 world we've lived with.

2 I do think that companies,
3 especially companies with regulatory concerns,
4 public companies are going to want to come
5 together and work with us. We've seen a lot of
6 examples of that. We've had some very good
7 partnerships to date. We'd like that to go
8 further. But yes, if you're a private company
9 operating out of Costa Rica, there is very
10 little we can do to bring you to the table.
11 And frankly, there's very little you can do to
12 bring them to the table. That's the space that
13 we've been in for a long time, unfortunately.

14 Again, from a consumer protection
15 standpoint, the more that we can all work
16 together to help consumers differentiate
17 between the white-hat operators that are trying
18 to do the right thing whether they're being
19 regulated or whether they're doing it
20 voluntarily and other operators that are in
21 this space or could be in this space that don't
22 have the same sorts of protections, I think it
23 behooves all of us to encourage consumers to
24 make informed choices about where they play.

1 Where they gamble, where they play
2 whether it's social, whether it's online
3 regulated, and I think we have some tools do
4 that. And it would probably behoove the
5 industry to do that as well because they are
6 being competed -- some of the competitors are
7 frankly not holding themselves or being held to
8 the same rules they have.

9 Again, it's a pretty aspirational
10 approach, but we're an advocacy based
11 nonprofit. We don't really have much of a
12 choice. That is our motto, to try and bring
13 everyone together. And there's actors that are
14 going to stay outside that space.

15 Promotion to play, I sign up for a
16 lot of these apps and I get this. On the right
17 it's national stress awareness day. Are you
18 aware that playing slots online is a fantastic
19 way to relax. That's an interesting
20 exhortation, again, one that you might not find
21 in the regulated space.

22 Margaritaville spin 2000 times now
23 through Tuesday to get a million credits.
24 There's a fine line in that energy mechanic.

1 It's a great lesson that I learned from our
2 MassDiGI folks, the energy mechanic. I didn't
3 know what we called it before.

4 But I think there's a fine line
5 between encouraging frequent play and
6 encouraging excessive play. And I don't know
7 where that line is but I know when I see it.
8 I'm not sure if it's Margaritaville or not, but
9 you can imagine there's been some pretty
10 aggressive ones that we've seen.

11 We talked a little bit about
12 convergence. And I do think it is true that
13 there is very little not nothing but there's
14 very little evidence to show that you're moving
15 people from social casino gaming to online
16 gambling, real money gambling in a regulated
17 space. That convergence isn't really there.

18 However, what the industry will tell
19 you and maybe some of this is drive by the
20 vendors who are selling these social casino
21 products is there is convergence on the floor,
22 which makes sense. Because certainly for that
23 marketing model that play for fun model, you
24 wouldn't be doing it if it wasn't effective.

1 This is just some quotes from an
2 article that just came out last month. These
3 are social casino vendors who are talking about
4 in the tribal space that we reported 28 percent
5 uplift in land-based revenues from those casino
6 patrons who went home and started playing
7 online.

8 CHAIRMAN CROSBY: Just to make sure
9 I understand. This would be the model that Luc
10 and you have described where the casino company
11 is promoting an online tool whether it's free
12 or not.

13 MR. WHYTE: Correct.

14 CHAIRMAN CROSBY: That is what the
15 suggestion from Luc was that this is really
16 more of a retention tool or an engagement tool
17 rather than a customer acquisition tool. And
18 that there is evidence as a retention and
19 engagement tool that it works.

20 MR. WHYTE: I believe so. An I'm
21 not sure that there's that much distinction
22 between some of these products. I think people
23 would happy if they worked both ways. I think
24 for the consumer, there's no real distinction

1 between these games that they're playing and
2 whether or not they're being monetized or
3 hoping to be retained or both. But that's fair
4 enough, it just might help them articulate
5 better to make some choices.

6 They again said the average daily
7 social player will engage in the casino brand
8 four times a day for a total of between 80 and
9 100 minutes which is interesting for us. I
10 think that it shows that there's probably some
11 convergence and that probably makes sense. You
12 wouldn't do this otherwise.

13 One of the things that is
14 interesting to us is that we've really been
15 talking mostly about freemium-based model,
16 where again an essential feature of this is
17 that you do not receive monetary rewards. A
18 lot is made in the definitional space about you
19 can't receive value.

20 As Enrique said, I think virtual
21 credits are valuable for people, I think leader
22 boards. I think there's a lot of these rewards
23 that are of value. Whether or not they're of
24 tangible exchangeable value is an argument and

1 more of a legal argument than we're going to go
2 into here, I believe.

3 But you can also operate the social
4 casino games in a manner, and mostly the
5 underlying mechanic seems to be a sweepstakes
6 model where you can provide prizes.

7 So, here are two examples on the
8 screen of MGM and Foxwoods who allow you to
9 play for free a social casino game. And then
10 based on the winnings you've had in the game,
11 provide you with actual valuable, tangible
12 rewards. Generally, not cash prizes but things
13 like hotel rooms, rewards points that you can
14 then redeem at the casino.

15 So, here you can see remember every
16 time you spin myVEGAS reels you attain valuable
17 rewards including complimentary hotel rooms,
18 show tickets, delicious meals and more.

19 Again, this challenges some of the
20 definitional discussions that we've heard
21 before that you can't win anything. You can't
22 win money, perhaps but there is certainly items
23 of value that you can win in some of the social
24 casino models that we see today.

1 Last but not least when we talk
2 about transitional type risks, one of our
3 concerns, and again, I'll talk about this a
4 little bit more is that most of these apps are
5 rated T for teen.

6 I think to be fair, I've heard from
7 our colleagues in the social casino industry
8 that they have talked with Google and Apple and
9 they've encourage them to change this rating.
10 Apparently, and I don't have any clarity on
11 this point at all, apparently the rating
12 systems are set or determined by Apple and
13 Google themselves, not by the developers on the
14 companies.

15 So, you submit your app and based on
16 the characteristics Apple and Google say this
17 is appropriate for teens. However that happens
18 the space we're in right now today as of May
19 2016, the vast majority of social casino apps
20 while intended by the developers for 21 plus
21 are rated T for teen.

22 And I would suggest that's an area
23 that needs to be corrected. Simply if they're
24 intended for adults, let's figure out how we

1 can -- I don't know whose responsibility it is,
2 but let's figure how we can make the rating
3 system and the app store harmonize with the
4 intent. And I'll just leave it there.

5 Because when you get down to it, the
6 terms of service in most of these apps, you
7 will find that if you are under the age of 18,
8 you represent that you are either an
9 emancipated minor or you've obtained the legal
10 consent of a guardian.

11 Really, as Luc said, a lot of the
12 early age verification of this was based on the
13 social platform. And Facebook's platform was
14 essentially to ensure 13 plus in order to
15 comply with COPPA, the Child Online Privacy
16 Protection Act.

17 So, really, with one-click
18 verification, you're not going much past that.
19 I think that is a vulnerability especially when
20 you're monetizing.

21 Again, I can say for the vast
22 majority people who don't monetize, if you're
23 17, you lied about your age or you violated the
24 terms of service that's a problem but that's a

1 relatively minor problem. We're not happy
2 about it but we can live with that.

3 But I do think when you start to
4 monetize, and I suspect those who take credit
5 cards and process payments want to do a little
6 bit more verification. I know that it's
7 expensive, but I think that's an area where
8 there needs to be some continued work done.

9 True free to play, even if it's a
10 casino style game, I think the risks for youth
11 are relatively minor. And as Luc said, the
12 number of kids that are playing that they know
13 of is extremely low. And that would make
14 sense.

15 However, as you'll see when we talk
16 a little bit more about social gaming and kids,
17 I think it's very important to perhaps clarify
18 that previous discussion. The number of kids
19 who pay to play is almost zero. The number of
20 kids who are playing is actually, I would say,
21 fairly high. Fifteen percent in the UK
22 reported they played a social casino game
23 within the last month. But they're not paying.

24 CHAIRMAN CROSBY: They're also not

1 gambling.

2 MR. WHYTE: They're engaging in
3 gambling activity. They're just not able to
4 win.

5 CHAIRMAN CROSBY: Well, okay. But
6 this is the same point you talked about before.
7 But I don't think it's trivial though, Keith.

8 This is a gaming commission. There
9 is I grant a fine line between addictive
10 behavior and gambling addiction. But I think
11 you say kids gamble on the Internet at high
12 rates, well they're not gambling. They might
13 be playing a gambling like game, but as you
14 yourself it doesn't have the elements of
15 gambling. So, the language matters in this
16 case. I don't think it's a trivial
17 definitional debate.

18 MR. WHYTE: To be clear, we believe
19 there are rates of kids gambling in the real
20 money space online. So, just to be clear on
21 this bullet, kids gamble on the Internet at
22 high rates. They are playing to pay in the
23 real money space.

24 Then when you look and you see in

1 the second bullet when you look at social
2 gaming and youth, it's no surprise that there
3 are an active number of youth who are
4 participating in social casino. It's just the
5 point is -- I think 15 percent is a pretty high
6 level of participation. It's just they're not
7 monetizing. So, participation, yes. In the
8 social casino space, monetization is very, very
9 low among youth. And again, there's very,
10 very, very few.

11 This is the transitional type risks.
12 So, we are concerned that those youth who are
13 playing social casino games may be more likely
14 to have problems down the road because they are
15 engaging in gambling, they're just not winning
16 the money. And they're not paying to play.
17 But they're playing roulette. They're playing
18 slots. They're playing poker.

19 CHAIRMAN CROSBY: But what little
20 evidence there is out there with the possible
21 exception of your one study that had an N of
22 10, there is no evidence out there that kids
23 playing social games or social casino games or
24 even other people playing social games or

1 social casino games, unless they are designed
2 and marketed by companies that are trying to
3 drive them that it has the impact of moving
4 them towards a gambling problem.

5 There's some reason to think it
6 might my lead them toward some kind of an
7 addiction problem, but there's no relationship
8 between the utilization of these sites that we
9 know of yet and gambling real gambling, real
10 money gambling or a gambling problem.

11 MR. WHYTE: Yes. I think that's --
12 quibble a little bit, but generally you're
13 right, yes. And again, we're not trying to be
14 alarmists to all.

15 CHAIRMAN CROSBY: I understand. I'm
16 with you on that. But this is also an industry
17 that gets brushed quickly with broad brushes.
18 We need to very, very careful that we use our
19 language right and carefully.

20 And that we as we are analyzing
21 these things that we are understanding both the
22 nuances of the problems that you, thank God for
23 you fight the good fight to deal with, but on
24 the other hand the nuances that are unfairly

1 categorizing an industry in a way that is not
2 legit.

3 MR. WHYTE: Absolutely. It includes
4 some of our members.

5 CHAIRMAN CROSBY: I think you're
6 committed to that too.

7 MR. WHYTE: Another study, and
8 again, Luc talked about this but we think it's
9 very relevant research. I think it's
10 absolutely helpful to have these statistics.
11 Again, it just shows that players under 18 is a
12 pretty low percentage. It differs
13 significantly from the UK Gambling Commission
14 study.

15 And that payers among underage
16 players is very, very low. Again, that's not
17 surprising at all. A lot of kids don't have
18 access to this kind of money. There's other
19 things they want to do with their money etc.,
20 etc., etc.

21 I do think again, given our sort of
22 one-click age verification concerns, they might
23 be missing some kids that have simply said they
24 are of age. I don't know how they would spot

1 that. But I still think it's a very, very
2 small issue.

3 So, just to summarize some of these
4 transitional risk factors, it seems very clear
5 to us and I think this is absolutely to your
6 point, Chairman that many social casino game
7 players while they do gamble and some are
8 likely to have gambling problems, it's most
9 likely not really related to their social
10 casino play.

11 And this is the same thing we found
12 with Internet of course as well. So, it's no
13 surprise at all. If you've been following the
14 Internet debate, we believe most people who
15 when you screen them online, if they're an
16 online gambler, they report yes, I have a
17 gambling problem, but then you really ask them,
18 where is it developed. Where are you really
19 spending your problem, it's off-line.

20 And we think the same thing is
21 probably true for social casino. Given the
22 scale of social casino, even if it's a tiny
23 percentage of their players who do have a
24 problem that they developed off-line, they are

1 still on your site. They are still people with
2 gambling problems. And there's an opportunity
3 there, if not a responsibility but we would
4 argue both, to help them make an informed
5 choice and get the help they need.

6 So, again, we're not talking
7 causation and correlation even, we're talking
8 opportunity and we're talking kind of
9 responsibility in a general way. And so
10 minimization of harm is what we want to talk
11 to.

12 To your discussion earlier about
13 whether or not MGC has jurisdiction over this,
14 that's not our purview at all. That's yours.
15 We note that in your Responsible Gaming
16 Framework there's a couple of points that may
17 or may not extend to social casino or various
18 types of social casino. And you want to
19 promote best and promising responsible gaming
20 practices in all aspects of licensee
21 activities.

22 You want to utilize principles of
23 responsible gaming in introducing new and
24 emerging technologies. And finally of course,

1 you want to provide accurate and balanced
2 information to enable informed choices. I
3 leave that for your consideration. That's
4 again not our concern, it is yours.

5 When you look at the market I think
6 one of the other issues is while Luc does speak
7 for the vast majority of industry, this is an
8 incredibly evolving space. And there are at
9 last count according to Tribal Government
10 Gaming over 1000 apps currently available for
11 download on Facebook.

12 So, there's companies that are
13 working progressively I think on things, but
14 there's a lot of other people out there as
15 well. And I think it's always important not to
16 assume that just because ISGA members do it or
17 because people are doing it now does not
18 necessarily mean that others are or that the
19 majority of people will in the future. So,
20 it's a point to keep in mind.

21 We want to focus on solutions. We've
22 been active on the online side for a long time.
23 We believe in general technology offers as many
24 opportunities as it does risk. So, while I

1 wanted to take a little bit more time than I
2 wanted to really look at the risks, I prefer to
3 spend most of our time on the solutions.

4 I think we do have to make the case
5 that there are risks, because I think it's been
6 minimized at times. Again, we congratulate
7 ISGA and their member companies for stepping up
8 to the plate in some ways. We think there's
9 more to do. And I'll talk about the more.

10 We launched in 2012 the GRADE social
11 casino consumer protection standards. Again,
12 the language choice was very deliberate. We
13 did not call it responsible gaming although we
14 certainly see it as responsible gaming. But
15 because there is such definitional issues,
16 okay, we'll call it consumer protection, no
17 problem.

18 We want to be very clear that our
19 concern is only gambling type games and only
20 gambling type monetized games. We don't care
21 about your Candy Crush. You may have problems
22 with it. You may have problems with consumer
23 spend in other areas of your life, but we
24 believe that gambling addiction can and should

1 is our concerns are focused around gambling
2 type games, and again the monetized part.

3 So, we called for some responsible
4 gaming consumer protection. We did call and we
5 will continue to discuss age controls. We
6 encourage the industry and they did step up and
7 fund some research. We think obviously we'd
8 love to understand more, and I think everyone
9 else would as well. And then we looked for
10 some player education.

11 Version four is under development.
12 This is very much a work in progress. I'm
13 pleased to say we're working with a couple of
14 the companies that are represented here today.
15 And we hope to have -- It may look like -- I'll
16 get to version four in a second.

17 I think this supplements ISGA's
18 existing code. We think their code could go a
19 little bit further. And again in these
20 specific areas are where we have identified an
21 opportunity to go a little bit further in the
22 US space for several reasons. But I think it
23 really builds on and is consistent with some of
24 the work they've done.

1 COMMISSIONER STEBBINS: Keith, just
2 for a second go back to the previous slide.
3 So, gambling-like monetize games and you
4 mentioned Candy Crush. You can play Candy
5 Crush, but you can also go into a casino and
6 see a Candy Crush slot machine. You have no
7 worries about any connection between them?

8 MR. WHYTE: Not significant worries,
9 no, especially not on the casino side -- not on
10 the social casino side -- I mean not on the
11 social games side, sorry.

12 So, if it's not a gambling game in
13 the social casino space, our concerns are
14 narrowly focused there. Even though there is
15 certainly overlap and again there's some
16 broader public health concerns, if you will,
17 but it's not our concerns specifically. But it
18 is a good point, this is all kind of a
19 spectrum. And it's very hard to draw that
20 bright line for all of us.

21 So, I think what the next version of
22 GRADE will look like will be a little bit more
23 focused on responsible play features. Again, I
24 think most of these problems can be solved with

1 a little bit better disclosure transparency, a
2 little bit more information to the player,
3 whether it's in the terms and conditions or
4 making that available I think makes a lot of
5 sense.

6 I'll talk about promoted responsible
7 play versions in a second. I think there still
8 are age considerations. I think probably some
9 of those are more platform related. So, that's
10 beyond the purview of the social casino
11 industry.

12 We want to try and narrow down as
13 much as we can and really look at maybe how
14 advertising is targeting and try and make sure
15 that's being targeted to a reasonable extent to
16 consumers who are 18 plus. So, I think again
17 there's ways we can really come a lot further
18 and make some progress in this.

19 We still do think research is
20 important, third-party research is crucial.
21 And then probably what you'll see is I think a
22 move towards some sort of life form of
23 exclusion. We've seen a lot of work in the
24 daily fantasy space, which has a little bit --

1 some of the same KYC account registration
2 issues, what's very light registration.

3 But even within that while it may
4 not be a perfect solution, even being able to
5 exclude people by their username and/or their
6 name that they register would be a big step
7 forward. Is it a perfect solution, of course
8 not. If someone really wanted to get around
9 it, would it be hard, not at all. But the
10 further steps we can take to develop some sort
11 of common exclusion options I think are going
12 to help those -- it's likely to help those
13 who need help the most.

14 We're again working together with
15 folks. We welcome your comments and feedback
16 as well to try and find some next step that's
17 doable.

18 I do think one of the things I'm
19 excited about in this space is the chance to --
20 let's monetize responsible gaming, if you will.
21 So, if it is a free coin mechanic, we can and
22 should -- and again there's a lot of models out
23 there that people are given coins for doing all
24 sorts of behaviors. Why not for doing some

1 responsible gaming things as well.

2 So, if you're already paying people
3 -- common monetization mechanic is to pay
4 people to watch a 30-second ad. Why not also
5 pay them to watch a 30-second PSA? Especially
6 here in Massachusetts you have an opportunity.
7 If Penn is going to integrate their reward
8 system with their social casino platform, as I
9 understand they are, then you can offer them
10 10,000 free coins to join My Play through their
11 rewards program.

12 Again, I think our imagination
13 should not be limited by what's here today.
14 Right now most responsible play features in the
15 space are very static. It's a link to our
16 website or another website. That's fine.
17 That's good.

18 But we believe that if you can make
19 this fun, innovative and exciting, we can
20 really minimize some of these potential or
21 actual risks in a way that is going to be fun
22 and transparent and light. And it's going to
23 fit within that social casino model.

24 We're also very big on making sure

1 that people are able to access health the same
2 platform they're using to gamble. For example,
3 we have text enabled and chat enabled our
4 helpline. So, if you know your players are on
5 mobile, just giving them a link to a website or
6 a link to something in FAQs, you can go to step
7 beyond that say here it's mobile to mobile. If
8 you want to chat for help, click here and then
9 hand them off to us and we'll take care of
10 that.

11 So, you should be able to seek help
12 the same way that you're using to play. And I
13 think that's again pretty low hanging fruit
14 that's pretty basic.

15 So, just to wrap up, social casino
16 gaming, there's challenges and opportunities.
17 And it's how we choose to go about it. We
18 think the relative risk and looking at a risk-
19 based approach means that it's very minimal
20 risk but not zero risk.

21 I think there have been some efforts
22 to try to minimize harm. I think they could be
23 strengthened. We are opened and welcoming to
24 strengthening them. And that this does give us

1 an opportunity if the vast majority of people
2 are playing or even paying to have fun in the
3 social casino setting, maybe we can use some of
4 those same tools to provide some innovative
5 responsible play features. And again, the more
6 we can minimize harm, the more everyone
7 benefits. Again, thank you for the
8 opportunity. I'm sorry to go so late on a long
9 day.

10 CHAIRMAN CROSBY: Not at all. It
11 was great. Thank you. More questions for Mr.
12 Whyte? Thank you very much. We appreciate all
13 your time. We're done, I think, right?

14 MR. BEDROSIAN: We are.

15 CHAIRMAN CROSBY: I think among
16 other things, I at least have figured that I
17 would like to learn more about what Penn is
18 doing and probably our other licensees as well
19 now that we have a little bit better
20 understanding about what some of the issues
21 are. So, hopefully they'll all be interested.

22 MR. BEDROSIAN: I know they will at
23 some point. Just give Mr. Stempeck and I a
24 short amount of time. We'll figure out what

1 the next steps are.

2 COMMISSIONER MACDONALD: Before we
3 adjourn, I'd be curious if those participants,
4 Mr. Delany and the others from MassDiGI, do you
5 have any comments in the light of what Mr.
6 Whyte has presented?

7 MR. BEDROSIAN: You can come up,
8 just make sure the green light is on.

9 MR. DELANY: Yes. Thank you for
10 your presentation. Only to say that it's
11 always been the intent of the International
12 Social Games Association to have our best
13 practice principles as a living document. And
14 we do plan to continue to evolve those on the
15 basis of evidence and need.

16 So, we do not see the social game
17 space at all the same as gambling. However, an
18 industry that has a long history of dealing
19 with people at risk could certainly be of help
20 to us in working out the risks within the
21 social game space. We look forward to working
22 with Keith who is obviously a national if not
23 global expert on those issues to inform how we
24 work on our sector and (INAUDIBLE).

1 CHAIRMAN CROSBY: As you heard, with
2 that one amendment calling it addictive type
3 problem rather than problem gambling type
4 problems, everybody agrees that there are those
5 risks inherent in social gaming. It's got
6 nothing to do with us particularly but we all
7 know people who have problems with various
8 kinds of social videogame stuff.

9 So, anything that you guys can do to
10 think creatively and to be proactive in that is
11 number one, is a good preemptive strategy, but
12 number two, is the right thing to do.

13 Anything else? All right. Thanks
14 all very much. Motion to adjourn?

15 COMMISSIONER CAMERON: So moved.

16 COMMISSIONER ZUNIGA: Second.

17 CHAIRMAN CROSBY: All in favor, aye.

18 COMMISSIONER MACDONALD: Aye.

19 COMMISSIONER CAMERON: Aye.

20 COMMISSIONER ZUNIGA: Aye.

21 COMMISSIONER STEBBINS: Aye.

22 CHAIRMAN CROSBY: It's unanimous.

23

24 (Meeting adjourned at 4:04 p.m.)

1 ATTACHMENTS:

- 2 1. Massachusetts Gaming Commission May 10,
3 2016 Notice of Hearing and Agenda
4 2. May 2016 Presentation by MassDiGI
5 3. ISGA Social Games Presentation
6 4. May 10, 2016 National Council on Problem
7 Gambling Presentation

8

9 GUEST SPEAKERS:

- 10 Timothy Loew, MassDiGI
11 Monty Sharma, MassDiGI
12 Luc Delany, International Social Games
13 Association
14 Keith Whyte, National Council on Problem
15 Gambling

16

17

18 MASSACHUSETTS GAMING COMMISSION STAFF:

- 19 Ed Bedrosian, Executive Director
20 Justin Stempeck, Staff Attorney

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C E R T I F I C A T E

I, Laurie J. Jordan, an Approved Court Reporter, do hereby certify that the foregoing is a true and accurate transcript from the record of the proceedings.

I, Laurie J. Jordan, further certify that the foregoing is in compliance with the Administrative Office of the Trial Court Directive on Transcript Format.

I, Laurie J. Jordan, further certify I neither am counsel for, related to, nor employed by any of the parties to the action in which this hearing was taken and further that I am not financially nor otherwise interested in the outcome of this action.

Proceedings recorded by Verbatim means, and transcript produced from computer.

WITNESS MY HAND this 16th day of May, 2016.



LAURIE J. JORDAN
Notary Public

My Commission expires:
May 11, 2018