

Analysis: DraftKings, FanDuel wrong for now, but on right side

By Paul Newberry, AP

Say goodbye to all those annoying commercials.

Forget about the promise of winning millions of dollars.

The courts are sure to find what the rest of us already know.

Daily fantasy games are no different than putting down a bet at the horse track or handing over a few bucks to your neighborhood bookie.

Once we get past the obvious – yep, FanDuel and DraftKings are indeed sports gambling, which is against the law in most places – we can move on to the more important issue: should this sort of wagering be legalized?

Frankly, it's long overdue.

People love to bet. Always have, always will. Might as well let them head down to their local gaming parlor or simply place a wager on their smartphones.

As is often the case with issues of social relevance, the NBA is leading the way. Specifically, Commissioner Adam Silver, who one year ago wrote an op-ed in the *New York Times* calling for a new approach to the illicit world of gambling.

"Despite legal restrictions, sports betting is widespread," Silver said then. "It is a thriving underground business that operates free from regulation or oversight. Because there are few legal options available, those who wish to bet resort to illicit bookmaking operations and shady offshore websites."

FanDuel and DraftKings brought it out into the open, allowing gamblers – call them what they are – to wager each day on a group of specific athletes, using the fantasy sports model that exploded in popularity over the past few decades.

When those two Web sites began raking in millions, and began pouring that money back into an onslaught of television commercials during the NFL season, it was only a matter of time before someone noticed.

That someone was Eric Schneiderman, who happens to be New York's attorney general. This week, he'll be in court arguing that FanDuel and DraftKings are running an illegal gambling operation.

It doesn't take a law degree to know he's right.

"My job is to enforce the law," Schneiderman wrote Friday in his own op-ed in the *New York Daily News*. "For more than a century, New York laws have banned gambling. The few narrow exceptions that exist – which do not include sports betting – all come with strong regulation and oversight to ensure fairness and protect New Yorkers from fraud."

Rightfully, he scoffed at the companies' argument that they're not bound by gambling regulations because they are games of "skill." There is no question the most skillful players probably have the best chance of winning, but that applies to any form of wagering.

Information always improves the odds, whether it's reading the countless books on the best ways to play blackjack, to having an inside tip on a horse's injury before the Kentucky Derby, to coming up with a complex set of algorithms that gives a fantasy player the best chance.

But nothing (except perhaps fixing a sporting event) guarantees a winner.

That's when it becomes gambling.

"FanDuel and DraftKings have made the argument, over and over ... that they run 'games of skill' and are therefore legal," Schneiderman went on. "This is nonsense. New York law prohibits sports wagering – betting money on a future event outside of the gambler's control – regardless of the skill involved."

OK, so that's a slam dunk for the attorney general.

But let's get back to Silver.

Like Schneiderman, the NBA commish is right, too.

He notes that times have changed dramatically since 1992 when all the major leagues, the NBA included, pushed for Congress to approve the Professional and Amateur Sports Protection Act, which generally prohibits states from legalizing sports betting (Nevada and a handful of states with licensed sports pools were exempted).

"Gambling has increasingly become a popular and accepted form of entertainment in the United States," Silver said. "Most states offer lotteries. Over half of them have legal casinos."

He correctly notes that plenty of countries around the world allow betting on professional sports, most notably England, without any major issues. For years, one of the major arguments against legalized gambling was that athletes might be swayed to throw games in exchange for a big payout. Multi-million-dollar contracts have largely removed that risk.

Besides, as Silver points out, a legal but tightly regulated betting system would provide even more assurance that everything is on the up and up.

There are still issues to sort out, from verifying that players are old enough to wager to coming up with mechanisms to identify and help those who have a gambling addiction.

But that's for down the road.

In the short term, before the courts deliver a devastating blow, let's give thanks to FanDuel and DraftKings for being on the right side of this issue.

Even if they're on the wrong side for now.