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●●● [Speaker's Corner: Fantasy sports perfectly legal](#)

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The law of gaming in Canada is confusing and outdated. The Internet compounds the problem by offering a range of gaming opportunities unimagined when most Canadian gaming laws were created. Some lawyers believe fantasy sport “betting” web sites are illegal.

However, I wouldn't bet on it.

This view is, at best, too sweeping. It treats all fantasy sports sites as the same. They are definitely not.

Worse, it is simply wrong, oversimplified and demonstrates a lack of understanding of both fantasy sports and Canadian gaming law.

It is easy to be distracted by gambling law in this country, but, essentially, gambling is a criminal offence under the federal Criminal Code of Canada. However, Ottawa allows provincial governments to make exceptions, which they have done to set up lotteries, allow parimutuel betting on horse racing and permit certain charity games.

The law was created in simpler times. The Internet has disrupted gaming law and certainly there is a need for greater clarity in the law. I would agree that the Criminal Code, as it stands, is inadequate to deal with illegal gambling in the 21st century.

However, all that is irrelevant to fantasy sports web sites. With few exceptions, what happens there is not gambling and is, therefore, legal.

Gambling is betting on an outcome based entirely on chance — a lottery number, for example. It can also be a mix of chance — the cards dealt in poker — and skill — what players do with the cards they are dealt.

For anyone not familiar with fantasy sports web sites, in most cases, the object is for players to select members of actual sports teams to construct a virtual team that competes against other players' teams based on their individual team members' actual performance. The teams are selected based on the players' analysis of statistics and experience gained from watching real teams play. In fantasy baseball, for example, players may select the team to fill each position with the best hitters, pitchers and relievers available. The “drafting” of these team members within a league by players may be highly competitive.

As originally conceived, fantasy sports are games of skill based on the players' assessment of real athletes in a league. Fantasy sports are not the same as betting on a real team playing a real game, where the outcome of the game is entirely out of the hands of the person placing the bet. There is no real game or real team — the whole point is that fantasy sports teams are entirely constructed by the players.

As noted, not all fantasy sports sites are the same and their legality must be judged by their specific rules. Some may be a mixture of skill and chance, which would be illegal under the current law. But the mainstream sites are entirely based on the players' skills and should be clearly recognized as legal.

Legal sites are not based on any aspect of random chance. There is no valid comparison to be made to bridge, for example, where cards are received at random, since fantasy sports players choose their own "cards" (team members) based on their own skills in evaluating statistics.

The varying skill levels of players (or lack of skill among many players) may change the outcome, with more skilled players being more successful, but it does not change the basic nature of the game. A less skilled golf player may win a game against a more skilled player because of a combination of good luck by the former and error by the latter. This does not change golf from a game of skill to a game of mixed skill and chance.

Similarly, in many sports, weather or other external factors can play a role. A gust of wind may result in a missed field goal in football or a home run in baseball. In hockey, a player may score after a puck is deflected off a skate. That may be luck, but it does not mean these sports are games of chance or a mix of skill and chance in any sense, certainly not legally: Luck is *not* chance.

It is not chance that has denied the Toronto Maple Leafs the Stanley Cup for almost 50 years. It is skill or, rather, the lack of it.

Fantasy sports are as much games of skill as the real sports on which they are based. Accepting the notion that any uncertainty about the outcome of a sports event makes it a game of chance would mean that all sports are gambling, and that is ludicrous.

There are those who say using computers that may match fantasy sports players against each other introduces an element of chance, but that is both fallacious and legally irrelevant. The FIFA draw, which puts teams in to pools in the World Cup, does not turn the football played at the tournament into a game of mixed skill and chance. Each game, and its outcome, is still based on the players' individual skills matched against those of their opponents. The same is true of fantasy sports.

Some of those who believe fantasy sports are a form of gambling argue that governments should intervene since, through regulation and control, they can gain tax revenues. There may be a need for introducing industry standards, but there is no reason for government intervention. There is no demonstrated social need and the opportunity to raise government revenue through regulation is not a compelling reason to regulate a legal activity.

Fantasy sports leagues without the element of chance are legal. They should be left alone.

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