

BusinessWeek

FEBRUARY 14, 2005

www.businessweek.com

Information Technology The Internet

High Stakes For Casino City

CEO Michael Corfman is suing the Justice Dept. over online gambling ads

EVER SINCE HE WAS A teenager in Washington State, Michael A. Corfman has had a penchant for questioning authority. At his Catholic high school in the late 1960s, Corfman worked on an underground newspaper that he and his friends decided to call *The New Protestant*. The paper ran several controversial stories, including one advocating a woman's right to an abortion. Another attacked plastics as an environmental hazard, distressing administrators since one of the school's top donors was a plastics company exec. "Mike is not afraid to say what he thinks is right," says Michael Schmitt, a friend who worked with Corfman on *The New Protestant*.

Now, Corfman is challenging the ultimate authority: the U.S. government. His online gambling portal, Casino City Inc., is suing the Justice Dept. in a high-stakes lawsuit that puts Corfman in the middle



FREE SPEECH
is the issue,
says Corfman

of a battle over the future of online gambling. Corfman is fighting for the right to run advertising from online gambling operations on Casinocity.com. U.S. prosecutors have claimed that online gambling is

illegal, and the Justice Dept. has sent letters to Web sites and broadcasters that accept such ads, informing them they "may be aiding and abetting these illegal activities." Many companies, including Web giants Google and Yahoo!, as well as radio station owner Infinity Broadcasting, have stopped taking the advertising.

Not Corfman. He didn't even wait to get one of the Justice Dept.'s threatening letters. Instead, he went on the offensive, hiring Barry Richard, one of the lawyers who represented George W. Bush in the litigation in Florida after the 2000 Presidential election. Casino City, a Baton Rouge (La.) company that provides news and information about the gambling industry, depends entirely on online casino

advertising for its sales. Corfman's argument? That the government's campaign is a violation of the First Amendment's free speech protections. The First Amendment offers some protection to commercial speech, unless it concerns illegal activities. Corfman, and some independent attorneys, contend that only sports betting on the Net has been clearly declared illegal in the U.S.—and that other wagers, on blackjack or bingo, are still permitted. "It is inappropriate for the government to use threats as a way to curtail free speech," says Corfman.

The nature of the Internet creates an additional layer of legal complexity. Because the Net is global, the ads on Casino City may be viewed by anyone, including people in countries where online gambling is legal. What right does the U.S. government have to stop Corfman from showing a Costa Rican casino's ad to a British gambler? Online gambling is permitted in many countries, including Australia, Britain, and Germany.

What's more, shutting down Casino City may simply drive its business overseas. If the U.S. government prevails in its battle with Corfman, hundreds of Web sites outside the U.S. will line up to take advertising from the casinos that use his company. And those sites will be just as accessible to U.S. gamblers as Casino City. "The Justice Dept.'s position is not good law and not good policy," says attorney Richard. A U.S. District Court in Louisiana is expected to rule on the federal government's motion to dismiss the case within the next few months.

Corfman isn't taking on Justice single-

handed. The 51-year-old, who worked as a software engineer at Digital Equipment Corp. and other tech companies before founding his gambling portal 10 years ago, has solicited donations from online gambling companies and trade associations to help pay for the lawsuit. One of Corfman's financial supporters is Britain's Sportingbet PLC, *BusinessWeek* has learned. Sportingbet Chief Exec Nigel Payne confirms that his company has helped fund the case, but he says it has done so through a third party, which he declines to identify. Corfman, who won't specify how much money has been contributed, says he can't afford the lawsuit on his own, since Casino City makes a small profit on revenues of several million dollars.

A ROCK AND A HARD PLACE

LEGAL EXPERTS ARE sharply divided over the issues. Jennifer S. Granick, executive director of the Stanford Law School Center for Internet & Society, says it is significant that Casino City's ads reach people in countries where online gambling is legal. "On the Internet, commercial speech can be broader because the audience is a little broader," she says.

Yet the more likely outcome is that the government will prevail. Jack M. Balkin, a law professor at Yale University, says the federal government has the right to enforce U.S. laws on companies that operate within the country, even if their activities are international. And the U.S. courts don't have an interest in extending First Amendment protections to Web surfers beyond the country's borders. "I think [Corfman] is between a rock and a hard place," he says.

Corfman has a backup plan if his legal gamble is a bust. Since Casino City's advertising dollars would shift to another company, he plans to sell the site to an overseas company. The site, and its ads, would continue to be available to any Web surfer in the world.

Still, Corfman is far from backing down. "When he gets an idea and he knows he's right, there's no stopping him," says Patricia Steiner, a business consultant who is advising Casino City.

When Corfman was an undergraduate at Massachusetts Institute of Technology, he drafted a petition to protest the Vietnam War. He worked for a month to get several thousand signatures, from students, alumni, and even MIT President Jerome B. Wiesner. This time, it's the Justice Dept. that may find Corfman's protest difficult to dismiss. ■

—By Spencer E. Ante in New York

"When he gets an idea and he knows he's right, there's no stopping him," says Patricia Steiner, a business consultant who is advising Casino City.