

Finger pointing turns to gaming industry as hopes dim for online poker bill

By Karoun Demirjian, Las Vegas Sun

The top policy-making senators on online poker are agreed: The chances that a federal online poker bill will pass before the end of 2012 are pretty much nil.

“Two weeks before Christmas, without being vulgar, what the hell would I put it on?” Sen. Harry Reid said this week, referring to his effort to find a bill to which he could attach a poker amendment.

For months, Reid has complained that Republicans have not come up with the votes necessary to advance legislation legalizing online poker through Congress.

But now, his top policy adviser has another bone to pick: with the industry.

“The AGA had met with a lot of people and claimed they’ve done a lot of other visits,” said David Krone, Reid’s chief of staff. “But unfortunately, I haven’t seen that turned into votes.”

The American Gaming Association does not represent every casino interest on the Las Vegas Strip, much less every gaming stakeholder in the country. But in Washington, it is the unofficial leader of a body of lobbyists who have spent the past four years pushing for an online poker bill.

In that time, the poker industry has been near-unanimous in its support for some form of federal intervention to legalize betting in Internet poker games and clarifying that poker is the only form of online gambling that is allowed.

But even lobbyists admit that the industry has not been speaking with a single, clarion voice about what that fix should look like – leaving room for doubt that those on the fence about online poker can wallow in.

“This is an industry of entrepreneurs. So saying we’re all going to think alike is not going to happen,” said Jan Jones, a lobbyist for Caesars Entertainment, likely the most active of the Nevada casinos angling for an Internet poker bill. “It’s big personalities, big thinkers. Harnessing this into one cohesive mind is a near impossibility.”

It has been especially hard over the past two years, as the casino industry has contended with a march of dramatic and jarring events. In the spring of 2011, online poker outfits Full Tilt, Absolute Poker and PokerStars were charged in federal court, sending lawmakers scrambling to divest themselves of any associations with those companies or their affiliates, and casting a pall over the issue of online poker in general.

Then, at the end of 2011, a new reading of the 1961 Wire Act from the Justice Department set states racing to approve their own, in-state online lotteries, significantly upping the pressure on the pro-poker lobby to push their issue through the federal process or miss their chance entirely.

Shortly after that, influential Republican donor Sheldon Adelson declared himself opposed to legalizing online poker, giving Republican lawmakers an opportunity to distance themselves from the issue, and exposing conflicts in the casino industry to the country at large.

“I don’t think everyone’s working in lockstep toward the same goal,” Jones added. “But I think the AGA has done a very good job of trying to keep their members informed and moving along a path.”

The AGA’s members reject the suggestion that the efforts –

either in messaging or emphasis – were anything less than satisfactory.

Instead, lobbyists pointed an accusing finger back toward Congress as a whole and the body's well-documented inability, these past two years, to get much legislation accomplished.

Las Vegas-based casino companies such as MGM Resorts International and Caesars Entertainment are pushing for federal legislative regulating online poker.

"I think this is sort of typical of politicians: It's never Congress' fault that they didn't get their act together; there's always some other reason," said Alan Feldman, spokesman for MGM Resorts International, a member of the AGA. "If you're a Democrat, it's the Republicans' fault; if you're a Republican, it's the Democrats' fault; and if you're trying to toe the line with both, it's someone else's fault. If someone wants to use that as an excuse for why this won't happen, fine, but it doesn't change the fact there's clearly a need for federal action."

"There have been some very good lobbyists who have been retained by the companies on this – but it's like, you could have the best yachtsman in the world sailing into a headwind and he'd have difficulty navigating," said Mike Sloan, a lobbyist with Fertitta Entertainment, which owns Station Casinos. It is not a member of the AGA. "Nothing is getting done, and that's where we are."

Lobbyists point out that lawmakers never actually developed a bill they felt they could peddle around.

Reid and Sen. Jon Kyl, R-Ariz., were sharing a draft of a poker bill with Sen. Dean Heller as early as last summer. But Kyl insisted the draft not be shared outside of the small group.

Since September, however, the text of that draft has been

public. Reid, Kyl and Heller have all expressed confidence that the legislation is adequate to both walk back the 2011 Wire Act reading and address concerns about the security of Internet poker. In public, they continue to maintain it's only a draft.

"I don't know where things stand as far as a final piece of legislation. Within the last few weeks was the first time that any type of actual language on a bill had ever really surfaced," said Whittaker Askew, a lobbyist with the AGA. "Being out there talking about the issue without a tangible product, which up until the last few weeks has been the case, that makes it a little more of a challenge."

Because of that, Askew said, the AGA focused its efforts on educating lawmakers about poker instead of aggressively whipping up votes.

"It's important for us to have spent a lot of time giving background, educating members and their staff," Askew said. "We've been focused on this education effort for the last 18 to 20 months. So this is certainly nothing new, but it is certainly a big effort."

Still, that effort has been mostly behind the scenes. Askew detailed the public outreach part of the AGA's work as essentially boiling down to a few press releases and two videos intended for social media: one produced in 2011 and one produced in 2012.

Lobbyists say public perception of their efforts doesn't really matter.

"Just because it flares up in the press, doesn't mean there hasn't been a consistent effort," Jones said. "If you're really working a legislative process ... you cannot let that define the path that you're on."

However, every casino has its own style.

“I don’t think there is really a dime’s worth of difference between our position and those of most of our colleagues,” Sloan said. “The difference may be in effort.”

Not every company that supports online poker appears to be putting equal skin in the game.

Companies like Caesars have been a visible force working with lawmakers to advance a poker bill on Capitol Hill: Over the past two years, the company spent an industry-leading \$5.8 million lobbying Congress on Internet poker and other issues, according to a compilation by opensecrets.org.

But companies like Wynn Resorts – which isn’t opposed to online poker – have spent a total of \$315,000 on lobbying. Many involved in the online poker effort said Wynn’s lobbyists really haven’t been very actively involved in the discussions on Capitol Hill.

A spokeswoman for Wynn Las Vegas did not return a call for comment.

Meanwhile, companies like MGM, which has spent about \$1.1 million on lobbying over the past two years, are somewhere in the middle.

Whatever the discrepancies in the industry’s lobbying efforts, all Nevada casinos are likely to profit from the bill if it passes because the legislation favors casinos with a proven track record of running responsible gaming operations for the first federal online poker licenses.

That gives them at least as much incentive to break through the congressional gridlock as Nevada’s representatives.

“It’s up to the industry to make the case, and it’s up to legislatures to understand the consequences of not moving the legislation,” Jones said. “I can’t blame this on Congress or on the industry. It’s just a function of time and timing. It

just is. If you don't find it this time, you just keep working after it."

And though opportunities are diminishing, the industry is refusing to admit defeat.

"We absolutely believe this is good policy. And that's not going to change whether we have 20 different opportunities that don't get passed," said Larry Epstein, vice president of government relations for Ultimate Fighting Championship, which has been working with Fertitta Entertainment to advance online poker legislation in Congress. "It's frustrating that nothing's happened, but in my view, I don't think it compromises the potential of passage."