

II. Exhibits

The exhibits identified below were admitted into evidence at the proceeding without objection. The Commission considered all exhibits, in conjunction with witness testimony, in reaching the final decision.

Exhibit 1: Investigations and Enforcement Bureau Sports Wagering Noncompliance Incident Review Report, dated February 13, 2023

Exhibit 2: Notice of March 14, 2023, Hearing

At the request of the Commission, Encore also provided responses to specific questions related to the facts of the noncompliance incident.

III. Analysis

Per statute, regulation, and the Massachusetts Sports Wagering Catalog, Operators may not offer wagers on any collegiate sport or athletic event involving any collegiate teams from the Commonwealth unless the teams are involved in a collegiate tournament. G.L. c. 23N, § 3 (defining the terms “[s]ports event” and “sporting event” and stating that they “shall not include...a collegiate sport or athletic event involving 1 or more collegiate teams from the commonwealth unless they are involved in a collegiate tournament”); 205 CMR 247.01(2)(a)(2) (“[a]n Operator shall not offer Sports Wagering on...Any Collegiate Sport or Athletic Event...Involving any collegiate teams from the Commonwealth, unless the teams are involved in a Collegiate Tournament); Massachusetts Sports Wagering Catalog (“Wagering on Massachusetts’ collegiate teams is not allowed unless it is involved in a tournament format event.”).

Encore stipulated to the contents of Exhibit 1, the Report. The Commission adopts the findings of fact contained in the Report and finds that the evidence presented at and subsequent to the adjudicatory proceeding, as described above, collectively demonstrates that by allowing wagers on the February 2, 2023, Boston College women’s basketball game, Encore violated G.L. c. 23N, § 3; 205 CMR 247.01(2)(a)(2); and the Massachusetts Sports Wagering Catalog.

The facts of the noncompliance incident are as follows. On February 2, 2023, Encore offered wagering on the regular season Boston College v. Notre Dame women’s basketball game. The game in question involved a Massachusetts collegiate team (Boston College) and was not part of a collegiate tournament. Wagering was offered for approximately 5 hours. One bet was placed on the game as part of a parlay wager. The total amount wagered was \$70.00 (\$22.74 for the Boston College-related leg of the parlay). The wager was placed at a kiosk. Encore learned of the noncompliance incident prior to the February 2, 2023, game being played, cancelled the Boston College leg of the parlay and kept the remaining legs of the parlay active.

At approximately 5:00 pm on February 2, 2023, an employee of GAN Nevada (hereinafter, “GAN”) noticed that the Boston College v. Notre Dame women’s basketball game was open for wagering. GAN is a technology platform that provides event management and other services to Encore and WynnBET.¹ WynnBET is a vendor to Encore.² The GAN employee informed WynnBET’s Sportsbook Operations Manager of the noncompliance incident. Upon notice, the WynnBET manager immediately shut off the market from wagering. At approximately 5:10 pm, the WynnBET manager notified Encore’s Sportsbook Manager of the noncompliance incident. The WynnBET and Encore legal teams were notified shortly thereafter. At approximately 6:15 pm, Ms. Krum notified Director Band of the noncompliance incident. Encore submitted an incident report to the Commission at approximately 9:00 am on February 3, 2023.

Wagering was allowed on the unauthorized event because GAN had not included the Boston College women’s basketball team on the blacklist of teams upon which wagering is not allowed. Specifically, the team had two names in the system and one of the two names was not included on the blacklist. GAN blamed the omission, in part, on the amount of time it had to compile the blacklist prior to the launch of sports wagering in the Commonwealth.³

After correcting the specific error in question, Encore instituted twice-daily morning and evening audits of Massachusetts college sports offerings to confirm that no Massachusetts regular season collegiate games are offered for wagering. A dedicated employee will be responsible for the audits. Additionally, GAN will provide system access to WynnBET personnel so that WynnBET will be responsible for granting final approval for all wagering offerings.

Per G.L. c. 23N, §§ 4, 16 and 205 CMR 232, and upon finding the violations described above, the Commission may issue a civil administrative penalty, impose conditions on Encore’s license, suspend Encore’s license, revoke Encore’s license, reprimand Encore, and/or assess a fine on Encore.

After consideration of the law and facts, the Commission has determined that Encore is to be assessed a fine of \$10,000. G.L. c. 23N, § 16(i)(ii) and (vii). The Commission finds that Encore was not in compliance with sports wagering regulations promulgated pursuant to G.L. c. 23N and that the business practices that led to the noncompliance incident were injurious to the policy objectives of G.L. c. 23N. *See id.* The purpose of the fine is two-fold, serving both as a consequence for violating statute, regulation, and the Massachusetts Sports Wagering Catalog and as a deterrent from letting the same or similar violations occur again.

1 For the purposes of the noncompliance incident, GAN serves as a vendor to Encore and holds a temporary vendor license.

2 For the purposes of the noncompliance incident, WynnBET serves as a vendor to Encore and holds a temporary vendor license. WynnBET is separately licensed as a tethered Category 3 Sports Wagering Operator. It is tethered to Category 1 Operator Encore.

3 Originally, Encore reported that wagering was allowed on the unauthorized event because GAN omitted NCAA women’s basketball entirely from the blacklist. At the March 14, 2023, adjudicatory hearing, Encore learned that only the Boston College women’s basketball team was omitted from the blacklist.

The Commission has determined that the amount of the fine is appropriate in light of the following considerations. First, the Commission appreciates that upon identifying the noncompliance incident, it self-reported to the Commission in a timely fashion. Encore also identified the noncompliance incident relatively quickly, and prior to the game in question being played. Only one wager was placed on the unauthorized event and for a relatively low dollar amount. Encore also took certain steps to prevent similar noncompliance events from happening in the future.

The noncompliance incident was, however, a serious violation of statute, regulation, and the Massachusetts Sports Wagering Catalog. First, in enacting chapter 23N, the legislature made clear that wagers on Massachusetts collegiate teams not involved in a collegiate tournament are prohibited. That prohibition was in place the day the statute was enacted. Regardless, Encore did not realize that the Boston College women's basketball team had not been included on the blacklist prior to the start of wagering in the Commonwealth. If, as was suggested, Encore's blacklist was not ready or fully vetted, Encore should have delayed its launch of sports wagering. Additionally, communication between Encore and its vendors must improve. Factual disputes between Encore and its vendors should not occur during adjudicatory hearings.⁴

IV. Conclusion


For the foregoing reasons, the Commission finds that Encore violated G.L. c. 23N, § 3; 205 CMR 247.01(2)(a)(2); and the Massachusetts Sports Wagering Catalog. As a result, the Commission hereby fines Encore \$10,000.

⁴ While the present decision applies to Category 1 Sports Wagering Operator Encore, the Commission notes that Occupational Licensees, Sports Wagering Vendor Licensees, and Sports Wagering Registrants are also potentially subject to discipline for their actions. 205 CMR 232.

SO ORDERED.

MASSACHUSETTS GAMING COMMISSION

By:



Cathy Judd-Stein, Chair



Bradford R. Hill, Commissioner



Jordan Maynard, Commissioner



Eileen M. O'Brien, Commissioner



Nakisha L. Skinner, Commissioner

DATED: July 21, 2023