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## Merging Sports Gambling and Technology: What's Really Going to Happen?

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# Merging Sports Gambling and Technology: What's Really Going to Happen?

*Tucker Davison\**

## I. INTRODUCTION

On May 14, 2018, the United States Supreme Court ruled on *Murphy v. National Collegiate Athletic Association*, a case that many in the general public cared about only because the case dealt with the legality of sports betting. While it is true that the *Murphy* decision did make universal sports betting a possibility in the future, this was not the Court's focus. The actual issue of *Murphy* is whether or not the Professional and Amateur Sports Protection Act (PASPA) is compatible with the system of dual sovereignty embodied in the U.S. Constitution.<sup>1</sup> The Court held that PASPA did not align with the Constitution and thus ruled PASPA invalid as written.<sup>2</sup> In finding PASPA inconsistent with the Constitution, the Supreme Court opened the door for the merging of sports betting and technology, as well as all related positive and negative outcomes of this integration. Overall, the integration of sports betting and technology will benefit everyone involved in the sports industry, but not before dealing with significant issues first.

## II. MURPHY V. NATIONAL COLLEGIATE ATHLETIC ASSOCIATION

### A. Background

To understand *Murphy* and the impacts the decision had on federal law and modern technology, it is important to understand the historical actions that led to the case. It is a common misconception that the 1993 PASPA made sports betting a federal crime. In reality, PASPA only made it unlawful for a state, or its subdivisions, "to sponsor, operate, advertise, promote, license, or authorize by law or compact" any form of betting, gambling, or wagering on sporting events and for "a person to sponsor, operate, advertise, or promote" those gambling schemes if done "pursuant to the law or compact of a governmental entity."<sup>3</sup> This means that PASPA only made it illegal for a state to directly sponsor or encourage any form of sports betting.<sup>4</sup> However, when PASPA was first introduced, the act included a "Grandfather provision" that allowed existing forms of sports gambling to continue in states where they were already set up and granted other states a one year period in which they could set up their own sports betting schemes to be included in

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1. *Murphy v. Nat'l Collegiate Athletic Ass'n*, 138 S. Ct. 1461, 1468 (2018).
2. *Id.* at 1485.
3. *Id.* at 1465 (citing 28 U.S.C. § 3702(1)–(2)).
4. *See id.* at 1465.

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the Grandfather provision.<sup>5</sup> Nevada, Oregon, Delaware, and Montana are able to have legalized sports gambling thanks to the Grandfather provision.<sup>6</sup> New Jersey, on the other hand, initially decided not to participate in legalized sports betting.<sup>7</sup>

## B. Procedural History

In 2012, New Jersey approved an amendment to its State Constitution giving the state legislature the authority to legalize sports gambling.<sup>8</sup> The state legislature then proceeded to enact a law legalizing sports gambling.<sup>9</sup> Following this 2012 enactment, the National Collegiate Athletic Association (NCAA) and three other major professional sports leagues brought a federal cause of action against the New Jersey Governor and other state officials, alleging that the new state law violated PASPA.<sup>10</sup> New Jersey claimed that PASPA violated the “anticommandeering” doctrine of the United States Constitution by preventing the state from modifying or repealing its own laws regarding sports betting.<sup>11</sup> The District Court found no anticommandeering violation and was affirmed by the Third Circuit Court of Appeals.<sup>12</sup> The Supreme Court did not grant certiorari to the 2012 case.<sup>13</sup>

Two years later, in 2014, New Jersey tried once again to pass legislative schemes to legalize sports betting, except this time, instead of affirmatively passing a law to legalize sports betting, the legislature attempted to repeal state-law provisions that prohibited sports betting.<sup>14</sup> The NCAA and three professional sports leagues filed suit in federal court alleging violation of PASPA, with New Jersey alleging violation of the anticommandeering principle of the Constitution.<sup>15</sup> Not surprisingly, the District Court and Third Circuit did not deviate from their previous decision and determined that there was no anticommandeering violation.<sup>16</sup> However, unlike the 2012 decision,

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5. *Id.*

6. *Professional and Amateur Sports Prohibition Act – PASPA*, ONLINE GAMBLING SITES, <https://www.onlinegamblingsites.com/law/paspa/> (last visited Aug. 26, 2019).

7. *See Murphy*, 138 S. Ct. at 1465.

8. *See id.*

9. *See id.*

10. *See id.* at 1465–66.

11. *Id.* at 1466.

12. *Murphy*, 138 S. Ct. at 1466.

13. *See id.*

14. *See id.*

15. *See id.*

16. *Id.* at 1472–73.

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the Supreme Court granted review in order to decide the constitutional question present throughout the case.<sup>17</sup>

### C. The Case at Hand

The Supreme Court tried to answer the question of whether PASPA was compatible with the longstanding “system of ‘dual sovereignty’ embodied in the Constitution.”<sup>18</sup> Because PASPA makes it unlawful for a state to “authorize” sports gambling schemes, the Court must also answer the question about what it means to “authorize” a sports gambling scheme.<sup>19</sup>

#### 1. “Authorize”

In its argument of interpretation, New Jersey argued that the accepted meaning of “authorize” is to “permit.”<sup>20</sup> Thus, PASPA’s anti-authorization provision required states to maintain all “laws against sports gambling without alteration.”<sup>21</sup> The state contended that this clause is overly broad by covering to any state law that permits sports gambling.<sup>22</sup>

The NCAA argued that to “authorize” requires action, that “authorizing” requires the granting of a right or authority to act.<sup>23</sup> They further argued that states are not prevented from modifying, repealing, or enhancing existing laws prohibiting sports gambling without violating PASPA.<sup>24</sup>

Ultimately, the Court sided with New Jersey’s interpretation, reasoning that when a state repeals “old laws banning sports gambling, it ‘authorizes’ that activity.”<sup>25</sup> Looking at historical context, the court determined that the competing interpretations of “authorize” resulted in the same outcome.<sup>26</sup> The repeal of a state law banning sports gambling not only “permits” sports gambling, but it also “gives those now free to conduct a sports betting operation the ‘right or authority to act’; it ‘empowers’ them.”<sup>27</sup>

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17. *See id.* at 1473.

18. *Murphy*, 138 S. Ct. at 1468.

19. 28 U.S.C.A. § 3702 (West 2018); *Murphy*, 138 S. Ct. at 1468.

20. *Murphy*, 138 S. Ct. at 1473.

21. *Id.*

22. *See id.*

23. *Id.*

24. *See id.*

25. *Id.* at 1474.

26. *Murphy*, 138 S. Ct. at 1474.

27. *Id.*

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## 2. Anticommandeering Doctrine

Having determined the proper interpretation of “authorize,” the court then turned its attention to the anticommandeering doctrine. Fundamentally speaking, the anticommandeering doctrine is the provision of the Constitution that prohibits Congress from issuing orders directly to the states.<sup>28</sup> The idea of independent sovereignty between the federal government and the states is at the core of the United States’ “dual sovereignty” system.<sup>29</sup> Having previously addressed the anticommandeering doctrine, the Court adheres to precedent.<sup>30</sup>

## 3. Holding and Reasoning

After interpreting “authorize,” and stating that it will follow anticommandeering doctrine precedent, the Court turned to the merits of the case with five equally important holdings.

First, the Court held that PASPA’s anti-authorization provision is in direct conflict with the anticommandeering doctrine and thus violates it.<sup>31</sup> This is because under either interpretation of “authorize,” the PASPA provision “dictates what a state legislature may and may not do.”<sup>32</sup> If the Court were to allow this provision to stand, the Court would be permitting a direct affront to state sovereignty.<sup>33</sup> Neither party claimed that Congress has the ability to compel a state to enact legislation, but the NCAA did argue that prohibiting a state from enacting new laws is not a violation of the anticommandeering doctrine.<sup>34</sup> Thus, in holding that the prohibition of enacting a law violates the anticommandeering doctrine, the Court clarified the scope of the anticommandeering doctrine.<sup>35</sup>

In another attempt to defend the anti-authorization clause of PASPA, the NCAA claimed that the provision was a valid preemption.<sup>36</sup> In order for a provision to preempt a state law under the Supremacy Clause of the Constitution, it must both “represent the exercise of power conferred on Congress by the Constitution” and must be one that “regulates private actors.”<sup>37</sup> The first requirement was not met, because just pointing to the Supremacy Clause

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28. *Id.* at 1475.

29. *Id.*

30. *Murphy*, 138 S. Ct. at 1477; *see* *Printz v. United States*, 521 U.S. 898 (1997); *New York v. United States*, 505 U.S. 144 (1992).

31. *Murphy*, 138 S. Ct. at 1478.

32. *Id.* at 1478.

33. *See id.*

34. *See id.*

35. *See id.*

36. *See id.* at 1479.

37. *Murphy*, 138 S. Ct. at 1479.

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does not overrule the anticommandeering doctrine.<sup>38</sup> The Court then explained that it has previously recognized conflict, express, and field preemption, all of which are based on federal laws that regulate private actors, not states as is at issue in the present case.<sup>39</sup>

The second key holding of *Murphy* is that PASPA's anti-licensing provision also violates the anticommandeering doctrine.<sup>40</sup> The NCAA tried to make the argument that, while the New Jersey law at issue does not expressly provide for the licensing of sports gambling, this was the practical effect of the law, thereby violating the anti-licensing provision of PASPA.<sup>41</sup> The Court rejected this argument on the same grounds that it rejected the anti-authorization provision.<sup>42</sup>

The third question the Court had to answer was whether the provision barring state operation of sports gambling could be severed from the rest of the PASPA provision.<sup>43</sup> The Court answered this question in the negative.<sup>44</sup> The Court recognized that if it were to strike down the anti-authorization and anti-licensing provisions but leave the prohibition on state operation, sponsorship, and promotion, then the act would look "sharply different from what Congress contemplated when PASPA was enacted."<sup>45</sup> In fact, the Court recognized that the line between authorization, licensing, operation, and sponsorship is not clear.<sup>46</sup> Even further, if the state was prohibited from entering into activities that private parties are permitted to enter, this would create unusual and disparate treatment.<sup>47</sup> Thus, the Court held that the anti-operation provision of PASPA cannot be severed from the anti-authorization and anti-licensing provisions because it would create an act that Congress would likely not have passed.<sup>48</sup>

Having addressed the state-focused provisions, the Court then turned to the private actor provisions of PASPA.<sup>49</sup> Using similar logic as it did when considering the inability to sever the state prohibition on state operation, sponsorship, and promotion, the Court held that the provision of PASPA prohibiting a private actor from sponsoring, operating, or promoting sports

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38. *See id.*

39. *Id.* at 1480–81.

40. *See id.* at 1481.

41. *See id.*

42. *Id.* at 1481–82.

43. *See Murphy*, 138 S. Ct. at 1482.

44. *See id.* at 1482.

45. *Id.*

46. *See id.* at 1483.

47. *See id.*

48. *See id.*

49. *See Murphy*, 138 S. Ct. at 1483.

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betting is not severable from the rest of the act.<sup>50</sup> Again, the court reasoned that all of the aforementioned provisions were intended by Congress to work together, and, as such, Congress would likely not have approved PASPA if it had known that the other provisions would not hold.<sup>51</sup> Congress intended for the state and private actor provisions to work together.<sup>52</sup>

The final issue the Court addressed was whether PASPA's anti-advertising provision is severable from the other provisions which are already in conflict with the anticommandeering doctrine.<sup>53</sup> The Court determined that the anti-advertising provision is also not severable from the rest of the act.<sup>54</sup> The Court justified this decision by noting that if it were to hold the anti-advertising provision to be severable, this would keep in effect the ban on advertising of state sponsored sports betting.<sup>55</sup> However, because the Court had already held parts of PASPA unconstitutional, the anti-advertising provision would create a federal law prohibiting the "advertising of an activity that is legal under both federal and state law, and that is something that Congress has rarely done."<sup>56</sup> In holding that the anti-advertising provision is not severable, the Court held that "no provision of PASPA is severable from the provision directly at issue."<sup>57</sup> Thus, the Supreme Court reversed the judgement of the Third Circuit Court of Appeals.<sup>58</sup>

#### D. What Exactly Did *Murphy* Do?

After the ruling of *Murphy* was published, many were under the false impression that the Supreme Court had just legalized sports betting,<sup>59</sup> but this was not the case. In actuality, the Supreme Court's decision did three things. First, the Court held that PASPA was inconsistent with the Constitution.<sup>60</sup> Second, the Court recognized that Congress has the ability to regulate sports gambling directly.<sup>61</sup> Thus, if Congress wanted to impose limits, restrictions, safety guidelines, or universally ban sports betting, then this action would be

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50. *See id.*

51. *Id.*

52. *See id.*

53. *See id.* at 1484.

54. *See id.*

55. *Murphy*, 138 S. Ct. at 1484.

56. *Id.*

57. *Id.*

58. *See id.* at 1485.

59. Cale Guthrie Weissman, *The Supreme Court Just Legalized Sports Betting*, FAST CO. (May 14, 2018), <https://www.fastcompany.com/40571952/the-supreme-court-just-legalized-sports-betting>.

60. *See Murphy*, 138 S. Ct. at 1485.

61. *See id.* at 1484.

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within its power. Lastly, if Congress does not choose to directly regulate sports betting, which is the current situation, then each state is free to act on its own with regards to sports gambling.<sup>62</sup>

### III. FUTURE IMPLICATIONS

While the Court in *Murphy* expressly laid out several of the implications of its decision,<sup>63</sup> one of the most important impacts of the case was one that the Court did not intend. The *Murphy* ruling created a direct conflict with an existing federal law, 18 U.S.C.A. § 1084, more commonly known as the Wire Act.<sup>64</sup>

Before exploring the future implications of *Murphy* and its conflict with the Wire Act, it is critical to first understand what exactly the Wire Act is and what it does. The Wire Act declares that any entity who engages in the business of betting while knowingly using a wire communication facility for “transmission in interstate or foreign commerce of bets or wagers or information assisting in the placing of bets or wagers on any sporting event or contest” will be punished by a fine or imprisonment of up to two years.<sup>65</sup> The statute defines a “wire communication facility” as “any and all instrumentalities, personnel, and services . . . used or useful in the transmission or writings, signs, pictures, and sounds of all kinds by aid of wire, cable, or other like connection between the points of origin and reception of such transmission.”<sup>66</sup> Further, courts have held that the Wire Act extends its application to the transmission of information using the internet.<sup>67</sup> Thus, the definition of the Wire Act, coupled with modern case law, includes all forms of phone and computer transmissions, as well as all associated personnel, for which bets or wagers on sporting events are sent interstate.<sup>68</sup> In fact, the purpose of the Wire Act was to “help support the gambling laws in each state.”<sup>69</sup>

#### A. Conflict of *Murphy* and the Wire Act

Given that the Wire Act is still a valid federal law and that *Murphy* expressly held that PASPA was unconstitutional, there is clear and obvious

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62. *Id.* at 1484–85.

63. *See id.*

64. *See* 18 U.S.C.A. § 1084 (West 2018); *Murphy*, 138 S. Ct. 1461.

65. *Id.* (emphasis added).

66. 18 U.S.C.A. § 1081 (West 2018).

67. *United States v. Lyons*, 740 F.3d 702, 716 (1st Cir. 2014); *People ex rel. Vacco v. World Interactive Gaming Corp.*, 714 N.Y.S.2d 844, 859–60 (Sup. Ct. 1999).

68. *See* 18 U.S.C.A. § 1081.

69. Kim Yuhl, *Five Things the Supreme Court Sports Decision Didn't Do*, PLAY USA (May 22, 2018), <https://www.playusa.com/five-things-the-supreme-court-sports-betting-decision-didnt-do/>.

tension between the two. It is not disputed that *Murphy* paved the way for states “to determine on their own whether they believe sports betting should be legal within their border,”<sup>70</sup> but it is also not disputed that the Wire Act is still valid.<sup>71</sup> Naturally, the next question that must be answered is: which law applies? The answer is that both laws are applicable and govern different areas of the law. The *Murphy* decision only gave states the ability to legalize sports betting; it did not legalize nationwide sports betting.<sup>72</sup> While the Wire Act does not explicitly define its scope of applicability, because the law deals with transmission of information interstate, it is obvious that the law does not apply to purely intrastate transmissions of information.<sup>73</sup> As such, because the Wire Act is still valid, it is still a federal crime to transmit information that supports sports betting across state lines.<sup>74</sup> It makes no difference to the Wire Act whether the receiving state has legalized sports betting or not.<sup>75</sup> What this means is that if you are within the borders of Nevada (where sports betting is legal) you will have no issues placing a sports bet, but once you cross state lines into California (where sports betting is still illegal), if you try to place a bet in Nevada, then you are violating the Wire Act.<sup>76</sup> Similarly, this means that the *Murphy* decision did not instantly make it possible for entrepreneurs to launch online sports betting websites. Doing so would almost certainly place individuals in violation of numerous state and federal laws.<sup>77</sup>

The current existence of the Wire Act does not mean that interstate sports betting will never be legalized. Looking at the history of the Wire Act, it is not outside the realm of possibility to believe that the Wire Act will be amended or abolished to permit interstate sports betting in the near future.<sup>78</sup>

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70. Tyler Lauletta, *The Supreme Court has Overturned the Federal Ban on Sports Betting – Here’s What That Means For the Immediate Future of Gambling in America*, BUS. INSIDER (May 14, 2018), <https://www.businessinsider.com/supreme-court-sports-betting-decision-what-it-means-2018-5>.

71. See 18 U.S.C.A. § 1084.

72. Yuhl, *supra* note 69.

73. See 18 U.S.C.A. § 1084.

74. Yuhl, *supra* note 69.

75. See *id.*

76. Mitch Moss, *How Will Technology and Apps Impact New Sports Betting Laws?*, NBC SPORTS, <https://www.nbcsports.com/northwest/video/how-will-technology-and-apps-impact-new-sports-betting-laws> (last visited Aug. 26, 2019).

77. Marc Edelman, *Supreme Court Ruling Does Not Mean You Can Launch A Sports Betting Website*, FORBES (May 14, 2018), <https://www.forbes.com/sites/marcedelman/2018/05/14/supreme-court-ruling-does-not-mean-you-can-launch-a-sports-betting-website/#49da094283d5>.

78. See Michael Bluejay, *Is Online Gambling Legal in the U.S.?*, VEGAS CLICK (Oct. 2018), <https://vegasclick.com/online/legal>; Nathan Vardi, *Department of*

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When the Wire Act was initially passed in 1961, the Act also made it illegal to transmit information related to internet gambling as well as sports betting.<sup>79</sup> The Act remained virtually unchanged until 2011 when the Department of Justice (DOJ) restricted the Wire Act to apply only to sports betting, thus permitting internet gambling across state lines.<sup>80</sup> This change altered one of the “most important and long-held positions on internet gambling.”<sup>81</sup> The DOJ’s willingness to alter the Wire Act, along with the *Murphy* decision, has already prompted national discussion about whether the Wire Act should allow for interstate sports betting.<sup>82</sup>

#### IV. FUTURE TECH IMPLICATIONS

##### A. Problems

Setting aside the conflict between the Wire Act and *Murphy*, the *Murphy* decision creates numerous unforeseen technical problems that the Court failed to consider. While this Note only discusses three potential technical issues that are sure to occur as sports betting and technology merge, the presented list is not exhaustive. Each of the discussed problems stems directly from the legalization of sports betting and its future integration with technology.

The first potential issue the Court did not consider is a realistic geographic issue. Because the Supreme Court ruled that states can regulate sports betting,<sup>83</sup> the functional question must be asked: how are states able to ensure that people using sports betting apps and websites are in a state where sports betting is legal?<sup>84</sup> Even further, how can the apps and websites ensure that the bets placed do not cross state lines and violate the Wire Act?<sup>85</sup> Fortunately, because of modern development of GPS devices, this is not an issue.<sup>86</sup> Today, GPS devices are so advanced that they are accurate within a few feet,

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*Justice Flip-Flops on Internet Gambling*, FORBES (Dec. 23, 2011), <https://www.forbes.com/sites/nathanvardi/2011/12/23/departement-of-justice-flip-flops-on-internet-gambling/#1a1fa315600e>.

79. Vardi, *supra* note 78.

80. *See id.*

81. *Id.*

82. Daniel Wallach, *Did the Supreme Court Reinterpret the Wire Act to All Cross-Border Internet Sports Betting?*, FORBES (July 8, 2018), <https://www.forbes.com/sites/danielwallach/2018/07/08/did-the-supreme-court-reinterpret-the-wire-act-to-allow-cross-border-internet-sports-betting/#2a22b3cb46c5>.

83. *See Murphy v. Nat’l Collegiate Athletic Ass’n*, 138 S. Ct. 1461, 1461 (2018).

84. *See Moss*, *supra* note 76.

85. *See id.*

86. *See id.*

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including when state lines are crossed.<sup>87</sup> This would not have been the case in 1993 when PASPA was first enacted.<sup>88</sup> This GPS technology is already being used in an identical fashion by companies such as FanDuel and DraftKings.<sup>89</sup> As daily fantasy sports businesses developed, they faced a similar geographic location issue and were able to solve the problem by employing modern GPS locators.<sup>90</sup> In fact, smartphones do not have to be connected to a cellular network for the GPS to be this accurate, and the speed of the GPS will improve.<sup>91</sup> Therefore, either the Supreme Court knew this first issue would not affect its ultimate decision when it granted certiorari, or it is extremely lucky to have avoided a potential jurisdictional issue arising from its decision that could have invoked the Full Faith and Credit clause of the Constitution.<sup>92</sup>

The second issue that arises with the integration of sports and technology deals with the already established legal gambling age in each state. Currently, each state determines the legal gambling age within its state lines.<sup>93</sup> States have consistently determined that the minimum age to gamble, whether in a private casino or state lottery, ranges between eighteen and twenty-one.<sup>94</sup> When the gambling is performed in person, this law is easy to police by checking valid state issued IDs, but when it comes to online verification, the task becomes increasingly difficult.<sup>95</sup> The federal government recognized the existence of websites and apps that should be restricted by age when it passed the Children's Online Privacy Protection Act to prevent anyone under thirteen from joining social media services.<sup>96</sup> This act places the burden on developers to ensure that no one under the legal age uses their services.<sup>97</sup>

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87. *Id.*; *How Accurate is the GPS on My Smart Phone?*, COMMUNITY HEALTH MAPS (July 7, 2014), <https://communityhealthmaps.nlm.nih.gov/2014/07/07/how-accurate-is-the-gps-on-my-smart-phone-part-2/>.

88. Vardi, *supra* note 78.

89. Don Van Natta Jr., *Welcome to the Big Time*, ESPN (Aug. 24, 2016), [http://www.espn.com/espn/feature/story/\\_id/17374929/otl-investigates-implosion-daily-fantasy-sports-leaders-draftkings-fanduel](http://www.espn.com/espn/feature/story/_id/17374929/otl-investigates-implosion-daily-fantasy-sports-leaders-draftkings-fanduel).

90. *See id.*

91. *How Accurate is the GPS on My Smart Phone?*, *supra* note 87.

92. U.S. CONST. art. IV § 1.

93. *Legal Gambling Age in the USA*, LEGAL GAMBLING AGES, <http://www.legal-gamblingages.com> (last visited Aug. 26, 2019).

94. *See id.*

95. Nicole Perlroth, *Verifying Ages Online is a Daunting Task, Even for Experts*, N.Y. TIMES (June 17, 2012), <https://www.nytimes.com/2012/06/18/technology/verifying-ages-online-is-a-daunting-task-even-for-experts.html>.

96. *Why Do Some Apps Ask for My Age?*, CHILDNET INT'L (July 27, 2018), <https://www.childnet.com/blog/why-do-some-apps-ask-for-my-age>.

97. *See id.*

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But are there any easy ways for developers to ensure that someone is the age they claim to be online? The truth is, online, it is extremely difficult to tell the exact age of someone because there is not any sort of age verification system.<sup>98</sup> The fundamental issue with age verification is that “establishing a national identity database, tracking users’ behavior or knowing the data on a person’s phone that might suggest an age group” are violations of personal privacy not permitted by the Constitution.<sup>99</sup> Thus, society has determined that the right to online personal privacy is greater than the need for an online age verification system.

The final issue discussed in this Note for when sports betting is integrated with technology is how to properly protect individuals from themselves. Gambling addiction affects nearly 2.6% of the U.S. population (about ten million individuals) and roughly six billion dollars in the economy.<sup>100</sup> Currently, addiction to smartphones is a growing problem, and adding the ability to participate in sports gambling will undoubtedly increase the addictiveness of smartphones as it combines two addictions into a single source<sup>101</sup>

Protecting gambling addicts is an issue that those who will be directly impacted by sports betting and technology integration have already considered.<sup>102</sup> Mark Cuban, a tech mogul and owner of the Dallas Mavericks basketball team, raised this exact issue in an interview with CNBC.<sup>103</sup> Cuban suggested that while there is no current system in place to combat the issue of online sports betting addiction, it is a problem that can be easily addressed.<sup>104</sup> Cuban stated that if states are able to work together on the implementation of technology and sports betting, then the states will be able to generate tax revenue and help fund gambling addiction prevention programs.<sup>105</sup> States may even be able to regulate and restrict the industry by agreeing on a standard form of cryptocurrency to be used in all sports betting.<sup>106</sup> This potential solution raises another set of issues about what the appropriate cryptocurrency for sports betting is, who should be in charge of regulating the cryptocurrency, and how this cryptocurrency will be regu-

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98. Perloth, *supra* note 95.

99. *Id.*

100. *Gambling Addiction Statistics*, THE OAKS, <https://theoakstreatment.com/gambling-addiction/gambling-addiction-statistics/> (last visited Aug. 26, 2019).

101. *Mavericks Owner Mark Cuban on the Future of Sports Betting*, CNBC (May 14, 2018), <https://www.cnbc.com/video/2018/05/14/mavericks-owner-mark-cuban-on-the-future-of-sports-betting.html>.

102. *See id.*

103. *See id.*

104. *See id.*

105. *See id.*

106. *See id.*

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lated.<sup>107</sup> Assuming that a uniform cryptocurrency is effectively used in sports betting, this form of cybersecurity could be used to track and protect individuals participating in online sports betting and could serve as a solution to the addictiveness of online sports betting.<sup>108</sup>

## B. Benefits

It is easy to consider the potential issues that will appear when combining technology with sports betting, but there are equally as many benefits that come from the integration of technology and sports betting. In fact, it is not outside the realm of possibility to believe that sports betting could match, or even exceed, the 3.2 billion-dollar industry of daily fantasy sports.<sup>109</sup> This could happen simply by following the model of success already established by daily fantasy sports apps.<sup>110</sup> Not only could the integration of sports betting and technology facilitate the growth of a lucrative business on its own, but it could also benefit team owners, fans, and sports leagues all while increasing the security of sports betting.<sup>111</sup>

The first major benefit that will come from the integration of sports betting and technology is the economic boost the sports industry will receive. This financial boost will not only benefit the sports betting industry as a whole, but will also benefit the specific sports leagues, each specific sports team, television, and even the states.<sup>112</sup> The benefits to the sports betting industry are obvious—people are constantly on their phones checking or watching sports, so adding sports betting will only increase fan interest in sports.<sup>113</sup> The benefit to the sports leagues is a little more subtle. By allowing people to use their phones to bet on sports games, the games will become

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107. *Mavericks Owner Mark Cuban on the Future of Sports Betting*, *supra* note 101.

108. *Id.*

109. Dustin Gouker, *New Official Data: Daily Fantasy Sports Generated \$335 Million in Revenue in a Year*, LEGAL SPORTS REP. (June 28, 2018), <https://www.legalsportsreport.com/21627/ny-dfs/>.

110. Van Natta, *supra* note 89.

111. Joe Lemire, *Media Tech in Sports Betting*, SPORTTECHIE (June 7, 2018), <https://www.sporttechie.com/media-tech-in-sports-betting-part-three-business-implications/>; John Wolohan, *How Legal Sports Betting Could Benefit Pro Leagues*, FORTUNE (May 21, 2018), <http://fortune.com/2018/05/21/supreme-court-sports-betting-legal-leagues/>; *Mavericks Owner Mark Cuban on the Future of Sports Betting*, *supra* note 101; Van Natta, *supra* note 89.

112. Lemire, *supra* note 111; Wolohan, *supra* note 111; Lauletta, *supra* note 70; *Mavericks Owner Mark Cuban on the Future of Sports Betting*, *supra* note 101; Van Natta, *supra* note 89.

113. *Mavericks Owner Mark Cuban on the Future of Sports Betting*, *supra* note 101; Van Natta, *supra* note 89.

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more interesting to fans as they have a vested interest in the on-field play.<sup>114</sup> The increased connection to individual games will put more fans in stadium seats (increasing ticket and merchandise sales), increase television viewership, and increase the publicity teams receive through social media as people share their experiences.<sup>115</sup> The integration of sports betting and technology could even make a fan who finds a nine inning baseball game boring excited to go to the ballpark and watch the game as they bet on every pitch of the game.<sup>116</sup>

Even beyond the fan involvement with technology and sports betting, the teams themselves will be able to get involved and increase their individual value as well.<sup>117</sup> As each team and league sees the success of the sports betting industry, teams will be able to invest in the tech-betting industry and promote their team and players.<sup>118</sup> Teams may even begin to alter their stadiums to tailor the fan experience towards betting while at the games.<sup>119</sup> Professional sports leagues may also begin to profit from the betting industry.<sup>120</sup> The individual leagues could receive a share of the market with online sports betting as they endorse and advertise certain applications, providers, or companies involved in the tech betting industry.<sup>121</sup> This is a proven model with online daily fantasy sports increasing the value of both individual teams and leagues as a whole.<sup>122</sup>

The final major benefit discussed in this article that will come from the integration of sports betting and technology is the increased security of sports betting.<sup>123</sup> There is no dispute that sports betting already exists in the American market, both legally in places like Las Vegas and illegally around the

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114. Lemire, *supra* note 111; *Mavericks Owner Mark Cuban on the Future of Sports Betting*, *supra* note 101; Lauletta, *supra* note 70.

115. See Lemire, *supra* note 111; *Mavericks Owner Mark Cuban on the Future of Sports Betting*, *supra* note 101; Lauletta, *supra* note 70.

116. See *Mavericks Owner Mark Cuban on the Future of Sports Betting*, *supra* note 101.

117. Wolohan, *supra* note 111; *Mavericks Owner Mark Cuban on the Future of Sports Betting*, *supra* note 101.

118. *Mavericks Owner Mark Cuban on the Future of Sports Betting*, *supra* note 101; Van Natta, *supra* note 89.

119. See *Mavericks Owner Mark Cuban on the Future of Sports Betting*, *supra* note 101; Van Natta, *supra* note 89.

120. Wolohan, *supra* note 111; Cuban, *supra* note 101; Lauletta, *supra* note 70; Van Natta, *supra* note 89.

121. *Mavericks Owner Mark Cuban on the Future of Sports Betting*, *supra* note 101; Van Natta, *supra* note 89.

122. Wolohan, *supra* note 111; *Mavericks Owner Mark Cuban on the Future of Sports Betting*, *supra* note 101; Van Natta, *supra* note 89.

123. Lemire, *supra* note 111.

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country.<sup>124</sup> By legalizing sports betting, underground sports gambling will be forced into the legal market, thus allowing the government to regulate and collect taxes on the industry due to how easy it will be to legally gamble using technology.<sup>125</sup>

## V. CONCLUSION

The integration of sports betting and technology has the potential to benefit everyone involved in sports betting, as well as provide easy access for anyone who wants to participate in sports betting. However, it will also come with its own unique challenges. It is only because of the Supreme Court's decision in *Murphy v. National Collegiate Athletic Association* that this integration is even a possibility. Whether or not the Supreme Court considered the inevitable integration of sports betting and technology when it made its decision, there is no doubt that the *Murphy* decision will dramatically influence the future use of technology in sports betting.

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124. *Mavericks Owner Mark Cuban on the Future of Sports Betting*, *supra* note 101.

125. Lemire, *supra* note 111; *Mavericks Owner Mark Cuban on the Future of Sports Betting*, *supra* note 101.