

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

---

UNITED STATES OF AMERICA, )  
209 S. LaSalle Street )  
Suite 600 )  
Chicago, IL 60604 )  
)  
Plaintiff, )  
)  
v. )  
)  
NATIONAL COUNCIL ON PROBLEM )  
GAMBLING, INC., )  
208 G Street, NE )  
Washington, D.C. 20002 )  
)  
Defendant. )

---

CIVIL ACTION NO. 1:03CV01278

JUDGE: Henry H. Kennedy

DATE STAMP: 06/13/2003

**COMPLAINT**

The United States of America, acting under the direction of the Attorney General, brings this civil action pursuant to Section 4 of the Sherman Act, as amended, 15 U.S.C. § 4, to obtain equitable and other relief to prevent and restrain violations of Section 1 of the Sherman Act, as amended, 15 U.S.C. § 1. The United States alleges:

**I.**  
**Jurisdiction and Venue**

1. The Court has jurisdiction of this matter and over the parties pursuant to 15 U.S.C. § 4 and 28 U.S.C. §§ 1331 and 1337.
2. The National Council on Problem Gambling, Inc. (“defendant” or “NCPG”) resides and transacts business within this District. Venue is proper in this District under 15 U.S.C. § 22 and 28 U.S.C. § 1391(c).

**II.**  
**The Defendant**

3. The defendant is a national trade association whose membership includes 34 state affiliates, with no state having more than one affiliate. The state affiliates as a group control a majority of the seats on the defendant's board of directors. The board has the sole authority to elect defendant's officers, which are usually elected from the ranks of its state affiliates. The defendant is a not-for-profit corporation organized and existing under the laws of the State of New York with its principal place of business in Washington, D.C.

**III.**  
**Background**

4. As a trade association, the defendant lobbies Congress for funding of problem gambling programs in general, conducts an annual conference, and offers books, videotapes and other publications about problem gambling. The defendant offers a few limited problem gambling services to its members. It maintains a website and sponsors a national telephone help-line, which is operated by the Texas affiliate. Other affiliates may pay to use this help-line in their own states or set up their own help-lines. The defendant also sponsors a national gambling counselor certification program which generally relies upon training conducted by state affiliates.

5. The state affiliates are all separately incorporated, non-profit corporations. All state affiliates are members of the NCPG board of directors, and all NCPG officers except one were elected from the ranks of the state affiliates. The state affiliates provide problem gambling products and services to individuals, as well as government entities, casinos, racetracks, and others who are trying to assist problem gamblers. These products and services include training and certification programs for problem gambling counselors, telephone help-lines, and responsible

gaming programs, workshops, and educational kits.

6. The defendant does not create the services offered by its affiliates, nor does it significantly help its affiliates create these services. Each state affiliate creates its own individualized products and services to meet the perceived needs of its customers. For example, some state affiliates target problem gambling in various ethnic populations, while others focus on problem gambling in high schools or among the elderly. As a result, the types of products and services sold by each state affiliate are different from those sold by other state affiliates. Each state affiliate directly markets its problem gambling services. The customers for these services have few, if any, alternatives to the state affiliates.

#### **IV.** **Trade and Commerce**

7. During the time period covered by this Complaint, the defendant and its state affiliates sold and provided products and services to alleviate problem gambling to customers, including state governments, located throughout the United States in a continuous and uninterrupted flow of interstate trade and commerce. The activities of the defendant and its state affiliates, as described herein, have been within the flow of, and have substantially affected, interstate commerce.

#### **V.** **Claim for Relief**

8. Beginning at least as early as 1995 and continuing until at least 2001, the defendant, through its officers and directors, and its state affiliates, facilitated, organized, promoted and advocated an unlawful territorial allocation between and among the state affiliates for the provision of problem gambling products and services in violation of Section 1 of the Sherman Act, 15 U.S.C. §1.

9. The purpose of this unlawful territorial allocation was to prevent the defendant's state affiliates from offering or selling problem gambling products and services outside of their home states, thereby eliminating competition between and among the state affiliates.

10. The state affiliates engaged in the unlawful territorial allocation to protect and further their economic self-interest. Concerned that competition from out-of-state problem gambling service providers would lead to reduced prices and lost sales, the state affiliates acted through the defendant to preclude competition among themselves. As a result of their actions, the defendant severely limited the ability of state affiliates to sell problem gambling products and services to government and private customers outside their respective states.

11. The territorial allocation was a horizontal agreement among state affiliates, the sole purpose and effect of which was to reduce competition for the sale of problem gambling products and services between and among state affiliates. The territorial allocation was effectuated by the defendant, which was controlled by the state affiliates.

12. Beginning in 1995, the state affiliates, concerned about emerging competition within their borders from out-of-state affiliates, met and agreed with the defendant to adopt, publish, and enforce resolutions, policies, guidelines, and certification standards to limit the provision of problem gambling services by its affiliates across state lines. The territorial allocation was enforced by threats of sanctions, including fines and revocation of NCPG membership, and threats to deny national certification to counselors trained by out-of-state affiliates. These actions reduced competition among problem gambling service providers.

13. The purpose and effect of the agreement among the defendant and its state affiliates was to carry out a territorial allocation and thereby limit competition for the sale of problem gambling products and services. The agreement had the following effects, among others:

- (a) state affiliates were discouraged from bidding on contracts for problem gambling products and services across state lines;
- (b) government and private customers were deprived of the benefits of free and open competition in the purchase of problem gambling products and services, including the benefits of choosing among a variety of products and services offered by different state affiliates;
- (c) innovations in problem gambling products and services were stifled; and
- (d) the quality of problem gambling products and services decreased.

14. The agreement among the defendant and its state affiliates has curtailed competition among the state affiliates without enhancing economic efficiency.

15. Unless permanently restrained and enjoined, the defendant will continue, maintain, or renew the territorial allocation or take other steps to limit competition for the provision of problem gambling products and services, in violation of Section 1 of the Sherman Act, 15 U.S.C. § 1.

**VI.**  
**Prayer for Relief**

WHEREFORE, plaintiff prays:

1. That this Court adjudge and decree that the defendant has engaged in an unlawful combination and conspiracy to restrain interstate commerce, in violation of Section 1 of the Sherman Act, 15 U.S.C. § 1.

2. That the defendant, its officers, directors, agents, employees, successors and assigns and all other persons acting or claiming to act on their behalf, be permanently enjoined from orchestrating, engaging in, carrying out, renewing or attempting to engage in, carry out or renew the combination and conspiracy alleged herein, or any other combination or conspiracy

having a similar purpose or effect in violation of Section 1 of the Sherman Act, 15 U.S.C. § 1.

3. That plaintiff have such other relief as the Court may deem just and proper.

4. That plaintiff recover the costs of this action.

Dated: June 13, 2003

\_\_\_\_\_/s/\_\_\_\_\_  
R. HEWITT PATE  
Acting Assistant Attorney General

\_\_\_\_\_/s/\_\_\_\_\_  
MARVIN N. PRICE, JR.  
Chief, Chicago Field Office

\_\_\_\_\_/s/\_\_\_\_\_  
DEBORAH P. MAJORAS  
Deputy Assistant Attorney General

\_\_\_\_\_/s/\_\_\_\_\_  
FRANK J. VONDRAK  
Assistant Chief, Chicago Field Office

\_\_\_\_\_/s/\_\_\_\_\_  
CONSTANCE K. ROBINSON  
Director of Operations

\_\_\_\_\_/s/\_\_\_\_\_  
ROSEMARY SIMOTA THOMPSON  
Attorney, Chicago Field Office  
IL Bar # 6204990

Attorneys  
U.S. Department of Justice  
Antitrust Division  
209 S. LaSalle Street, Suite 600  
Chicago, Illinois 60604  
Telephone: (312) 353-7530  
Facsimile: (312) 353-1046