



Martin Sychold, LL.B, B.Ec, Esq
Staff Legal Advisor, Swiss Institute of Comparative Law

Discovery 2003
Toronto, September 21-24, 2003

Problem Gambling and Player Protection Deficiencies on the Internet

International
Legal and Regulatory Solutions



Martin Sychold, LL.B, B.Ec, Esq
Staff Legal Advisor, Swiss Institute of Comparative Law

Discovery 2003
Toronto, September 21-24, 2003

Overview

- I. Background Information
- II. Research Topic
- III. Player Protection Issues
- IV. Conclusions for Player Protection



I. Background Information

Gambling on the Internet

- How many gamblers?
- How much money?
- Which jurisdictions?
- Which issues are raised?
- Where do we currently stand?



Martin Sychold, LL.B, B.Ec, Esq
Staff Legal Advisor, Swiss Institute of Comparative Law

Discovery 2003
Toronto, September 21-24, 2003

II. Triennial Research Topic 2001-2003

Gambling on the Internet

Swiss Institute of Comparative Law

in cooperation with

Institute of Computer Science, Faculty of Science

Centre for Comparative and European Law, Faculty of Law

University of Lausanne



Martin Sychold, LL.B, B.Ec, Esq
Staff Legal Advisor, Swiss Institute of Comparative Law

Discovery 2003
Toronto, September 21-24, 2003

II.

“Cross-Border Gambling on the Internet: the Challenge to National and International Law”

publication date: December 2003



II. Research Topic – Gambling on Internet

Main Aspects Addressed

- A. General Part (Regulatory Framework)**

- B. Special Part (Elements of Regulation)**



II. Research Topic – Gambling on Internet

Main Aspects Addressed

A. Regulatory Framework

- International Legal Framework
- National Legislative Strategies
- Application of National Laws to Cross-Border Online Gambling Operations
- Technical Options
- Online Gambling Legislation in the Context of Cyber-Law generally



II. Research Topic – Gambling on Internet

Main Aspects Addressed

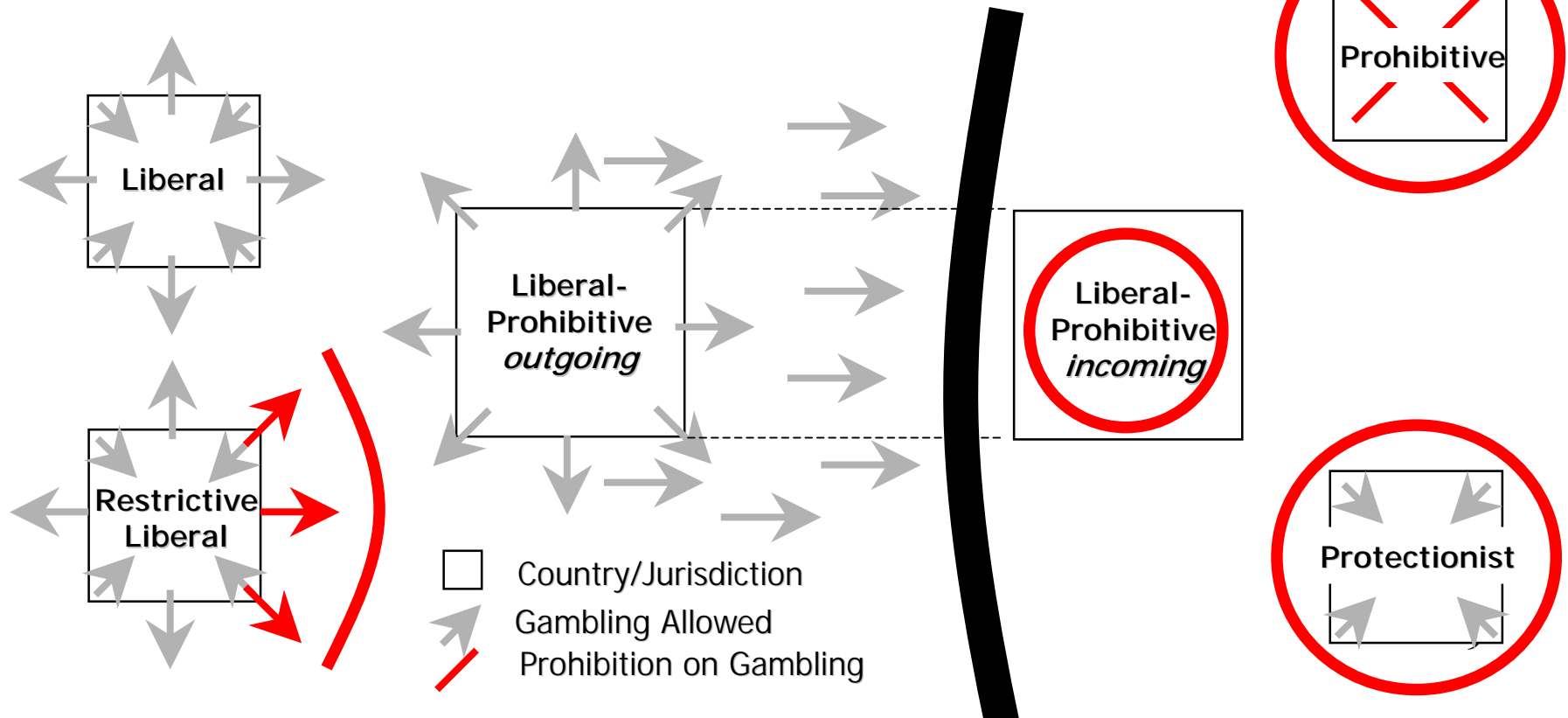
B. Elements of Regulation

- Licensing and Surveillance
- Taxation
- Prevention of Money Laundering
- Player Protection
- Private Litigation
- Alternative Dispute Resolution
- Self -Regulation Structures



II. Research Topic – Gambling on Internet

Main Aspects Addressed – Example –
Applying National Laws to Cross-Border Operations





II. Research Topic – Gambling on Internet

Legal Research (Methodology)

Three Stages of Legal Analysis

1. Prohibiting v. Permitting Online Gambling
2. Regulating Permitted Online Gambling
3. Applying Regulations which govern Permitted Online Gambling



II. Research Topic – Gambling on Internet

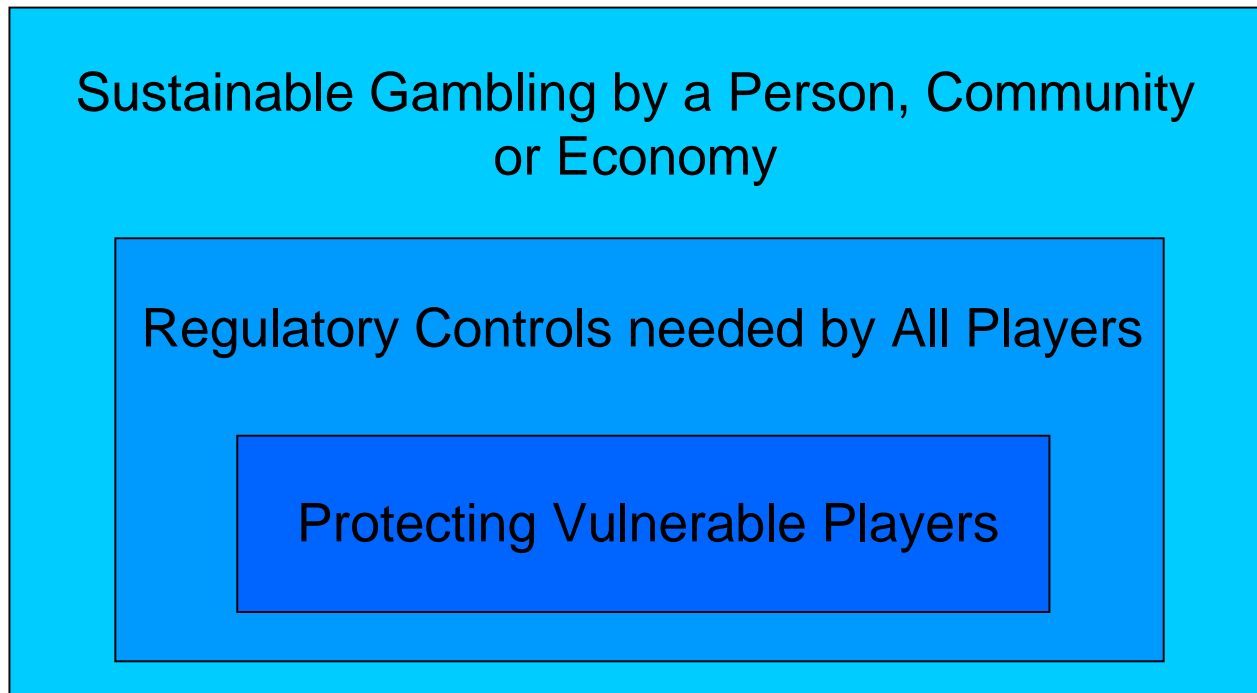
General Conclusions

- ✓ Online gambling as cross-border trade in services
- ✓ Establishment of internationally uniform minimum regulatory standards
- ✓ Assurance of local revenues is subject to trade-offs
- ✓ Extension of the process of trade liberalisation to cross-border online gambling services



III. Player Protection Issues

“Player Protection” v. “Responsible Gambling”
Scope of related concepts





III. **Player Protection Issues**

(Methodological) Approach to Research

- normative frameworks as data
- unsystematic data collection
- limited empirical analysis
- qualitative analysis
 - ❖ issues arising out of norms
 - ❖ norms offering solutions to issues



II. Research Topic – Gambling on Internet

Overview of Normative Models

Internet Gambling Permitted		I-Gambling Prohibited
Belize Dominica Vanuatu St. Kitts and Nevis Panama Antigua and Barbuda Isle of Man	United States Virgin Is. Northern Territory Victoria Tasmania Queensland Australian Capital Territory	Manitoba Ontario South Africa United States of America Belgium Switzerland ----- New Zealand Netherlands
Non-Government Organisations	Interactive Gaming Council Interactive Gambling, Gaming and Betting Assoc. - GamCare	Ethical Online Gaming Assoc.



III. Player Protection Issues

Examples

1. Players as Consumers of Online Gambling Services
 - 1.1. Consumer Protection Mechanisms
 - 1.2. Consumer Protection Standards
2. Vulnerable Players
 - 2.1. Prevention of Problem Gambling
 - 2.2. Treatment of Problem Gambling



III. Player Protection Issues

Examples

1.1. Consumer Protection Mechanisms

- Are “real commerce” consumer protection standards also applicable to electronic commerce?
- Are national or regional frameworks for consumer protection effective in the field of electronic commerce?
- Who should formulate relevant consumer protection standards?
- Who should enforce such consumer protection standards?



III. Player Protection Issues

Examples

1.2. Consumer Protection Standards

- Standards for traditional gambling services
 - ❖ Duty to properly inform players
 - ❖ Advertising restrictions
 - ❖ Educating (actual and potential) players
- Are additional standards needed for online gambling services?
 - ❖ Data protection and privacy rights



III. Player Protection Issues

Examples

2.1. Prevention of Problem Gambling

- Design and advertising of web sites offering gambling services
 - ❖ “play-for-fun” web sites
- Self-imposed restrictions on possible gambling activity
- Externally imposed restrictions on possible gambling activity
 - ❖ electronic surveillance of gambling activity



III. Player Protection Issues

Examples

2.2. Treatment of Problem Gambling

- Exclusion of players from web sites offering gambling services
 - ❖ voluntary (self-) exclusion
 - ❖ compulsory (external) exclusion
 - Enforceability
 - Inter-site mobility
 - inter-jurisdictional mobility



IV. Conclusions for Player Protection

1. Existing prohibitions and regulatory controls may be classified as either:
 - a. smoke screens
 - b. good faith efforts to address issues
 - c. coercive norms that are (legally) enforceable only within limited areas
2. Important justifications for existing prohibitions include:
 - a. failure to protect vulnerable players
 - b. failure to ensure fair consumer dealing
 - c. insufficient economic contribution to the local community



IV. Conclusions for Player Protection

3. Prohibitions tend to be ineffective and counter-productive
4. The prevalence of prohibitionist policies will be inversely (proportionally) related to the development of globally uniform minimum regulatory standards and enforcement mechanisms