



NOTICE OF MEETING AND AGENDA

Pursuant to the Massachusetts Open Meeting Law (G.L. c. 30A, §§ 18-25), St. 2022, c. 107, and St. 2023, c. 2, notice is hereby given of a public meeting of the **Massachusetts Gaming Commission**. The meeting will take place:

Thursday | March 21, 2024 | 10:45 a.m.
VIA REMOTE ACCESS: 1-646-741-5292
MEETING ID/ PARTICIPANT CODE: 112 382 2756
All meetings are streamed live at www.massgaming.com.

Please note that the Commission will conduct this public meeting remotely utilizing collaboration technology. Use of this technology is intended to ensure an adequate, alternative means of public access to the Commission's deliberations for any interested member of the public. If there is any technical problem with the Commission's remote connection, an alternative conference line will be noticed immediately on www.massgaming.com.

All documents and presentations related to this agenda will be available for your review on the morning of the meeting date by visiting our website and clicking on the News header, under the Meeting Archives drop-down.

PUBLIC MEETING - #509

1. Call to Order – Cathy Judd-Stein, Chair

2. Legal – Todd Grossman, Interim Executive Director & General Counsel; Carrie Torrisi, Deputy General Counsel; Justin Stempeck, Deputy General Counsel
 - a. Review and Approval of Draft Licensing Decisions of Category 1 and Category 3 Sports Wagering Operators
 - I. **American Wagering, Inc.** **VOTE**
 - II. Bally's Interactive, LLC **VOTE**
 - III. Betfair Interactive US LLC **VOTE**
 - IV. BetMGM **VOTE**
 - V. Betr Holdings, Inc. **VOTE**
 - VI. Digital Gaming Corporation USA **VOTE**
 - VII. Crown MA Gaming LLC **VOTE**
 - VIII. FBG Enterprises Opco LLC **VOTE**
 - IX. Blue Tarp reDevelopment LLC **VOTE**
 - X. Plainville Gaming Redevelopment LLC **VOTE**
 - XI. Penn Sports Interactive, LLC **VOTE**
 - XII. **PointsBet** **VOTE**
 - XIII. Encore Boston Harbor **VOTE**
 - XIV. Wynn Sports Interactive, Ltd. **VOTE**



Massachusetts Gaming Commission

3. Commissioner Updates

4. Other Business - Reserved for matters the Chair did not reasonably anticipate at the time of posting.

I certify that this Notice was posted as “Massachusetts Gaming Commission Meeting” at www.massgaming.com and emailed to regs@sec.state.ma.us. Posted to Website: March 19, 2024 | 10:00 a.m. EST | **REVISED: March 19, 2024 10:45 a.m.**

March 19, 2024

Cathy Judd-Stein

Cathy Judd-Stein, Chair

*If there are any questions pertaining to accessibility and/or further assistance is needed,
please email Grace.Robinson@massgaming.gov.*



Massachusetts Gaming Commission

**COMMONWEALTH OF MASSACHUSETTS
MASSACHUSETTS GAMING COMMISSION**

In the Matter of)
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Application of American Wagering, Inc. d/b/a Caesars)
Sportsbook a Tethered Category 3 Sports Wagering)
Operator License)
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**DECISION DEEMING AMERICAN WAGERING, INC. D/B/A CAESARS
SPORTSBOOK ELIGIBLE TO REQUEST A TEMPORARY TETHERED
CATEGORY 3 SPORTS WAGERING OPERATOR LICENSE**

I. Introduction

American Wagering, Inc. d/b/a Caesars Sportsbook (“Caesars”) applied to the Massachusetts Gaming Commission (“MGC” or “Commission”) for a Tethered Category 3 Sports Wagering License. Under G.L. c. 23N, the Commission may issue a Tethered Category 3 Sports Wagering License (“License”) to an entity that offers sports wagering in connection with a Category 1 or 2 license, and through a mobile application or other digital platform that meets the requirements of c. 23N and the rules and regulations of the Commission. For the following reasons, the Commission hereby deems Caesars eligible to request a License.

II. Procedural History

On November 21, 2022, the Commission received Caesars’ Sports Wagering License Application (“Application”), including the \$200,000 application fee. *See* G.L. c. 23N, § 7(A) and 205 CMR 214.01. The MGC Division of Licensing reviewed the Application for administrative sufficiency and determined that the application was sufficient. *See* 205 CMR 218.03. On December 12, 2022, the Commission held a virtual public meeting to hear public comments on all Tethered Category 3 Sports Wagering applications, *see* 205 CMR 218.05 and 205 CMR 218.06, which are contained in the Commission’s public record. On December 14 and 20, 2022, the Commission held a virtual public meeting to determine whether to issue Caesars a preliminary finding of suitability, which included hearing an informal presentation from Caesars and the Commission’s consultants. *See* 205 CMR 218.04(1)(a)-(b), 218.05(1)(b), 218.06(1). At those meetings, the Commission deliberated on the Application, *see* 205 CMR 218.06(4)-(5), and on December 20, 2022, found Caesars preliminary suitable and eligible to request a Temporary License. *See* 205 CMR 215.01(2)(c)-(d), 218.07(1)(a).

III. Findings and Evaluation

In evaluating whether to issue the Category 3 Sports Wagering License to Caesars, the Commission considered: all information in the application submitted by Caesars; the public comments made on December 12, 2022; the presentations made by Caesars and the

Commission’s external consultants¹ on December 14, 2022; and a written report prepared by the Investigations and Enforcement Bureau (“IEB” or “Bureau”) in accordance with 205 CMR 215.01(2)(b).

In accordance with 205 CMR 218.06(5), in determining whether to deem Caesars eligible to request a Temporary Tethered Category 3 Sports Wagering License, the Commission evaluated all materials and information in the record to determine whether a license award would benefit the Commonwealth, and considered the following factors:

- a) Caesars’ experience and expertise related to Sports Wagering, including:
 - 1. Caesars’ ability to offer Sports Wagering in the Commonwealth;
 - 2. A description of Caesars’ proposed Sports Wagering Platform;
 - 3. The technical features & operation of Caesars’ proposed Sports Wagering Platform;
- b) The economic impact and other benefits to the Commonwealth if Caesars was awarded a License, including:
 - 1. Employment opportunities within the Commonwealth;
 - 2. Projected revenue;
 - 3. Community engagement;
- c) Caesars’ proposed measures related to responsible gaming, including:
 - 1. Caesars’ responsible gaming policies;
 - 2. Caesars’ advertising and promotional plans;
 - 3. Caesars’ history of demonstrated commitment to responsible gaming;
- d) A description of Caesars’ willingness to foster racial, ethnic, and gender diversity, equity, and inclusion, including:
 - 1. Within Caesars’ workforce;
 - 2. Through Caesars’ supplier spend;
 - 3. In Caesars’ corporate structure;
- e) The technology that Caesars intended to use in its operation, including:
 - 1. Geofencing;
 - 2. Know your customer measures; and
 - 3. Technological expertise and reliability;
- f) The suitability of Caesars and its qualifiers, including:

¹ The consultants include RSM US LLP (“RSM”), which presented on Caesars’ financial projections; Gaming Laboratories International LLC (“GLI”), which presented on technology considerations; and the Commission’s Investigations and Enforcement Bureau (“IEB”), which presented on Caesars’ suitability.

1. Caesars' corporate integrity;
2. The integrity of Caesars' individual qualifiers;
3. Caesars' financial stability, integrity, and background;
4. Caesars' history of compliance with gaming or Sports Wagering licensing requirements in other jurisdictions; and

g) Any other appropriate factor, in the Commission's discretion.

After this review the Commission decided whether each section of Caesars' application addressing these factors failed to meet, met, or exceeded expectations.

The Commission finds there is substantial evidence in the record to conclude that Caesars' proposed Sports Wagering operation meets the requirements set forth in G.L. c.23N and 205 CMR 218. The Commission further finds there is substantial evidence to adopt the following specific findings of fact and conclusions of law related to Caesars' application.

A. Experience and Expertise Related to Sports Wagering

During its December 14, 2022, hearing, Caesars represented that it had one of the largest footprints of all sports wagering companies. Caesars reported that as of December 14, 2022, it operated in 27 states and the province of Ontario, offering a retail sportsbook in 22 states and the province of Ontario, and mobile sports betting in 19 states and the province of Ontario. As of December 14, 2022, Caesars had 17,500 employees across its sports and online divisions, including teams dedicated to technology, marketing, trading and risk management, and responsible gaming.

Caesars stated that it owned the majority of its sports betting platforms; and where it did not own the platform, it exercised control over the platform. For the purposes of its Application before the Commission, Caesars stated it is planning to use its Liberty platform in Massachusetts. Caesars represented that Liberty is its most updated and advanced platform and the platform it uses in the majority of its jurisdictions.

The Commission noted that Caesars submitted its Application for a Category 3 sports wagering license as an operator "tethered" to Encore Boston Harbor, a Category 1 sports wagering operator. When asked by the Commissioners to explain what its partnership with Encore Boston Harbor would entail, Caesars stated that its partnership would largely be a financial transaction. By partnering with Encore Boston Harbor, Caesars would be able to access a second brand. In exchange, Caesars would provide Encore Boston Harbor financial payments based on Caesars' success in the Commonwealth.

Overall, there is substantial evidence that Caesars has the experience and expertise required to develop and operate a Sports Wagering Platform. Therefore, Caesars' proposal in the experience and expertise category meets expectations.

SUMMARY OF EVALUATION BY CRITERIA	
Criteria	Finding
Caesars’ ability to offer Sports Wagering in the Commonwealth	<p>As of December 14, 2022, Caesars operated in 27 states and the province of Ontario, offering a retail sportsbook in 22 states and the province of Ontario, and mobile sports betting in 19 states and the province of Ontario. Caesars had 17,500 employees across its sports and online divisions and teams dedicated to technology, marketing, trading and risk management, and responsible gaming.</p> <p>For the reasons stated above, the Commission unanimously agreed that Caesars had sufficient ability to offer Sports Wagering in the Commonwealth.</p>
Description of Caesars’ proposed Sports Wagering Platform	Caesars plans to use its Liberty platform to operate its Sports Wagering platform in the Commonwealth. Caesars uses the Liberty platform in the majority of jurisdictions in which it operates, and Liberty is Caesars’ most advanced and updated platform. The Commission found Caesars’ description of the Liberty platform satisfactory.
Technical features and operation of Caesars’ proposed Sports Wagering Platform	Caesars described the technical features and operation of the proposed Liberty platform on pages 35-178 of its Application and the Commission found it satisfactory.

B. Economic Impact

During its December 14, 2022, presentation, Caesars stated that it continues to develop and refine its spending, marketing, and operational strategies to strengthen its position in the sports wagering marketing, and that it believes it is in a “solid position” to weather any potential downturns in that market.

Caesars stated that it plans to maximize its revenue in the Commonwealth by offering unique promotions and spending in ways that are data driven and optimized. While it had not yet finalized its advertising and promotional strategy, it plans to utilize a combination of TV, billboard, radio, direct mail, social media, and grassroots partnerships to reach patrons in the Commonwealth. Because the surrounding states had legalized sports betting (with the exception

of Vermont), Caesars’ focus was on converting customers from the illegal market to the legal market, which it planned to do through a combination of its customer service, reputation, and regulatory structure, specifically: multiple betting options, ability to bet in international sports markets, little down time and suspension in product, wide variety of funding, quick payouts, retention promotions and bonuses, and an integrated loyalty program.

Caesars represented that while its operations were based primarily in Las Vegas with some operations in Jersey City, Caesars had several employees that worked remotely, including seven who worked remotely from Massachusetts. Depending on the local strategies Caesars ultimately deployed, Caesars may hire more employees in the Commonwealth. In response to questions raised by Commissioners, Caesars confirmed that its current plan did not involve creating any new jobs in the Commonwealth, but that Caesars was “exploring local activation,” i.e., brand ambassadors to facilitate sign up of customers, that could potentially lead to a maximum of two new jobs in the Commonwealth.

The Commissioners raised concerns about Caesars’ plans to work with the Massachusetts Lottery. Caesars stated that while the Lottery was not a part of its initial analysis from a market perspective, Caesars would be happy to collaborate with the Lottery and any other applicable state agencies. The Commission encouraged Caesars to engage in discussions about how it could aid the Lottery with cross-marketing of its products.

Commissioners also raised concerns about an 18-wheel semi-truck Caesars has previously used in marketing initiatives. The goal of the truck was to highlight the Caesars brand so people associate Caesars with a bar or sporting event, and to provide in-person assistance to consumers interested in creating an account with Caesars or who may be having trouble with the Caesars platform. Caesars stated that the results of the truck promotion were not as anticipated and as a result, Caesars was not sure if it would deploy the truck in the Commonwealth. Caesars reassured the Commission that it had controls in place to prevent individuals under the age of 21 from accessing the truck.

Overall, there is substantial evidence that Caesars’ proposal in the economic impact category meets expectations.

SUMMARY OF EVALUATION BY CRITERIA	
Criteria	Finding
Employment opportunities within the Commonwealth	<p>During its December 14, 2022, presentation, Caesars stated it had seven employees who worked remotely from the Commonwealth. Depending on the local strategies Caesars ultimately deployed, it may hire more employees in the Commonwealth.</p> <p>The Commission was satisfied by this proposed employment plan.</p>

Projected revenue	Caesars described its projected Sports Wagering revenue on pages 193 and 195-201 of its Application and the Commission found it satisfactory.
Community engagement	<p>In its Application, Caesars stated its plans to support the community through social contribution (involvement in civic life and support for local development, including programs to accelerate economic development in partnership with local municipalities or nonprofits); corporate reinvestment (providing financial gifts to diverse local communities to help address social needs through the Caesars Foundation and property giving); and volunteering activities. During the December 14, 2022, hearing, Caesars stated that it planned to undertake those activities at both the local and national level.</p> <p>The Commission was satisfied by Caesars’ representations regarding its plans for community engagement.</p>

C. Responsible Gaming

Caesars stated that responsible gaming is a core part of its culture. To that end, Caesars sponsors public awareness and campaigns regarding problem gaming and underage gaming. Caesars also provides responsible gaming training to customer facing employees, so they can provide additional and specific information regarding responsible gaming to customers. Caesars participates in responsible gaming industry groups, such as the National Center for Problem Gambling and the Center for Responsible Gaming. Caesars abides by a marketing and advertising code and utilizes it as a guiding principle for its marketing and promotion efforts.

To demonstrate its commitment to responsible gaming, Caesars submitted two responsible gaming policies to the Commission. The first was a policy specific to the sportsbook Caesars would operate in Massachusetts, and included controls pertaining to self-exclusion, cooling off periods, and utilizing third-party responsible gaming resources. The second was a policy pertaining to responsible gaming for the entire Caesars company, and addressed patron tools, self-exclusion, and how to identify signs of problem gaming and refer a patron exhibiting such signs to responsible gaming interventions.

The Commission asked Caesars to explain how it planned to engage with GameSense, a critical component of the Commonwealth’s responsible gaming program, as reference to GameSense was not included in Caesars’ Application. Caesars stated it planned to adhere with all applicable GameSense requirements, that it did not have any concerns about integrating GameSense into its operation and would supplement its Application accordingly.

The Commission also raised questions about Caesars’ marketing code of conduct, as it did not appear that Caesars was adopting the American Gaming Association’s responsible marketing code of conduct with respect to the prohibition against marketing on college

campuses. Caesars stated it had its own marketing code of conduct and clarified that its code “aspires” and “adheres” to the spirit of the American Gaming Association’s. With respect to marketing on college campuses, Caesars stated that in 2001 when Caesars rebranded as Caesars’ Sportsbook, Caesars entered into a number of partnerships with brands, including media brands, leagues, and athletes, in an attempt to increase Caesars’ visibility. Caesars also entered partnerships with Michigan State and Louisiana State University, which have large alumni networks, as part of a larger effort to promote its brand to university alumni. Caesars’ agreements with those universities included provisions that Caesars’ efforts would be focused on those alumni who are over the age of 21. Caesars stated that while it generally did not advertise at those universities, it did advertise in those universities’ stadiums and arenas.

In response to this last representation, Commissioners asked Caesars to address its use of its 18-wheel truck in a tailgating area of a university, which seemed to contradict its prior representation that Caesars was careful not to advertise or market to those under the age of 21. Caesars stated it focuses its advertising and marketing to areas where the average age is over 21. Caesars stated that even when it deployed the truck, it designed “numerous controls to restrict direct marketing and avoid association with areas outside of the stadium and arena.” Caesars further stated that it did not plan to utilize the semi-truck in Massachusetts and is not pursuing any marketing agreements with universities and colleges in the Commonwealth.

The Commission went into executive session to discuss Caesars’ future marketing plans with Michigan State, Louisiana State, and other universities, and how Caesars calculated the percentage of underage individuals who had access to Caesars’ marketing materials in accordance with G.L. c. 30A, § 21(a)(7) and G.L. c. 23N, § 6(i). The Commission was ultimately satisfied that Caesars’ marketing plans adhered to its responsible gaming policies.

Overall, there is substantial evidence that Caesars’ proposal in the responsible gaming category meets expectations.

SUMMARY OF EVALUATION BY CRITERIA	
Criteria	Finding
Responsible gaming policies	As Caesars explained in its presentation at the December 14, 2022, hearing, Caesars practices responsible gaming in its customer service and patron education practices. Caesars employees are trained to educate patrons on responsible gaming, and Caesars patrons are provided responsible gaming tools in the sports wagering platform, so customers understand the risks of sports betting and are able to manage their experience on the platform accordingly. Caesars also deploys internal controls to ensure that only customers 21 and older can create a Caesars account and access the sports wagering platform. In addition, Caesars offers voluntary self-exclusion and cooling off programs. The Commission was satisfied by Caesars’ responsible gaming policies.

Advertising and promotional plans	<p>Caesars abides by a marketing and advertising code of conduct that includes a toll-free problem gambling help line on all advertisements.</p> <p>Caesars further described its advertising and promotional plans on pages 429 and 432-434 of its Application.</p> <p>The Commission was satisfied that Caesars’ advertising and promotional plans adhere to its responsible gaming policies.</p>
History of demonstrated commitment to responsible gaming	See Responsible Gaming Policies, above.

D. Diversity, Equity, and Inclusion

The Commission included Diversity, Equity, and Inclusion as stand-alone considerations to demonstrate the value it places on this category of an applicant’s application.

As explained by Caesars during the December 14, 2022, hearing, Caesars commits to diversity, equity, and inclusion through five pillars of its business: its employees, guests, community, suppliers, and advocacy. Caesars’ focus is on people, and supporting the well-being of its employees, guests, and the local community. To that end, Caesars engages in philanthropy, encourages its employees to volunteer in the community, and facilitates educational programs and equitable economic opportunities. On the latter goal, Caesars stated it had set “aggressive targets” for women and people of color in leadership roles, and was focusing on acquiring and retaining diverse, talented employees.

Commissioners asked Caesars to explain its diversity spending goals in greater detail. Caesars stated its goal was to spend 9.5% of its vendor budget with minority, women, and LGBTQ-owned businesses and other disadvantaged business enterprises. Caesars reported that it did not set sub-goals on how much it aimed to spend with each category of diverse vendor, as its overriding goal was to source quality vendors, engage with the community, and partner with diverse businesses. To that end, Caesars aimed to identify diverse businesses, certify those businesses as diverse businesses, and support those businesses in the markets in which Caesars operates. When asked how Caesars measures its diversity spending success, Caesars stated that it looks for an increase in spending with diverse businesses year-over-year.

Commissioners noted that Caesars did not appear to have met its diversity in leadership goals, and asked Caesars to explain what additional steps it was taking to meet those goals. Caesars replied that it was focusing on diversity recruitment and ensuring that job postings were reviewed through a diversity, equity, and inclusion lens prior to publishing and then disseminated to universities and organization that work with diverse populations. Once diverse employees are hired, Caesars supports their growth at the company by requiring

managers to undertake a conscious inclusion training, facilitating employee resource groups, providing diverse employees with high potential an “emerging leaders” summit, and improving employee compensation and benefits.

The Commission went into executive session to discuss Caesars’ spending with certain categories of diverse vendors in accordance with G.L. c. 30A, § 21(a)(7) and G.L. c. 23N, § 6(i). The Commission was ultimately satisfied with Caesars’ diversity spending.

There is therefore substantial evidence that Caesars’ commitment to Diversity and Inclusion exceeds expectations.

SUMMARY OF EVALUATION BY CRITERIA	
Criteria	Finding
Workforce	Caesars described its workforce on pages 205-206 of its Applications and the Commission found it satisfactory.
Supplier spend	Caesars described its supplier spend goals on pages 289-299 of its Application. Caesars further explained during its December 14, 2022, presentation that its goal was to spend 9.5% of its vendor budget with diverse businesses, and that 9.5% was its minimum, rather than maximum goal. The Commission was satisfied with Caesars’ supplier spending goals.
Corporate structure	Caesars described its corporate structure on pages 291-292 of its Application and the Commission found it satisfactory.

E. Technology

Caesars stated during the December 14, 2022, hearing that if licensed, it planned to utilize its Liberty platform, which it first deployed in New Jersey in 2019. If licensed, Caesars planned to incorporate a data center in Massachusetts so Caesars could provide 24/7 engineering support to the platform and customers. As of December 14, 2022, the Liberty platform was utilized in 19 jurisdictions and was also a part of Caesars’ retail operations.

Caesars demonstrated its product to the Commission, from checking account balance, rewards status, accessing responsible gaming resources, setting responsible gaming limits, and cashing out. Caesars stated that it would be able to customize the responsible gaming tools available in its Sports Wagering Platform to conform with the Commission’s requirements.

In response to questions raised by the Commission, Caesars clarified that customer service was available by live chat 24/7. Customer service over the phone was only available from 8:00 AM Eastern/5:00 AM Pacific to 4:00 AM Eastern/1:00 AM Pacific because Caesars’ customer

service team experiences a low call volume from 4:00 AM Eastern/1:00 AM Pacific to 8:00 AM Eastern/5:00 AM Pacific.

Overall, there is substantial evidence that Caesars’ proposal in the technology category meets expectations.

SUMMARY OF EVALUATION BY CRITERIA	
Criteria	Finding
Geofencing	Caesars described its geofencing measures on page 450-451 of its Application and the Commission found it satisfactory.
Know your customer	Caesars described its know your customer measures on page 452-453 of its Application and the Commission found it satisfactory.
Technological expertise and reliability	Caesars described its technological expertise and reliability on page 454-458 of its Application and the Commission found it satisfactory.

F. Suitability of Caesars and Its Qualifiers

During the December 14, 2022, meeting, the IEB noted that Caesars had previously applied for a casino license, but ultimately withdrew before the IEB could render a suitability determination. The IEB recognized that while at that time the IEB had financial concerns about Caesars, Caesars’ casino application was submitted nearly 10 years ago. Since that prior application, Caesars has new leadership. Caesars also clarified that both the subsidiary and parent company involved in the prior application were no longer associated with the Caesars appearing before the Commission.

Commissioners raised concerns about the withdrawal of a license application in Virginia and a settled disciplinary action in Nevada. Caesars explained that it withdrew its application for a retail license in Virginia based on Caesars Entertainment Inc.’s pending acquisition of William Hill, which was pursuing a mobile license in Virginia at the same time. Caesars ultimately withdrew its Virginia retail license application in what it described as a “technical withdrawal” because a Virginia statute limited the number of licenses available, and Caesars decided to proceed with only one application. Caesars further clarified that it withdrew the retail license application before Virginia rendered a suitability decision.

As for the Nevada proceeding, Caesars was subject to a disciplinary action based on its failure to notify the Nevada Control Board of duplicate bets that occurred on its mobile platform and a suspected theft in one of its Nevada retail locations. Caesars stated that the duplicate bets arose from issues with an older platform of Caesars, which Caesars is in the process of phasing out. When Caesars identified the duplicate bets, it reported the bets, and reviewed transactions impacted by the error. Patrons who placed losing wagers were reimbursed for the loss, while patrons who placed winning wagers retained their winnings.

Caesars stated that since this incident, it had retrained its employees and improved its training on identifying issues that require regulatory reporting.

Commissioners also noted that Caesars appears to have repeated problems with its voluntary self-exclusion program, and asked Caesars to address those issues. Caesars stated that it continues to refine its responsible gaming processes to ensure it has an accurate and robust database of excluded people in each jurisdiction. To the extent that Caesars has faced enforcement action due to errors with its voluntary self-exclusion program, Caesars represented those were human errors that have now been eliminated, as Caesars has automated its voluntary self-exclusion program. Additionally, Caesars conducts annual audits and “random reviews” to ensure the voluntary self-exclusion program is operating as expected. Caesars also provides continuous training to its employees on responsible gaming resources.

Commissioners also raised concerns about Caesars’ past violations that included allowing the use of credit cards in a prohibited jurisdiction. Caesars stated that it has improved its product and compliance teams’ communication to ensure that Caesars has all necessary approvals prior to implementing a process change. Caesars further reported that after every violation, Caesars updates its change management plan to ensure that the violation will not occur again. As Caesars prepares to launch in a Massachusetts, Caesars represented it will set up a meeting with Commission staff to review a checklist of things that require approval prior to launch.

Based on the 2013 suitability report prepared in response to Caesars’ 2013 casino license application, Commissioners also asked Caesars to address its current compliance structure. Caesars noted that almost all the individuals with decision making capacities in 2013 were no longer with Caesars Entertainment Inc., and that it had completely turned over all members of its compliance committee and senior legal team. Its current compliance committee was composed of five members, one of whom was independent (currently Bud Hicks, a regulatory attorney in Nevada), two of whom were members of Caesars’ board (Mike Hicks and Frank Fahrenkopf), and two of whom were senior executives (the COO and CAO). In addition, the CLO serves as an ex-officio member of the compliance committee.

The Commission went into executive session to discuss past enforcement actions occurring in the District of Columbia and before the Cherokee Tribal Gaming Commission and Caesars’ market share, player acquisition and revenue projections in accordance with G.L. c. 30A, § 21(a)(7) and G.L. c. 23N, § 6(i). The Commission ultimately concluded those matters did not negatively impact Caesars’ suitability and would be further investigated.

The Commission is satisfied with Caesars’ suitability, and that of its qualifiers. It therefore found Caesars preliminarily suitable, and concluded there is substantial evidence that Caesars’ suitability meets expectations.

SUMMARY OF EVALUATION BY CRITERIA	
Criteria	Finding

Corporate integrity	Caesars is suitable to hold a Sports Wagering license.
Individual qualifier integrity	The IEB's investigative report prepared for the purposes of this License decision has not revealed any disqualifying information concerning Caesars or its qualifiers' integrity, honesty, good character, or reputation.
Financial stability, integrity, and background	Caesars' Independent Audit Report and Material Weakness Statement submitted pursuant to 205 CMR 139.07(1), and its quarterly spending reports, have not revealed any disqualifying information concerning Caesars or its financial stability, integrity, or background.
History of compliance	See narrative description of Suitability of Caesars and its qualifiers, above.

IV. Award

THE COMMISSION FINDS THAT THERE IS SUBSTANTIAL EVIDENCE IN THE RECORD THAT CAESARS' APPLICATION MEETS EXPECTATIONS IN ALL CATEGORIES AND THAT CAESARS IS ELIGIBLE FOR A TEMPORARY TETHERED CATEGORY 3 SPORTS WAGERING LICENSE

On December 20, 2022, the Commission deemed Caesars ("Licensee") eligible to request a Temporary Tethered Category 3 Sports Wagering Operator License ("License") pursuant to the terms and conditions of this Agreement ("Agreement"). On November 21, 2022, the MGC received Caesars' request for a License, and an initial licensing fee of \$1,000,000 payable to the Commission. *See* 205 CMR 219.02(1). On December 20, 2022, the Commission voted to issue the requested License. *See* 205 CMR 219.02(3).

This License is subject to the following conditions:

1. Compliance with all of the requirements of G.L. c. 23N, as now in effect and as hereafter amended and 205 CMR, as now in effect and as hereafter amended.
2. Compliance with all applicable federal, state, and local laws, rules and regulations, now in effect or as hereafter amended or promulgated.
3. Compliance with the license conditions required by 205 CMR 220, namely:
 - a. That the Licensee obtain an Operation Certificate before conducting any Sports Wagering in the Commonwealth;
 - b. That the Licensee comply with all terms and conditions of its license and Operation Certificate;

- c. That the Licensee comply with G.L. c. 23N and all rules and regulations of the Commission;
 - d. That the Licensee make all required payments to the Commission in a timely manner;
 - e. That the Licensee maintain its suitability to hold a Sports Wagering license; and
 - f. That the Licensee conduct Sports Wagering in accordance with its approved system of internal controls, and in accordance with its approved house rules, in accordance with G.L. c. 23N, § 10(a) and with 205 CMR.
4. The Licensee post the License, in a form prescribed by the Commission, in a location continuously conspicuous to the public on the Licensee's Sports Wagering Platform and website at all times.
 5. Payment of assessments made pursuant 205 CMR 221.00 in accordance with that regulation.
 6. The Sports Wagering Operation shall substantially conform to the information included in the application filed by the Licensee and abide by all affirmative statements made in the Licensee's application.
 7. The term of the License awarded to Licensee commences upon February 23, 2023, and shall expire as set out in 205 CMR 219.03.

SO ORDERED

MASSACHUSETTS GAMING COMMISSION

Cathy Judd-Stein, Chair

Eileen M. O'Brien, Commissioner

Bradford R. Hill, Commissioner

Nakisha L. Skinner, Commissioner

Jordan M. Maynard, Commissioner

**COMMONWEALTH OF MASSACHUSETTS
MASSACHUSETTS GAMING COMMISSION**

In the Matter of)
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Application of Bally’s Interactive, LLC for a Temporary)
Untethered Category 3 Sports Wagering Operator License)
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**DECISION DEEMING BALLY’S INTERACTIVE, LLC
ELIGIBLE TO REQUEST A TEMPORARY
UNTETHERED CATEGORY 3 SPORTS WAGERING OPERATOR LICENSE**

I. Introduction

Bally’s Interactive, LLC (“Bally’s”) applied to the Massachusetts Gaming Commission (“MGC” or “Commission”) for an Untethered Category 3 Sports Wagering License. Under G.L. c. 23N, the Commission may issue up to seven Untethered Category 3 Licenses (“License”) to entities that offer sports wagering through mobile applications or other digital platforms that meet the requirements of c. 23N and the rules and regulations of the Commission. For the following reasons, the Commission hereby deems Bally’s eligible to request a temporary license.

II. Procedural History

On November 15, 2022, the Commission received Bally’s Sports Wagering License Application (“Application”), including the \$200,000 application fee. *See* G.L. c. 23N, § 7(A) and 205 CMR 214.01. The MGC Division of Licensing reviewed the Sports Wagering License Application for administrative sufficiency and determined that the application was sufficient. *See* 205 CMR 218.03. On January 3, 2023, the Commission held a virtual public meeting in order to hear public comment on all Category 3 Sports Wagering applications, *see* 205 CMR 218.05 and 205 CMR 218.06, which are contained in the Commission’s public record. On January 6, 2023, the Commission held a virtual public meeting to determine whether to issue Bally’s a preliminary finding of suitability, which included hearing an informal presentation from Bally’s and the Commission’s consultants. *See* 205 CMR 218.04(1)(a)-(b), 218.05(1)(b), 218.06(1). At that same meeting, the Commission deliberated on the Application, *see* 205 CMR 218.06(4)-(5), and on January 19, 2023, the Commission found Bally’s preliminarily suitable and eligible to request a Temporary License. *See* 205 CMR 215.01(2)(c)-(d), 218.07(1)(a).

III. Findings and Evaluation

In evaluating whether to issue the Category 3 Sports Wagering License to Bally’s, the Commission considered: all information in the application submitted by Bally’s; the public comments made on January 3, 2023; the presentations made by Bally’s and the Commission’s

external consultants¹ on January 13, 2023; and a written report prepared by the Investigations and Enforcement Bureau (“IEB” or “Bureau”) in accordance with 205 CMR 215.01(2)(b).

In accordance with 205 CMR 218.06(5)-(6), in determining whether to deem Bally’s eligible to request a Temporary Sports Wagering License, the Commission evaluated all materials and information in the record to determine whether a license award would benefit the Commonwealth, and considered the following factors:

- a) Bally’s experience and expertise related to Sports Wagering, including:
 - 1. Bally’s ability to offer Sports Wagering in the Commonwealth;
 - 2. A description of Bally’s proposed Sports Wagering Platform;
 - 3. The technical features and operation of Bally’s proposed Sports Wagering Platform;

- b) The economic impact and other benefits to the Commonwealth if Bally’s is awarded a License, including:
 - 1. Employment opportunities within the Commonwealth;
 - 2. The projected revenue from wagering operations, and tax revenue to the Commonwealth;
 - 3. Community engagement;

- c) Bally’s proposed measures related to responsible gaming, including:
 - 1. Bally’s responsible gaming policies;
 - 2. Bally’s advertising and promotional plans;
 - 3. Bally’s history of demonstrated commitment to responsible gaming;

- d) A description of Bally’s willingness to foster racial, ethnic, and gender diversity, equity, and inclusion, including:
 - 1. Within Bally’s workforce;
 - 2. Through Bally’s supplier spend;
 - 3. In Bally’s corporate structure;

- e) The technology that Bally’s intends to use in its operation, including:
 - 1. Geofencing;
 - 2. Know-your-customer measures; and
 - 3. Technological expertise and reliability;

¹ The consultants include RSM US LLP (“RSM”), which presented on Bally’s financial projections; Gaming Laboratories International LLC (“GLI”), which presented on technology considerations; and the Commission’s Investigations and Enforcement Bureau (“IEB”), which presented on Bally’s suitability.

- f) The suitability of Bally’s and its qualifiers, including:
1. Whether Bally’s can be or has been determined suitable in accordance with 205 CMR 215;
 2. Bally’s and all parties in interest to the license’s integrity, honesty, good character, and reputation;
 3. Bally’s financial stability, integrity, and background;
 4. Bally’s history of compliance with gaming or sports wagering licensing requirements in other jurisdictions;
 5. Whether Bally’s is a defendant in litigation involving its business practices; and
- g) Any other appropriate factor, in the Commission’s discretion.

In each case, the Commission decided whether each section of Bally’s application addressing these factors failed to meet, met, or exceeded expectations.

Ultimately, the Commission finds there is substantial evidence in the record to conclude that Bally’s proposed sports wagering operation meets the requirements set forth in G.L. c.23N and 205 CMR 218. The Commission adopts the following specific findings of fact and conclusions of law for Bally’s Application.

A. Experience and Expertise Related to Sports Wagering

Bally’s presented extensively on its international experience in sports wagering. Bally’s noted that the Gamesys PAM platform on which it operates has been in place in the UK for over a decade. Commissioners inquired about Bally’s bet types, including “if” bets, exotic parlay bets and progressive parlay bets.

Overall, there is substantial evidence that Bally’s proposal in the expertise and experience category meets expectations.

SUMMARY OF EVALUATION BY CRITERIA	
Criteria	Finding
Bally’s ability to offer Sports Wagering in the Commonwealth	With the merging of Bally’s, Bet.Works and Gamesys, Bally’s Interactive acquired and continued to build a platform and managed-services provider on which to launch its online sports betting offering to the respective markets. Bally’s initially rolled out launches of the Bally Bet app in Colorado, Iowa, Indiana, and Virginia, which was followed by introducing the updated technology (after the completing of the Gamesys transaction) to Arizona, New York and Ontario. The Bally’s Interactive technical team has extensive experience undergoing and successfully completing GLI testing (both 19 and 33) in five states.

	<p>The Bally’s team has decades of combined experience working with various provincial and state regulators. Members of Bally’s staff have been key members in launching various US casinos and sportsbooks (both retail and online) and participated in the development of the New Jersey online regulatory framework. Bally’s regulatory advisor worked for the New Jersey Division of Gaming Enforcement for 17 years. The Bally’s team has worked closely with the Iowa Racing and Gaming Commission and the South Dakota Commission on Gaming to help develop their sports betting regulations.</p> <p>Bally Bet, through Bally’s Interactive and affiliated entities, is licensed in the following jurisdictions: New York, Arizona, Colorado, Indiana, Iowa, Virginia, Ontario, Tennessee, and is pending in Maryland, Illinois, and Ohio.</p> <p>The Commission was satisfied by Bally’s ability to offer Sports Wagering in the Commonwealth.</p>
<p>Description of Bally’s proposed Sports Wagering Platform</p>	<p>The Bally Bet sportsbook will allow patrons to bet on over 600 market types and 70 different sports and competitions. In addition to the standard bet types, such as straights, totals (over/under), parlays, futures, and props, Bally’s will offer a variety of options including exotic parlays, if bets, “cash out,” and live betting. Most of Bally’s supported markets and leagues are those followed by U.S. bettors, including football (NFL, NCAA), baseball (MLB, NCAA), basketball (NBA, WNBA, NCAA), Golf, NHL, MMA, and eSports.</p> <p>Through the merging of Gamesys Group, Bally’s incorporated its world-class online gambling platform (Excite Platform) as a core component (PAM) for the new Bally Bet platform.</p> <p>Bally’s Las Vegas-based risk team provides risk management services for Bally Bet. The Risk and Trading team receives betting data from a variety of sports data companies including Don Best, SportRadar, and SportsIQ to set odds for each approved event. The Bally’s team can customize the feed to each jurisdiction based on approved events and most importantly prevents unauthorized events from being presented by jurisdiction.</p> <p>The Commission was satisfied by this described plan for Sports Wagering operations.</p>
<p>Technical features and operation of Bally’s proposed Sports Wagering Platform</p>	<p>Bally’s described the technical features and operation of its proposed Sports Wagering Platform on pages 68-72 of its Application and the Commission found it satisfactory.</p>

B. Economic Impact

Commissioners inquired about recruiting efforts at local colleges and universities and how Bally’s ensures that employees and interns are of legal age. Commissioners also inquired about Bally’s plans for recruiting employees in the Commonwealth and asked Bally’s to supplement its application with a list of specific jobs it plans to have in state.

Commissioners asked about Bally’s community involvement and expressed concern with the difficulty of ensuring community involvement for remote operators. Bally’s described the impact it has made through the Bally’s Foundation and explained its extensive network of volunteer opportunities for employees.

Overall, there is substantial evidence that Bally’s proposal in the economic impact category meets expectations.

SUMMARY OF EVALUATION BY CRITERIA	
Criteria	Finding
Employment opportunities	<p>Bally’s will seek to initiate partnerships with local colleges and universities that offer entry points for the development of customized curriculum in the Gaming industry. Bally’s may also engage the Massachusetts workforce in entrepreneurship, apprenticeships, and vocational learning for those seeking participation in certificate programs or associate degrees in hospitality, tourism, software development and related areas in alignment with the needs of the industry.</p> <p>The Commission was satisfied by this proposed employment plan.</p>
Projected revenue from wagering operations, and tax revenue	<p>Bally’s described its projected Sports Wagering revenue on pages 66 and 74-78 of its Application and the Commission found it satisfactory.</p>
Community engagement	<p>Across the entire Bally’s network, the company supports organizations through charitable giving and sponsorship. Bally’s has sponsored Pride Month events in the US. New relationships with the National LGBT Chamber of Commerce (NGLCC) are in development for 2023. The Company will also initiate relationships with non-profit and mission-based organizations like the Urban League, the United Way, and organizations supporting youth in sports and education.</p> <p>The Bally’s Foundation is an independent charity organization funded by Bally’s Corporation to address issues of mental health. The Foundation operates as an independent charity; it is also inextricably linked with Bally’s and its subsidiaries.</p>

	<p>Bally’s has also agreed to work on a partnership with the Massachusetts Lottery.</p> <p>The Commission was satisfied by Bally’s representations regarding its past, ongoing, and future plans for community engagement.</p>
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C. Responsible Gaming

Commissioners inquired about a variety of responsible gaming elements of Bally’s proposal. For example, they expressed concern with in-app real-time marketing. In response, Bally’s explained the player protections the company uses in the UK, noting that players have the ability to set their own limits. Bally’s can also set any limit on any player based on myriad information and explained that these same features could be included in Bally’s product in Massachusetts.

Commissioners also expressed concern with advertisements on mass transit, as a significant number of children use mass transit to get to school in Massachusetts. Bally’s agreed that it would keep advertising off mass transit or only advertise during times where children are less likely to be on transit if the Commission so decides.

Overall, there is substantial evidence that Bally’s proposal in the responsible gaming category meets expectations.

SUMMARY OF EVALUATION BY CRITERIA	
Criteria	Finding
Responsible Gaming Policies	<p>All of Bally’s Interactive’s newly hired Operations team members (including Customer Service, Fraud, Payments, KYC, and Quality/Excellence Teams) attend a 2-hour training on Responsible Gaming (“RG”). This presentation was created in conjunction with the Council on Compulsive Gambling for New Jersey and includes clinical-based training to help identify at-risk gamblers and training for Bally’s systems and features that are available for patrons to manage their own limitations. Annually, all team members are required to re-attend this two-hour training. Team members may also be required to attend this training before their annual renewal if they exhibit any concerns with their knowledge level when it comes to Responsible Gaming.</p> <p>The Responsible Gaming Manager, Operational Excellence Manager, and Director of Operational Excellence have all attended and passed a 30-hour enhanced training on Responsible Gaming.</p>

Bally Bet's site and apps prominently display RG logos at the top, linking to resources for patrons to learn more about responsible gaming. A responsible gaming link is present in the footer of all website content pages. A robust FAQ section of the site includes a dedicated RG portion that educates players of both on-site/in-app capabilities as well as outside resources to manage their gambling.

Bally's Interactive participates in Responsible Gaming Educational Awareness Months in March and September, proactively reminding patrons to bet responsibly and providing them with education and resources to best navigate their gaming experiences.

Bally's Interactive's Compliance, Legal and Marketing teams conduct a weekly session to review all proposed marketing and advertising initiatives to ensure that campaigns are compliant with all applicable regulations as well as Bally's interactive's Responsible Gaming Standards. Absent approval from this group advertising, promotional and marketing campaigns are prohibited from being initiated. Reviews focus on regulatory standards surrounding promotional mechanics, responsible gaming messaging and potential negative impact on the community.

Bally's Interactive staffs a team of Gaming Finance experts to review all high-value or high-risk financial transactions against applicable AML/FinCEN regulations. They are additionally reviewed by a dedicated Responsible Gaming Manager to identify patrons who may be gaming in a harmful way. If either group is uncomfortable with the levels at which a patron is playing, a process is in place to engage with the patron.

Bally's Interactive is currently working on the development of an automated multi-checkpoint system that will allow at-risk patrons to be identified and raised for review. Based on the player's risk profile, Bally's Interactive will proactively engage with the patron and provide various levels of support, including site/App capabilities to limit play, resources for patrons to assess and manage gambling, educational videos explaining the signs/risks/harm of problem gambling, imposing limits at Bally Interactive's discretion, and the full closure of the account in extreme circumstances.

The Commission was satisfied by Bally's responsible gaming policies.

<p>Advertising and Promotional Plans</p>	<p>Bally Bet has employed numerous tactics and strategies related to marketing its gaming products and services upon entering a new state. With forty percent (40%) of the Rhode Island customer base residing in Massachusetts, Bally’s has a unique opportunity to cross-sell its sportsbook to players that already have a built-in interest in gaming. Additionally, Bally’s plans to employ a similar strategy by investing in the brand power and fan bases of sports organizations in Massachusetts has it has done elsewhere with franchises such as the Cleveland Browns, Phoenix Mercury and most recently, the New York Yankees. Further, Bally’s purchase of Gamesys has given the company access to proprietary tools, machine learning, and an overall knowledgebase of digital marketing to enhance its marketing strategy.</p> <p>Bally’s will utilize channels such as paid search, paid social and display and Out-of-Home advertising to build up its database in the Commonwealth. Bally’s plans to take advantage of marketing opportunities related to public transit. In addition, Bally’s will use streaming TV/OTT services to segment and target the sports customer to help build its brand and drive users to the platform.</p>
<p>History of Dedicated Commitment to Responsible Gaming</p>	<p>Bally’s Corporation partnered with Future Anthem to analyze the extent to which player markers of harm may be driven by the games they choose to play.</p> <p>Bally’s Corporation will continue its partnerships with the NCPG as well as the AGA to proactively educate patrons about the harms associated with gambling and how to mitigate them.</p> <p>In 2020, Bally's spent more than 4,500 hours training staff members. The International Center for Responsible Gaming (ICRG) recently received a \$600,000 donation from Bally’s Corporation to support multi-year, cutting-edge scientific research on gambling among young adults and the usage and effectiveness of responsible gambling tools.</p> <p>The Commission was satisfied that Bally’s advertising and promotional plans would adhere to its responsible gaming policies.</p>

D. Diversity, Equity, and Inclusion

The Commission included Diversity, Equity, and Inclusion as stand-alone considerations to demonstrate the value it places on this category of an applicant’s application.

Commissioners asked Bally’s to expand on its efforts to ensure DEI in the organization. Bally’s explained that it has a DEI manager who works out of Rhode Island who specifically tracks the company’s DEI data.

Overall, there is substantial evidence that Bally’s proposal in the Diversity and Inclusion category meets expectations.

SUMMARY OF EVALUATION BY CRITERIA	
Criteria	Finding
DEI within the workforce	<p>Bally’s retail properties are 51% female. Minorities make up 50% of Bally’s employees across its 17 casinos in 11 states, and the employee mix is highly representative of each property and the market demographics.</p> <p>Bally’s efforts to recruit and promote diversity in its workforce include but are not limited to posting employment opportunities in newsprint, radio, tv/media, and/or social media platforms, and attending relevant events at local institutions of higher education like the University of Massachusetts - Boston. Bally’s plans to initiate partnerships with local colleges and universities to offer entry points for the development of customized Gaming industry curriculum. Bally’s also intends to partner with other organizations to develop opportunities for entrepreneurship, apprenticeships, and vocational learning in the form of certificate programs or associate degrees in hospitality, tourism, and related areas in alignment with the needs of the industry.</p> <p>Bally’s strives to promote employees from within its own workforce to ensure promotion and recruitment of diverse candidates in managerial and leadership roles. Currently, the Bally’s strategy to create a continuous pipeline of upwardly mobile employees is fueled by UKG, a system that allows for tracking of administrative human resources functions while integrating recruitment tools that connect supervisors and their teams. Bally’s also utilizes professional development and leadership training portals, Discover U and Hone, which offer employees professional development.</p> <p>The Commission was satisfied by Bally’s workforce goals.</p>
DEI through supplier spend	<p>Bally’s will partner with Minority Business Enterprises (“MBEs”) and Women Owned Business Enterprises (“WBEs”), Service Disabled and Veteran Owned Business Enterprises (“VOBEs”), Lesbian, Gay, Bisexual, and Transgender Business Enterprises, Business Enterprises operated by People with</p>

	<p>Disabilities, or organizations that support people with disabilities.</p> <p>Bally’s will initiate relationships with The Massachusetts Supplier Diversity Office (SDO) and work with the Governor’s Office of Access, Opportunity, and Community Affairs to review legislative or aspirational spend goals and align diversity spend opportunities with state requirements to meet agreed upon goals for MBE, WBE and VOBES. Bally’s is committed to working with “certified” Massachusetts businesses and non-profit organizations. Tracey G. Wiley is the Director of Diversity, Equity and Inclusion for Bally’s Corporation and brings a 20-year history of collaborating with diverse suppliers and small businesses in the non-profit and government sectors. She has led organizations like the Capital Region Minority Supplier Development Council and the former, Virginia Minority Supplier Development Council, now the Carolinas Virginia Minority Supplier Development Council in working with hundreds of minority businesses and over 200 Fortune 500 Corporations.</p> <p>Bally’s will seek membership in the Greater New England Minority Supplier Development Council to gain access to additional relationships with certified minority businesses. Bally’s will also align with other national organizations including the Women’s Business Enterprise National Council and their local affiliate to ensure sourcing opportunities to women-owned businesses.</p> <p>The Commission was satisfied by Bally’s supplier spend goals.</p>
<p>DEI in corporate structure</p>	<p>Bally’s has created an ESG Steering Committee to oversee and provide executive sponsorship for its corporate ESG strategy, goals and initiatives.</p> <p>Anita Iwugo leads Diversity, Equity, and Inclusion efforts for Bally’s Interactive. She brings over a decade of experience in technology, human rights, and developing the Company’s ERGs in the UK, and is based in London.</p> <p>The Commission was satisfied by the DEI efforts in Bally’s corporate structure.</p>

E. Technology

Bally’s uses its proprietary Excite gaming platform. Excite consists of a PAM, a high-performance wagering system, integration with KYC providers, and real-time marketing. The

platform is supported 24/7 by technology and operations teams in Europe and North America.

Overall, there is substantial evidence that Bally’s proposal in the technology category meets expectations.

SUMMARY OF EVALUATION BY CRITERIA	
Criteria	Finding
Geofencing	Bally’s described its geofencing measures on pages 60, 68, and 93-99 in its Application and the Commission found this portion of the application satisfactory.
Know your customer measures	Bally’s described its know your customer measures on pages 101-102 of its Application and the Commission found this portion of the application satisfactory.
Technological expertise and reliability	Bally’s described its technological expertise and reliability measures on page 68-70 and 108-113 of its Application and the Commission found this portion of the application satisfactory.

F. Suitability of Bally’s and Its Qualifiers

Commissioners noted that much of the information Bally’s provided with respect to suitability was at the parent company level, and expressed concern that although the parent company is well funded, it could still decide not to continue to fund sports wagering in the Commonwealth at any time. Bally’s noted that the decision to enter a new jurisdiction is an expensive investment, which in and of itself is an indication that the parent company would likely not easily pull out of the state.

Overall, there is substantial evidence that Bally’s proposal in the suitability category meets expectations.

SUMMARY OF EVALUATION BY CRITERIA	
Criteria	Finding
Suitability in accordance with 205 CMR 215	Bally’s is preliminarily suitable to hold a sports wagering license.
Bally’s and all parties in interest to the license’s integrity, honesty, good character and reputation	The IEB’s investigative report prepared for the purposes of this License decision has not revealed any disqualifying information concerning Bally’s or its qualifiers’ integrity, honesty, good character, or reputation.
Bally’s financial stability, integrity, and background	Bally’s Independent Audit Report and Material Weakness Statement submitted pursuant to 205 CMR 139.07(1), and its quarterly spending reports, have not revealed any disqualifying information concerning Bally’s or its financial stability, integrity, or background.

<p>Bally’s history of compliance with gaming or sports wagering licensing requirements in other jurisdictions</p>	<p>Bally’s Interactive was issued fines by the Indiana Gaming Commission (IGC) for \$1,500 when a media partner mistakenly aired a sports wagering promotion on its streaming service prior to Bally’s Interactive receiving approval for the promotion from the IGC. In response, the media partner agreed to provide Bally’s Interactive with the planned streaming schedule along with the broadcast advertising schedule.</p> <p>The IGC also issued Bally’s Interactive a \$500 fine for failing to timely notify the IGC of a position title change for a PD-1 license holder, a \$2,500 fine for multiple late notifications of employee terminations, a \$1,000 fine for the delayed submission of a self-exclusion reconciliation audit, and a \$1,625 for multiple discrepancies on the required self-exclusion audit. In response, Bally’s Interactive hired a dedicated Licensing Analyst and worked with the IGC and Bally’s Evansville Casino to enhance the self-exclusion reconciliation process.</p>
<p>Whether Bally’s is a defendant in litigation involving its business practices</p>	<p>In November 2021, Dr. Laila Mintas sued Betworks and David Wang (Betworks’ co-founder), and the Bally’s entities, as successors-in-interest, for fraud, failure to pay wages, breach of contract, and related contractual claims, alleging the defendants breached her employment agreement and is owed wages (\$60K) and stock worth (\$120K). Mintas is also seeking an undetermined amount of the value of the stock after Bally’s acquired Betworks. David Wang is separately seeking to be indemnified by Bally’s. On March 18, 2022, the case was dismissed without prejudice after parties agreed to arbitration. Discovery is ongoing.</p> <p>In May 2021, Georgian Pine (GP) filed an arbitration demand against Betworks Corp and Betworks (US), LLC, alleging the defendants and David Wang (Betworks’ co-founder) breached a consulting agreement. GP is seeking \$9.75 million as the value of unpaid stock. Bally’s requested indemnification from David Wang, pursuant to an indemnification agreement. The parties have agreed to arbitration and discovery is ongoing.</p>
<p>Any other appropriate factor in the Commission’s discretion</p>	<p>The Commission was concerned with Bally’s intention not to go live until Quarter 1 of 2024, despite having gone live in Ohio in January 2023. The Commission discussed conditioning Bally’s license on Bally’s agreeing not to transfer the license, but ultimately determined that such a condition would already be in place for all licensees under the Commission’s pending regulations.</p>

IV. Award

THE COMMISSION FINDS THAT THERE IS SUBSTANTIAL EVIDENCE IN THE RECORD THAT BALLY'S APPLICATION MEETS EXPECTATIONS IN ALL MAJOR CATEGORIES AND THAT BALLY'S IS ELIGIBLE FOR A TEMPORARY UNTETHERED CATEGORY 3 SPORTS WAGERING LICENSE

On November 21, 2022, the MGC received Bally's request for a temporary license, and an initial licensing fee of \$1,000,000 payable to the Commission. *See* 205 CMR 219.02(1). On January 6, 2023, the Commission deemed Bally's ("Licensee") eligible to request a Temporary Untethered Category 3 Sports Wagering Operator License ("License") pursuant to the terms and conditions of this Agreement ("Agreement"). On January 19, 2023, the Commission voted to issue the requested temporary license. *See* 205 CMR 219.02(3).

This License is subject to the following conditions:

1. Compliance with all of the requirements of G.L. c. 23N, as now in effect and as hereafter amended and 205 CMR, as now in effect and as hereafter amended.
2. Compliance with all applicable federal, state, and local laws, rules and regulations, now in effect or as hereafter amended or promulgated.
3. Compliance with the license conditions required to be inserted into all sports wagering licenses by 205 CMR 220, namely:
 - a. That the Licensee obtain an Operation Certificate before conducting any sports wagering in the Commonwealth.
 - b. That the Licensee comply with all terms and conditions of its license and Operation Certificate;
 - c. That the Licensee comply with G.L. c. 23N and all rules and regulations of the Commission;
 - d. That the Licensee make all required payments to the Commission in a timely manner;
 - e. That the Licensee maintain its suitability to hold a sports wagering license;
 - f. That the Licensee conduct sports wagering in accordance with its approved system of internal controls, and in accordance with its approved house rules, in accordance with G.L. c. 23N, § 10(a) and with 205 CMR; and
4. The Licensee post the License, in the form prescribed by the Commission, in a location continuously conspicuous to the public on the Licensee's Sports Wagering Platform and website at all times.

5. Payment of assessments made pursuant 205 CMR 221.00 in accordance with that regulation.
6. The Sports Wagering Operation shall substantially conform to the information included in the application filed by the Licensee and abide by all affirmative statements made in the Licensee's application.
7. The term of the temporary license awarded to Licensee commences upon February 23, 2023, and shall expire as set out in 205 CMR 219.03.

SO ORDERED

MASSACHUSETTS GAMING COMMISSION

Cathy Judd-Stein, Chair

Eileen M. O'Brien, Commissioner

Bradford R. Hill, Commissioner

Nakisha L. Skinner, Commissioner

Jordan M. Maynard, Commissioner

**COMMONWEALTH OF MASSACHUSETTS
MASSACHUSETTS GAMING COMMISSION**

In the Matter of)
)
)
Application of Betfair Interactive US LLC for a)
Temporary Untethered Category 3 Sports Wagering Operator)
License)
)
)

**DECISION DEEMING BETFAIR INTERACTIVE US LLC
ELIGIBLE TO REQUEST A TEMPORARY
UNTETHERED CATEGORY 3 SPORTS WAGERING OPERATOR LICENSE**

I. Introduction

Betfair Interactive US LLC (“FanDuel”) applied to the Massachusetts Gaming Commission (“MGC” or “Commission”) for an Untethered Category 3 Sports Wagering License. Under G.L. c. 23N, the Commission may issue an Untethered Category 3 Sports Wagering License (“License”) to an entity that offers sports wagering through a mobile application or other digital platform that meets the requirements of c. 23N and the rules and regulations of the Commission. For the following reasons, the Commission hereby deems FanDuel eligible to request a License.

II. Procedural History

On November 21, 2022, the Commission received FanDuel’s Sports Wagering License Application (“Application”), including the \$200,000 application fee. *See* G.L. c. 23N, § 7(A) and 205 CMR 214.01. The MGC Division of Licensing reviewed the Application for administrative sufficiency and determined that the Application was sufficient. *See* 205 CMR 218.03. On January 3, 2023, the Commission held a virtual public meeting to hear public comments on all Untethered Category 3 Sports Wagering applications, *see* 205 CMR 218.05 and 205 CMR 218.06, which are contained in the Commission’s public record. On January 9 and 19, 2023, the Commission held virtual public meetings to determine whether to issue FanDuel a preliminary finding of suitability, which included hearing informal presentations from FanDuel and the Commission’s consultants. *See* 205 CMR 218.04(1)(a)-(b), 218.05(1)(b) and 218.06(1). The Commission deliberated on the Application at its January 19, 2023, meeting, *see* 205 CMR 218.06(4)-(5), and at that same meeting found FanDuel preliminarily suitable and deemed FanDuel eligible to request a License. *See* 205 CMR 215.01(2)(c)-(d) and 218.07(1)(a).

III. Findings and Evaluation

In evaluating whether to issue a License to FanDuel, the Commission considered: all information in the Application submitted by FanDuel; the public comments made on January 3, 2023; the

presentations made by FanDuel and the Commission’s external consultants¹ on January 9, 2023; and a written report prepared by the Investigations and Enforcement Bureau (“IEB” or “Bureau”) in accordance with 205 CMR 215.01(2)(b).

In accordance with 205 CMR 218.06(5), in determining whether to deem FanDuel eligible to request a Temporary License, the Commission evaluated all materials and information in the record to determine whether a license award would benefit the Commonwealth, and considered the following factors:

205 CMR 218.06(5)

- a) FanDuel’s experience and expertise related to Sports Wagering, including:
 - 1. FanDuel’s ability to offer Sports Wagering in the Commonwealth;
 - 2. A description of FanDuel’s proposed Sports Wagering Platform;
The technical features & operation of FanDuel’s proposed Sports Wagering Platform;
- b) The economic impact and other benefits to the Commonwealth if FanDuel is awarded a License, including:
 - 1. Employment opportunities within the Commonwealth;
 - 2. The projected revenue from wagering operations, and tax revenue to the Commonwealth;
 - 3. Community engagement;
- c) FanDuel’s proposed measures related to responsible gaming, including:
 - 1. FanDuel’s responsible gaming policies;
 - 2. FanDuel’s advertising and promotional plans;
 - 3. FanDuel’s history of demonstrated commitment to responsible gaming;
- d) A description of FanDuel’s willingness to foster racial, ethnic, and gender diversity, equity, and inclusion, including:
 - 1. Within FanDuel’s workforce;
 - 2. Through FanDuel’s supplier spend;
 - 3. In FanDuel’s corporate structure;
- e) The technology that FanDuel intends to use in its operation, including:
 - 1. Geofencing;
 - 2. Know-your-customer measures; and
 - 3. Technological expertise and reliability;

¹ The consultants include RSM US LLP (“RSM”), which presented on FanDuel’s financial projections; Gaming Laboratories International LLC (“GLI”), which presented on technology considerations; and the Commission’s Investigations and Enforcement Bureau, which presented on FanDuel’s suitability.

- f) The suitability of FanDuel and its qualifiers, including:
1. Corporate integrity;
 2. The integrity of FanDuel's individual qualifiers;
 3. FanDuel's financial stability, integrity, and background;
 4. FanDuel's history of compliance with gaming or sports wagering licensing requirements in other jurisdictions; and
- g) Any other appropriate factor, in the Commission's discretion.

Further, the Commission decided whether each section of FanDuel's Application addressing these factors met, exceeded, or failed to meet, expectations.

After its review and consideration of all these factors, the Commission finds there is substantial evidence in the record to conclude that FanDuel's proposed Sports Wagering operation meets the requirements set forth in G.L. c.23N and 205 CMR 218. The Commission further finds there is substantial evidence to adopt the following specific findings of fact and conclusions of law related to the Application.

A. Experience and Expertise Related to Sports Wagering

FanDuel was founded in 2009 as a fantasy sports company. In 2018, FanDuel merged with the U.S. arm of Flutter Entertainment, a U.K. online sports betting company, and launched its first sports betting book in New Jersey. FanDuel reported that it is the largest online betting operator in the United States, operating its sports books in 18 states and the province of Ontario. FanDuel holds 46% of the U.S. market share of online revenue, which is greater than the combined market share of its next three largest competitors, and the number one market share in 13 states. FanDuel discussed how it has demonstrated its ability to grow successfully since its entrance into online sports betting in 2018, by offering a diverse suite of online and retail offerings and continuing to expand its offerings. During its presentation, FanDuel discussed how its platform offers users more choice and agency to place bets. The company has made a long-term commitment to expanding the U.S. market for online sports betting.

At the time of its presentation, FanDuel was leading the market in Maryland, the most recent state where it had launched. FanDuel attributes its success in the market to its ability to acquire customers more efficiently than its competitors, retain customers through product innovation and customer app experience, and grow customer value. FanDuel noted that it has the top-rated sports betting app by customers and experts.

FanDuel demonstrated that it has the experience and expertise required to develop and operate a successful Sports Wagering operation. Therefore, FanDuel's proposal in the experience and expertise category meets expectations.

SUMMARY OF EVALUATION BY CRITERIA

Criteria	Finding
<p>FanDuel’s ability to offer Sports Wagering in the Commonwealth</p>	<p>FanDuel was founded in 2009 as a fantasy sports company. In 2018, FanDuel launched its online sports betting platform in NJ.</p> <p>FanDuel operates online sportsbooks in eighteen U.S. jurisdictions (NY, PA, CT, NJ, LA, VA, IL, WV, AZ, MI, IN, TN, IA, CO, WY, KS, OH and MD), and the province of Ontario. FanDuel has 46% of the U.S. market share of online revenue in sports betting. FanDuel’s market share is greater than the next three largest operators combined – DraftKings (21%), BetMGM (15%) and Caesars (7%). FanDuel holds the number one revenue market share position in 13 out of 15 states included in a recent Eilers analysis. In addition, FanDuel has a strong position in northeast states – NY (54%), PA (52%), CT (52%) and NJ (50%).</p> <p>FanDuel has received industry recognition as “Digital Operator of the Year.” And FanDuel’s CEO, Amy Howe, was named “American Executive of the Year” in 2022.</p> <p>FanDuel is owned by Flutter Entertainment PLC (“Flutter”). Flutter is the largest real-money gaming operator in the world.² Flutter has decades of experience building a sports wagering business across multiple jurisdictions. FanDuel has the benefit of Flutter’s decades of experience, financial resources, product knowledge, technological capabilities, and innovation. Many long-tenured employees from other Flutter divisions have moved to the U.S. to support FanDuel across key positions including: Chief Financial Officer, Head of Risk & Trading; VP of Information Technology; Head of VIP; and Sportsbook General</p>

² “Real-Money Gaming” means users playing games for real money.

	<p>Manager. These key personnel bring experience from a global marketplace.</p> <p>For the reasons stated above, the Commission unanimously agreed that FanDuel has sufficient ability to offer Sports Wagering in the Commonwealth.</p>
<p>Description of FanDuel’s proposed Sports Wagering Platform</p>	<p>FanDuel’s mobile application is rated number one in the category by customers in the Apple App Store and Google Play Store (as of October 2022).</p> <p>FanDuel has heavily invested in customer promotions and offers since it launched its first online sportsbook in 2018. FanDuel provides promotional offers such as, “Bet \$X Get \$Y,” “No Sweat First Bet,” “Refer a Friend,” and “VIP Deposit Match.”</p> <p>FanDuel also offers live streaming which allows customers to watch and wager on their favorite events. FanDuel currently streams select NHL games, Tennis, Soccer, and Table Tennis. FanDuel was the first U.S. sportsbook to offer such in-app live streaming of games.</p> <p>The Commission was satisfied with FanDuel’s proposed Sports Wagering platform.</p>
<p>Technical features and operation of FanDuel’s proposed Sports Wagering Platform</p>	<p>FanDuel offers a single account and wallet for all of its products. FanDuel described its app as simple, intuitive and easy to navigate. Users can use their account balance to play all of the products that FanDuel offers. When users go to different states, the app prompts them to agree to abide by all of the rules and regulations of the state. FanDuel’s product offerings in the app reflect the compliance rules and regulations of each state that it operates in.</p>

B. Economic Impact

FanDuel noted that in the first six months of 2022, it accounted for 47% of all operator tax revenue in the states it operates in. FanDuel also noted that it is an online company and does not have enough employees based in Massachusetts for a physical office. As such, FanDuel discussed other ways in which the company will have an economic impact on the Massachusetts economy. FanDuel has official partnerships with many sports agencies.

The Commission asked about FanDuel’s long-term efforts to engage the local community. The Commission also asked about how FanDuel plans to bring revenue to the Commonwealth. Consistent with published market guidance, FanDuel estimates that Massachusetts will see a total market of \$700 million by year five (5) post launch, with \$200 million in Sportsbook tax

revenue. FanDuel estimates it will contribute over a quarter of a billion dollars to Massachusetts, between tax revenue and its investments. FanDuel stated it plans to invest \$50 million in local media in its first five years of operation, and that it plans to engage with local venues, vendors, and staffing firms to organize large-scale events in the Commonwealth to support the launch of FanDuel’s online sports book and promote its brand before consumers. The Commission had questions about the financial projections and trends FanDuel included in its application and the contrast with RSM’s projections, which were discussed with FanDuel in executive session. The Commission was satisfied with the responses FanDuel provided.

The Commission raised concerns about the projected revenue from FanDuel’s advertisements in the Commonwealth. FanDuel acknowledged the tension between growing the market and wanting to bring people over from the illegal market, and the intensity and frequency of advertising. FanDuel noted that it is continuously working on improving the number and timing of its ads. FanDuel discussed its plans to focus its ads exclusively on the 21+ demographic.

FanDuel did not provide any information in its application on its plans to engage with the Massachusetts State Lottery (the “Lottery”). The Commission noted that it expects licensees to interact with the Lottery. FanDuel confirmed it has plans to interact with the Lottery; however, it did not wish to publicly disclose its plans. Specifics of FanDuel’s plans were discussed in executive session to the satisfaction of the Commission.

Based on the foregoing, the Commission determined there is substantial evidence that FanDuel’s proposal in the economic impact category meets expectations.

SUMMARY OF EVALUATION BY CRITERIA	
Criteria	Finding
Employment opportunities	<p>FanDuel is an online company. It has approximately eighteen (18) full-time employees in Massachusetts who reside in Massachusetts and work remotely. FanDuel noted it would like to have an office in Massachusetts in the future.</p> <p>The Commission was satisfied with this employment arrangement.</p>
Projected revenue from wagering operations, and tax revenue	<p>FanDuel estimates that Massachusetts will see a total market of \$700 million by year five (5) post launch, with \$200 million in Sportsbook tax revenue. FanDuel estimates it will contribute over a quarter of a billion dollars to Massachusetts, between tax revenue and its investments.</p> <p>The Commission found FanDuel’s projected revenue satisfactory.</p>
Community engagement	<p>FanDuel plans to create partnerships for community engagement, economic development and tourism opportunities by partnering with local and regional entities including the Massachusetts Office of Business Development, Chambers of Commerce,</p>

	<p>Regional Tourism Councils, and the Massachusetts Marketing Partnership.</p> <p>The Commission was satisfied with FanDuel’s proposed plans for community engagement.</p>
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C. Responsible Gaming

FanDuel introduced a dedicated responsible gaming campaign in March 2022. FanDuel plans to continue with its responsible gaming advertising campaign built internally by the company. The multi-media campaign titled “The System” airs throughout the year and is backed by a significant media investment. To reach users with proactive responsible gaming messaging, FanDuel promotes responsible gaming on all access points for new users and continues educational and specific engagement with individual users and cohorts of users on a targeted basis. FanDuel does its best to identify at risk customers and remove them from its platforms. FanDuel has designed analytical tools to track risky behavior. Once risky behavior is identified, the individual’s gaming history is escalated for review.

The Commissioners noted that FanDuel’s responsible gaming commercials have appeared on local sports news. The Commissioners applauded the work done to date on FanDuel’s responsible gaming marketing.

The Commission inquired about FanDuel’s pre-regulation settlements in 2016 – 2017 and what practices the company changed as a result of the settlements. FanDuel discussed how daily fantasy sports was unregulated in 2015. FanDuel worked closely with the Massachusetts Attorney General on the first set of regulations that were issued in the country. Over twenty states ended up passing laws on daily fantasy sports, most of which adopted in whole or in part the regulations Massachusetts promulgated. Pursuant to the settlements, FanDuel paid a fine and was in compliance with the regulations by the time they became effective.

The Commission had questions on other litigation in which FanDuel was involved. Given that the information related to the cases was confidential, the Commission and FanDuel discussed them in executive session. The Commission was satisfied with FanDuel’s explanations provided in executive session.

On an annual basis, FanDuel agreed to provide the Commission with a report detailing its integrity monitoring services that summarizes unusual betting activity or other suspicious wagering activity notifications issued in the prior year.

Overall, there is substantial evidence that FanDuel’s responsible gaming measures meets expectations.

SUMMARY OF EVALUATION BY CRITERIA

Criteria	Finding
Responsible Gaming Policies	<p>FanDuel’s sports wagering platform has responsible gaming user-operated tools such as limits that can be set on deposits, wagers, and time spent on the platform. FanDuel also provides in-product tools such as self-exclusion resources, timeouts and engagement after certain deposit metrics are hit.</p> <p>FanDuel trains its employees to recognize potential responsible gaming issues and to direct its users to responsible gaming information and tools.</p> <p>FanDuel is the first online operator to partner with the American Gaming Association in its “have a Game Plan” initiative. As part of the initiative, FanDuel became the first U.S. sports betting operator to offer users “GamBan,” a product that allows users to exclude themselves from accessing any gaming apps or websites.</p> <p>FanDuel was the first operator to sign up for PlayPause, a national customer database to enable operators to collaborate across platforms to assist at-risk users.</p> <p>FanDuel also has a compliance team and compliance program designed to safeguard the integrity of their product offerings.</p> <p>FanDuel verifies that all users are 21 years of age. FanDuel also verifies that users are not self-excluded or otherwise prohibited from participating in sports betting at the time of account creation. If there should be a match, the account will be blocked from creation.</p> <p>FanDuel’s Responsible Gaming team plans to maintain a copy of the Massachusetts self-exclusion list, in the same manner as it does in other states.</p> <p>FanDuel screens all users against the OFAC lists during the identity verification process and on a periodic basis thereafter. If a user is found to be a match to the OFAC list during onboarding, an account will not be opened. If a user becomes sanctioned during the pendency of the account and is identified as such during periodic screening, FanDuel will freeze the</p>

	<p>account. FanDuel will investigate and report findings to OFAC.</p> <p>FanDuel’s user terms and conditions prohibit athletes, coaches and other team management, team support personnel, and team owners from participating in any FanDuel contests in the sport or sports with which they are associated. Team owners, referees, league employees, sports commissioners, and other individuals who through an ownership interest or game-related employment can influence the gameplay are likewise prohibited.</p> <p>FanDuel partners with nonprofits to address responsible gaming.</p> <p>The Commission was satisfied with FanDuel’s responsible gaming policies.</p>
<p>Advertising and Promotional Plans</p>	<p>FanDuel will make investments in local media. It plans to spend \$50 million on locally based marketing.</p> <p>FanDuel also intends to engage local venues, vendors and staffing firms to organize and execute large-scale events.</p> <p>The Commission was satisfied that FanDuel’s advertising and promotional plans will adhere to its responsible gaming policies.</p>
<p>History of Dedicated Commitment to Responsible Gaming</p>	<p>FanDuel maintains Responsible Gaming pages on all websites and apps that includes information on Responsible Gaming tools, local resources, helpline information, other responsible gaming and problem gambling resources.</p> <p>FanDuel developed a central resource for responsible gaming and problem gambling resources, outside of the FanDuel platforms (www.fanduel.com/playwell).</p> <p>In 2022, FanDuel launched a new campaign to promote responsible gaming.</p> <p>FanDuel created a responsible gaming ambassador team to encourage customers to play within a budget and never chase losses.</p> <p>The Commission was satisfied with FanDuel’s history of commitment to responsible gaming.</p>

D. Diversity, Equity, and Inclusion

The Commission included Diversity, Equity, and Inclusion as a stand-alone consideration to demonstrate the value it places on this category of an applicant’s application.

During its presentation, FanDuel discussed how women account for 42% of FanDuel’s senior leadership roles. FanDuel is the only U.S. operator in this space with a female CEO. FanDuel stated that 18% of the members of its C-Suite are underrepresented minorities. The Commission asked about FanDuel’s internal job training programs targeted to minority or disadvantaged individuals akin to its internal Women Leadership Development Program. FanDuel explained that its Women Leadership Development Program was a new program that it was piloting, which it would use to develop other programs. FanDuel discussed other mentoring programs that it currently has for the development and growth of various diverse groups.

FanDuel, through its charitable giving initiative, has made investments into community organizations in connection with its launch in various cities and it is identifying potential recipients in Massachusetts.

FanDuel did not provide specific numbers for its diversity spend goals. The Commission mentioned different avenues that FanDuel could consider looking into to help increase its diversity spend, such as the Massachusetts Operational Services Division (OSD). FanDuel acknowledged that it is has a lot of work to do in terms of diversity spend. In recognition of that fact, it has hired a Head of Diversity, Equity and Inclusion to further support its diversity efforts.

The Commission asked about the \$1 million investment that FanDuel committed to making across various cities; FanDuel clarified that this investment is specific to Massachusetts. FanDuel was still evaluating whether the investment would be made to one organization or to multiple organizations. The Commission encouraged FanDuel to engage with local establishments including both the Lottery and W/MBE businesses.

There is therefore substantial evidence that FanDuel’s diversity, equity, and inclusion efforts proposal meets expectations.

SUMMARY OF EVALUATION BY CRITERIA	
Criteria	Finding
DEI within the workforce	FanDuel recently hired a Head of DE&I. FanDuel has built a diverse pipeline by attending recruiting events at AFROTech (Austin, TX) and Society of Hispanic Professional Engineers (Charlotte, NC). FanDuel has a partnership with Atlanta University Center and other historically black colleges and universities. FanDuel has recruited at “Women in Sports and Events Multiplier Summit” (Boston, MA).

	<p>FanDuel recently implemented a pilot Women’s Leadership Development Program. This is a six-month internal professional development program for emerging women leaders within the company. FanDuel plans to extend this type of program to other diverse categories.</p> <p>All FanDuel employees are required to take a DE&I learning & training course.</p> <p>FanDuel has established four employee resource groups (ERGs): TWEE (for female employees), BOLD (for Black employees), SPEAK (for Asian and Pacific American employees), and the Outfield (for LGBTQIA+ employees). There are also two developing interest groups focusing on the veterans/military community and on the Latinx community which will likely become ERGs.</p> <p>The Commission was satisfied with FanDuel’s workforce goals.</p>
<p>DEI through supplier spend</p>	<p>FanDuel is committed to identifying and engaging minority-owned, women-owned, and veteran owned businesses in support of its external diversity efforts. FanDuel is working on its procurement efforts and intends to use diverse firms where it can. It will contact the Massachusetts Operation Services Division to identify opportunities for diverse spending.</p> <p>The Commission was satisfied with FanDuel’s proposed goals for supplier spend.</p>
<p>DEI in corporate structure</p>	<p>Women account for 42% of FanDuel’s senior leadership roles. FanDuel is the only U.S. operator in this space with a female CEO. 18% of its C-Suite is comprised of underrepresented minorities.</p> <p>The Commission was satisfied with FanDuel’s DEI in corporate structure.</p>

E. Technology

FanDuel developed its technology in-house, rather than relying on third parties. FanDuel stated that its technology can accept sports wagering and generate electronic wagering tickets all in-house. The Commission noted that technology has been an issue for many companies in this space, and applauded FanDuel for its ability to develop its product in-house.

FanDuel’s mobile sports wagering platform offers a “cash out” option. Cash out allows FanDuel users the option to get paid for a wager before the result of the event is complete. A user can elect to take partial winnings before the event is complete, should they want to take a profit on a previously placed wager, without the added risk. FanDuel also offers bet tracking flow on its platform. Bet tracking allows users to see their open bets. Users can view the live score and cash out offers.

FanDuel also offers streaming on its platform to live stream games including the NHL, select MLB games, tennis, soccer, and table tennis.

FanDuel discussed how customers can manage their play by setting time limits, temporarily stopping use (“cooling off”), and through self-exclusion. The Commission had questions about the time limit and cool off period options in the app. FanDuel described how customers can set a daily time limit. However, the app did not have a feature to set specific hours during the day for play, only a total number of hours during the day. If a customer sets a time out, FanDuel does not give affirmative notice to the customer that the time out period has expired; the customer has to initiate re-engagement.

The Commission also inquired about parental controls in the app. FanDuel explained that it completes thorough KYC checks on customers to confirm their age. Beyond that, FanDuel provides information to customers that they can install parental control software to prevent access to the app if they have shared computers and other devices that minors may have access to.

The Commission asked about how FanDuel’s app works across its three platforms to distinguish age requirements for certain products, such as daily fantasy sports vs. sports betting. FanDuel confirmed that its technology can distinguish and apply the applicable rules to a customer based on the customer’s age and the requirements in a particular jurisdiction.

The Commission asked about reality checks in the app. The app does not allow customers to disengage reality checks if it is required by the jurisdiction. A user can do a more frequent reality check; however, they cannot do a shorter period of time. FanDuel noted that some jurisdictions require it to log customers out of the app after a certain amount of time.

There is substantial evidence that FanDuel’s technology meets expectations.

SUMMARY OF EVALUATION BY CRITERIA	
Criteria	Finding
Geofencing	FanDuel utilizes the GeoComply geolocation security system. GeoComply is licensed in all jurisdictions in which FanDuel operates a mobile sports wagering platform. The integration between GeoComply’s software and FanDuel’s mobile sports wagering platform is tested and verified by an independent testing laboratory before FanDuel launches its mobile sports wagering platform in a given state.

	<p>FanDuel will only accept wagers on its mobile sports wagering platform from users who are successfully geolocated within the Commonwealth of Massachusetts.</p> <p>The Commission was satisfied with FanDuel’s Geofencing system.</p>
<p>Know your customer measures</p>	<p>FanDuel has committed KYC resources to guarantee that it is verifying the identity, location, and age of every user on the platform.</p> <p>FanDuel takes steps to ensure that its marketing and advertising is reaching its intended 21+ target audience.</p> <p>In jurisdictions where it has been applicable, FanDuel has allowed users to verify their identity and register an account with FanDuel during the period leading up to launch.</p> <p>A user’s account details will automatically be checked by third-party service providers, which are integrated KYC providers. As part of the FanDuel registration process, a prospective user submits the following personal information: (i) legal name; (ii) date of birth; (iii) residential address; (iv) phone number; (v) active email address; (vi) social security number, or the last four digits thereof, or an equivalent identification number for non-citizen users, such as a passport or taxpayer identification number; and (vii) any other information collected from the user used to verify his or her identity. Once the user’s personal details are received by the KYC providers, the KYC providers validate the data against public and governmental databases. The information requested from users in instances will be universal across the FanDuel platform, except as required by relevant state law or regulations.</p> <p>In instances when a KYC check from a KYC provider returns an error, users may upload identification documents.</p> <p>The Commission found FanDuel’s KYC measures satisfactory.</p>
<p>Technological expertise and reliability</p>	<p>FanDuel’s technology is developed in-house.</p> <p>FanDuel’s sports wagering platform is processing and settling significantly more bets than any other platform in the market and offering more bets than any other platform. FanDuel offers more than 50,000 unique wagering markets on the core U.S. sports (NFL, NBA, MLB, and NHL). FanDuel offers over 50+ features and several more currently are in development. Some examples of these features are “Same Game Parlay,” “In-Play,” “Player Prop Tracking,” and “Early Cash Out.”</p>

	<p>FanDuel’s mobile sports wagering platform has been certified by GLI in AZ, CO, CT, IL, IN, IA, KS, LA, MI, NY, PA, TN, VA, WV, and WY. At the time of its presentation, FanDuel’s mobile sports wagering platform was also under active consideration for regulatory approval in MD and OH. In addition, the mobile sports wagering platform was approved for use in NJ by the NJ Division of Gaming Enforcement, which does not accept independent testing laboratory certifications.</p> <p>FanDuel provides users with a single account and wallet solution that can be used across many of FanDuel’s product offerings.</p> <p>Users may wager on a wide range of markets while events are in-play, including game lines, player props, quarters and half betting. The platform’s in-play offering provides users the ability to track the action for each game as well as live scoreboards and play-by-plays.</p> <p>FanDuel also offers Same Game Parlay (“SGP”). SGP is a product offering that brings multiple elements of an event to life in one wager. SGP allows the user to select as many individual bets as they wish within a single game (e.g., moneyline, spread, over/under, player props, and game props).</p> <p>FanDuel has invested resources and undertaken development work towards improving its user support model. FanDuel’s customer support staff undergo comprehensive front-line training to address user concerns. Users have methods of engaging with customer support staff through integrated links directly within the mobile sports wagering platform, and integrated chat features allow them to connect with FanDuel staff. FanDuel’s customer support portal provides tools and resources to address frequently asked questions and to learn more about FanDuel’s product offerings.</p> <p>The Commission was satisfied with FanDuel’s technological expertise and reliability.</p>
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F. Suitability of FanDuel and its Qualifiers

At the January 9, 2023, presentation, the Commission expressed concern about outstanding tax certifications for entity qualifiers relevant to the suitability applications. FanDuel discussed these concerns with the Commission in executive session. The Commission requested supplemental information, which FanDuel subsequently provided. In light of the discussion in executive session and the supplemental information received, the Commission was satisfied with FanDuel’s response.

The Commission may determine that an applicant or qualifier is suitable to hold a Sports Wagering license based on (1) the applicant and its qualifiers, or the qualifier, certifying to their suitability under the pains and penalties of perjury, and (2) the IEB’s investigative report. *See* 205 CMR 215.01(2)(a). The Commission deliberated on FanDuel’s preliminary suitability during its deliberations on FanDuel’s Application on January 9, 2023. *See* 205 CMR 215.01(2)(c). Based on FanDuel’s and its qualifiers’ certifications and the IEB’s investigative report, the Commission determined that FanDuel and its qualifiers are suitable to hold a Sports Wagering license. *See* 205 CMR 215.01(2)(d)(1). The Commission is satisfied with FanDuel's suitability, and that of its qualifiers. It therefore found FanDuel preliminarily suitable.

Overall, there is substantial evidence that FanDuel’s proposal in the suitability category meets expectations.

SUMMARY OF EVALUATION BY CRITERIA	
Criteria	Finding
Corporate integrity	FanDuel is preliminarily suitable to hold a sports wagering license.
Individual qualifier integrity	IEB’s investigative report prepared for the purposes of this temporary license decision has not revealed any disqualifying information concerning FanDuel’s integrity, honesty, good character, or reputation.
FanDuel’s financial stability, integrity, and background	FanDuel’s Independent Audit Report and Material Weakness Statement submitted pursuant to 205 CMR 139.07(1), and its quarterly spending reports, have not revealed any disqualifying information concerning FanDuel or its financial stability, integrity, or background.
FanDuel’s history of compliance with gaming or sports wagering licensing requirements in other jurisdictions	FanDuel is currently licensed to operate an online sportsbook in eighteen (18) jurisdictions: NY, PA, CT, NJ, LA, VA, IL, WV, AZ, MI, IN, TN, IA, CO, WY, KS, OH and MD. ³

IV. Award

THE COMMISSION FINDS THAT THERE IS SUBSTANTIAL EVIDENCE IN THE RECORD THAT FANDUEL’S APPLICATION MEETS EXPECTATIONS IN ALL CATEGORIES AND THAT FANDUEL IS ELIGIBLE FOR A TEMPORARY UNTETHERED CATEGORY 3 SPORTS WAGERING LICENSE.

On January 19, 2023, the Commission deemed FanDuel (“Licensee”) eligible to request a Temporary Untethered Category 3 Sports Wagering Operator License (“License”) pursuant to the terms and conditions of this Agreement (“Agreement”). On November 21, 2022, the MGC

³ These facts were accurate as of January 9, 2023.

received FanDuel's request for a temporary license, and an initial licensing fee of \$1,000,000 payable to the Commission. *See* 205 CMR 219.02(1). On January 19, 2023, the Commission voted to issue the requested temporary license. *See* 205 CMR 219.02(3).

This License is subject to the following conditions:

1. Compliance with all of the requirements of G.L. c. 23N, as now in effect and as hereafter amended and 205 CMR, as now in effect and as hereafter amended.
2. Compliance with all applicable federal, state, and local laws, rules and regulations, now in effect or as hereafter amended or promulgated.
3. Compliance with the license conditions required by 205 CMR 220, namely:
 - a. That the Licensee obtain an Operation Certificate before conducting any sports wagering in the Commonwealth;
 - b. That the Licensee comply with all terms and conditions of its license and Operation Certificate;
 - c. That the Licensee comply with G.L. c. 23N and all rules and regulations of the Commission;
 - d. That the Licensee make all required payments to the Commission in a timely manner;
 - e. That the Licensee maintain its suitability to hold a Sports Wagering license; and
 - f. That the Licensee conduct sports wagering in accordance with its approved system of internal controls, and in accordance with its approved house rules, in accordance with G.L. c. 23N, § 10(a) and with 205 CMR.
4. The Licensee post the License, in the form prescribed by the Commission, in a location continuously conspicuous to the public on the Licensee's Sports Wagering Platform and website at all times.
5. Payment of assessments made pursuant 205 CMR 221.00 in accordance with that regulation.
6. The Sports Wagering Operation shall substantially conform to the information included in the application filed by the Licensee and abide by all affirmative statements made in the Licensee's application.
7. The term of the temporary License awarded to Licensee commences upon February 23, 2023, and shall expire as set out in 205 CMR 219.03.

SO ORDERED

MASSACHUSETTS GAMING COMMISSION

Cathy Judd-Stein, Chair

Eileen M. O'Brien, Commissioner

Bradford R. Hill, Commissioner

Nakisha L. Skinner, Commissioner

Jordan M. Maynard, Commissioner

**COMMONWEALTH OF MASSACHUSETTS
MASSACHUSETTS GAMING COMMISSION**

In the Matter of)
)
)
Application of BetMGM, LLC for a Tethered Category 3)
Sports Wagering Operator License)
)

**DECISION DEEMING BETMGM, LLC ELIGIBLE TO REQUEST A TEMPORARY
TETHERED CATEGORY 3 SPORTS WAGERING OPERATOR LICENSE¹**

I. Introduction

BetMGM, LLC (“MGM”) applied to the Massachusetts Gaming Commission (“MGC” or “Commission”) for a Tethered Category 3 Sports Wagering License. Under G.L. c. 23N, the Commission may issue a Tethered Category 3 Sports Wagering License (“License”) to an entity that offers sports wagering in connection with a Category 1 or 2 license, and through a mobile application or other digital platform that meets the requirements of c. 23N and the rules and regulations of the Commission. For the following reasons, the Commission hereby deems BetMGM eligible to request a License.

II. Procedural History

On November 21, 2022, the Commission received BetMGM’s Sports Wagering License Application (“Application”), including the \$200,000 application fee. *See* G.L. c. 23N, § 7(A) and 205 CMR 214.01. The MGC Division of Licensing reviewed the Application for administrative sufficiency and determined that the application was sufficient. *See* 205 CMR 218.03. Pursuant to 205 CMR 218.05 and 218.06 on December 12, 2022, the Commission held a virtual public meeting to hear public comments on all Tethered Category 3 Sports Wagering applications. On December 19, 2022, the Commission held a virtual public meeting to determine whether to issue BetMGM a preliminary finding of suitability, which included hearing an informal presentation from BetMGM and the Commission’s consultants. *See* 205 CMR 218.04(1)(a)-(b), 218.05(1)(b), 218.06(1). At that same meeting, the Commission deliberated on the Application and on December 19, 2022, found BetMGM preliminary suitable and eligible to request a Temporary License. *See* 205 CMR 215.01(2)(c)-(d), 218.06(4)-(5), 218.07(1)(a).

III. Findings and Evaluation

In evaluating whether to issue the Category 3 Sports Wagering License to BetMGM the Commission considered: all information in the application submitted by BetMGM, the public comments made on December 12, 2022, the presentations made by BetMGM and the

¹ All facts referenced in this decision were current as of the date of the respective eligibility hearing for this applicant.

Commission's external consultants² on December 19, 2022, and a written report prepared by the Investigations and Enforcement Bureau ("IEB" or "Bureau") in accordance with 205 CMR 215.01(2)(b).

In accordance with 205 CMR 218.06(5), in determining whether to deem BetMGM eligible to request a Temporary Tethered Category 3 Sports Wagering License, the Commission evaluated all materials and information in the record to determine whether a license award would benefit the Commonwealth, and considered the following factors:

- a) BetMGM's experience and expertise related to Sports Wagering, including:
 1. BetMGM's ability to offer Sports Wagering in the Commonwealth;
 2. A description of BetMGM's proposed Sports Wagering Platform;
 3. The technical features & operation of BetMGM's proposed Sports Wagering Platform;
- b) The economic impact and other benefits to the Commonwealth if BetMGM is awarded a License, including:
 1. Employment opportunities within the Commonwealth;
 2. Projected revenue;
 3. Community engagement;
- c) BetMGM's proposed measures related to responsible gaming, including:
 1. BetMGM's responsible gaming policies;
 2. BetMGM's advertising and promotional plans;
 3. BetMGM's history of demonstrated commitment to responsible gaming;
- d) A description of BetMGM's willingness to foster racial, ethnic, and gender diversity, equity, and inclusion, including:
 1. Within BetMGM's workforce;
 2. Through BetMGM's supplier spend;
 3. In BetMGM's corporate structure;
- e) The technology that BetMGM intends to use in its operation, including:
 1. Geofencing;
 2. Know your customer measures; and
 3. Technological expertise and reliability;
- f) The suitability of BetMGM and its qualifiers, including:

² The consultants include RSM US LLP ("RSM"), which presented on BetMGM's financial projections; Gaming Laboratories International LLC ("GLI"), which presented on technology considerations; and the Commission's Investigations and Enforcement Bureau ("IEB"), which presented on BetMGM's suitability.

1. BetMGM's corporate integrity;
2. The integrity of BetMGM's individual qualifiers;
3. BetMGM's financial stability, integrity, and background;
4. BetMGM's history of compliance with gaming or Sports Wagering licensing requirements in other jurisdictions; and

g) Any other appropriate factor, in the Commission's discretion.

Further, the Commission decided whether each section of BetMGM's application addressing these factors failed to meet, met, or exceeded expectations.

Ultimately, the Commission finds there is substantial evidence in the record to conclude that BetMGM's proposed Sports Wagering operation meets the requirements set forth in G.L. c.23N and 205 CMR 218. The Commission further finds there is substantial evidence to adopt the following specific findings of fact and conclusions of law related to BetMGM's application.

A. Experience and Expertise Related to Sports Wagering

BetMGM, a joint venture of MGM Resorts International and Entain, was established in 2018 and has since grown into an industry leader in online sports betting and gaming. As of December 19, 2022, BetMGM offered sports wagering and igaming in 25 states and cities across North America, and had 31 market access agreements in the United States, reaching 41% of the United States adult population. BetMGM's growth has been mirrored in the growth of its compliance team, which now includes 75 individuals ensuring compliance in all aspects of the company's business, including anti-money laundering efforts, technology, licensing, and operations.

BetMGM plans to use its proprietary technology to assist in MGM Springfield's provision of a physical sportsbook by providing MGM Springfield 24/7 trading and risk operations services. While BetMGM would be responsible for all the regulatory and operational functionalities at MGM Springfield's physical sportsbook, BetMGM and MGM Springfield would each be responsible for their own regulatory compliance.

The Commission raised questions about whether BetMGM's platform retains patron data when one patron attempts to share information about a specific bet with another patron. BetMGM stated that if one patron tries to send another patron a link to the page on which they are attempting to place a bet, the receiver would receive a logged-out sportsbook page. In order for the receiver to place a bet, they would first have to create an account and go through the Know-Your-Customer process. Within the application, a patron can share their bet by emailing their bet slip to another individual but no other information besides the receiver's email address is shared.

The Commission also posed questions about whether BetMGM controls the content shared by third-party affiliates for marketing and promotional purposes. BetMGM responded that it communicates its marketing and promotion standards to all affiliates. While BetMGM does not review every piece of marketing created by its affiliates, it closely monitors the content posted by its affiliates, and remains in constant dialogue with them to maintain cooperation. In the event that marketing or promotional content is substandard, BetMGM is able to immediately respond and reviews each incident on a case-by-case basis to determine appropriate remedial action.

Overall, there is substantial evidence that BetMGM has the experience and expertise required to develop and operate a Sports Wagering Platform. Therefore, BetMGM's proposal in the experience and expertise category meets expectations.

SUMMARY OF EVALUATION BY CRITERIA	
Criteria	Finding
BetMGM's ability to offer Sports Wagering in the Commonwealth	<p>As of December 19, 2022, BetMGM offered sports wagering and igaming in 25 states and cities across North America and has been vetted and issued sports betting and igaming licenses by 27 regulatory bodies. Most recently, as of December 19, 2022, BetMGM secured a license in the state of Maryland.</p> <p>For the reasons stated above, the Commission unanimously agreed that BetMGM has sufficient ability to offer Sports Wagering in the Commonwealth.</p>
Description of BetMGM's proposed Sports Wagering Platform	BetMGM described its proposed Sports Wagering Platform on pages 28-58 of its Application and the Commission found it satisfactory.
Technical features and operation of BetMGM's proposed Sports Wagering Platform	<p>As BetMGM explained in its presentation at the December 19 hearing, its Trading Department performs internal risk management, including setting, creating, and moving lines. The Trading Department works closely with the Compliance Department in order to identify suspicious activity. When suspicious activity is detected, it is escalated to US Integrity, a third-party provider with experience working with operators, regulators, and law enforcement.</p> <p>BetMGM further described the technical features and operations of its proposed Sports Wagering Platform on pages 59-95 of its Application and the Commission found those satisfactory.</p>

B. Economic Impact

In its Application, BetMGM stated it currently has two employees who live within the Commonwealth, both of whom are working remotely. BetMGM further stated that while planning is still ongoing and not yet finalized, BetMGM anticipates employing one full-time employee as the Sportsbook Manager at the proposed sportsbook at MGM Springfield.

The Commission asked BetMGM to explain its plans to partner with entities in the state and community, such as the Massachusetts Lottery and local establishments. BetMGM stated that it does not currently have a commercial relationship with the Lottery, but would work closely with

its retail partner, MGM Springfield, to ensure a successful relationship with the Lottery. BetMGM also stated that it envisions developing relationships with local establishments for marketing purposes and promoting BetMGM’s platform. BetMGM’s community engagement efforts would originate from its Employee Resource Groups, which are allotted funds to engage with the community through charitable giving, event sponsorship, etc.

The Commission asked BetMGM to describe in more detail its diversity spending and workforce hiring goals. BetMGM responded that it is currently engaging in a goal setting process and anticipates that its goals will be set by Q1 of 2023. Once its goals are set, BetMGM will begin to implement those goals department by department. While BetMGM develops its goals, it is also in the process of identifying which of its existing vendors are minority, women, veteran, and LGBTQ owned or a small business and will use this information to understand its current diversity spending and set its diversity spending goals. The Commission encouraged BetMGM to continue to gather more information about its diversity spending.

Overall, there is substantial evidence that BetMGM’s proposal in the economic impact category meets expectations.

SUMMARY OF EVALUATION BY CRITERIA	
Criteria	Finding
Employment opportunities within the Commonwealth	<p>As BetMGM stated in its Application, BetMGM currently has two employees within the Commonwealth, and anticipates hiring one additional full-time position as the Sportsbook Manager at MGM Springfield’s retail sportsbook.</p> <p>The Commission was satisfied by this proposed employment plan.</p>
Projected revenue	BetMGM described its projected Sports Wagering revenue on pages 415-442 of its Application and the Commission found it satisfactory.
Community engagement	<p>In its Application, BetMGM stated its community engagement efforts would build on and add to MGM Springfield’s existing partnerships with local and regional community groups, tourism, economic development organizations, and third party stakeholders.</p> <p>During the December 19, 2022, hearing, BetMGM stated its community engagement efforts would be facilitated by its Employee Resource Groups, which are given resources to engage in charitable giving and event sponsorships that align with the mission and goals of the Employee Resource Groups.</p>

	The Commission was satisfied by BetMGM’s representations regarding its plans for community engagement.
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C. Responsible Gaming

BetMGM stated its responsible gaming program would be similar to that of MGM Springfield to provide consistency between the retail sportsbook and the sports wagering platform. In that respect, BetMGM plans to implement GameSense in the digital arena and use it as the foundation of its responsible gaming program.

BetMGM also plans to train its employees on responsible gaming principles at least annually so they are empowered and informed to provide customers direct support and assistance. Employees who interact with customers, such as the customer service and VIP teams, will receive more in-depth training on communications and player activity than the standard training provided to all employees. BetMGM also plans to roll out harm reduction training for its employees in the next few months.

On the customer-facing side, BetMGM has overhauled its website to align with GameSense and has created a page for family members and loved ones of patrons to learn about problem gaming behavior. BetMGM also provides and promotes limit setting options to its customers. BetMGM abides by the American Gaming Association’s marketing code of conduct to ensure that BetMGM does not market or create content aimed at underage audiences, encourage over participation, or overrepresent the likelihood of success in gaming, and includes the gambling help-line on all advertisements.

The Commission asked BetMGM to confirm that it would prevent the use of credit cards to fund sports wagering in the Commonwealth. BetMGM confirmed that it has the capability to prevent patrons from using credit cards to participate in sports wagering, and further that it has the ability to ensure that patrons are not able to use credit cards “one step removed,” such as through Apple Pay and PayPal. The Commission was concerned that BetMGM’s website does not have the phone number for Massachusetts’s problem gambling helpline. BetMGM said it plans to clone its website to create a link to a jurisdictional specific responsible gaming website so that when patrons click on a responsible gaming or GameSense logo they are directed to a responsible gaming website with Massachusetts specific resources.

Overall, there is substantial evidence that BetMGM’s proposal in the responsible gaming category meets expectations.

SUMMARY OF EVALUATION BY CRITERIA	
Criteria	Finding
Responsible gaming policies	As BetMGM explained in its presentation at the December 19 hearing, BetMGM intends to utilize GameSense as the foundation of its responsible gaming program. BetMGM trains its employees annually on responsible gaming, and offers in-depth training to those employees who interact more frequently with customers. BetMGM offers responsible gaming resources to the public, including limit setting tools and educational materials to help individuals understand the signs of problem gambling. The Commission was satisfied by BetMGM’s responsible gaming policies.
Advertising and promotional plans	<p>BetMGM abides by the American Gaming Association Responsible Gaming Code of Conduct. BetMGM does not advertise to underage markets, does not encourage over participation in gaming, and does not overrepresent the likelihood of success in gaming. BetMGM includes information regarding the gaming help-line in all its advertisements.</p> <p>The Commission was satisfied that BetMGM’s advertising and promotional plans would adhere to its responsible gaming policies.</p>
History of demonstrated commitment to responsible gaming	See Responsible Gaming Policies, above.

D. Diversity and Inclusion

The Commission included Diversity and Inclusion as stand-alone considerations to demonstrate the value it places on this category of an applicant’s application.

As explained by BetMGM during the December 19, 2022, hearing, diversity, equity and inclusion is a core value of BetMGM. BetMGM strives to have an inclusive culture and to that end, formalized employee grassroots diversity, equity, and inclusion efforts into an official diversity, equity, and inclusion program in 2021. BetMGM’s diversity, equity, and inclusion program includes seven employee resource groups, as well as mandatory trainings on diversity, equity, and inclusion fundamentals and allyship for all employees.

To promote diversity in its workforce, BetMGM is utilizing artificial intelligence to generate gender neutral and inclusive job descriptions. Those job descriptions will be provided to organizations with which BetMGM has long-term institutional relationships, as well as the internal employee resource groups. BetMGM is also planning to launch an empower

mentorship program for underrepresented employees, and plans to annualize its diversity, equity, and inclusion goals so it can increase representation and support equitable processes.

The Commission noted BetMGM’s inclusion in its Application of a self-assessment and survey on diversity, equity, and inclusion. BetMGM stated that the self-assessment and survey is meant to be a starting point, and to inform BetMGM’s future diversity, equity, and inclusion goals. While BetMGM is at its foundational stages, it has made investments across the entire company to continue to promote diversity, equity, and inclusion.

There is therefore substantial evidence that BetMGM’s commitment to Diversity and Inclusion meets expectations.

SUMMARY OF EVALUATION BY CRITERIA	
Criteria	Finding
Workforce	<p>BetMGM’s workforce has the following demographics: 67% male, 31% female, and 2% non-binary; 52% white, 18% Hispanic/Latinx, 15% Black, 8% Asian, and 5% mixed race.</p> <p>Of the 40 individuals who hold the position of director and senior director, 29 are white (20 male, 9 female), 6 are Asian (5 male, 1 female), 3 are Latinx (3 male), and 2 are mixed-race (1 male, 1 female), which amounts to a total of 11 people of color and 15 women.</p> <p>Of the 119 individuals who hold the position of manager, 54 are white men, 25 are white women, 9 are Asian men, 6 are Asian women, 9 are Black men, 3 are Black women, 5 are Latinx men, 3 are Latinx women, 2 are multi-racial men, 3 are multi-racial women, which amounts to a total of 25 people of color and 40 women.</p> <p>The Commission was satisfied by BetMGM’s workforce.</p>
Supplier spend	<p>BetMGM described its supplier spend goals on page 511 of its Application and the Commission found it satisfactory.</p>
Corporate structure	<p>BetMGM’s 9-member C-suite includes 2 female members, and 1 member who is a person of color.</p> <p>The Commission was satisfied by BetMGM’s corporate structure.</p>

E. Technology

BetMGM stated during the December 19, 2022, hearing that it has developed a proprietary sports wagering platform which is live in 19 jurisdictions, 18 of which have been tested by the Commission’s technology consultants, GLI. To ensure that sports wagering is limited to the jurisdictions in which it is licensed, BetMGM’s platform is fully integrated with GeoComply, and as a result, BetMGM can utilize the tools on a mobile device to detect and verify a patron’s location.

BetMGM fully demonstrated its platform to the Commission, from identity and age verification to responsible gaming tools and customer service. In response to questions raised by the Commission, BetMGM clarified that customer service is available by chat 24/7, but that customer service over the phone is only available from 11:00 AM to 8:00 PM, the hours during which BetMGM experiences the most patron volume. If a patron were to send a message that indicated problem gambling behavior over the chat during an hour that phone customer service is not available, BetMGM would continue to escalate the message as appropriate up to and including the potential for a wellness check by law enforcement. The Commission also encouraged BetMGM to provide customer service over the phone in languages beyond English.

Overall, there is substantial evidence that BetMGM’s proposal in the technology category meets expectations.

SUMMARY OF EVALUATION BY CRITERIA	
Criteria	Finding
Geofencing	BetMGM described its geofencing measures on page 583-584 of its Application and the Commission found it satisfactory.
Know your customer	BetMGM described its know your customer measures on page 585-589 of its Application and the Commission found it satisfactory.
Technological expertise and reliability	BetMGM described its technological expertise and reliability on page 590-599 of its Application and the Commission found it satisfactory.

F. Suitability of BetMGM and Its Qualifiers

The Commission noted concerns about the ability to evaluate the suitability of Entain, one of the entities which forms the joint venture from which BetMGM was created and which is an entity qualifier to BetMGM, given the various fines and settlements to which Entain is a party. Martin Lycka, the Senior Vice President for American Regulatory Affairs and Responsible Gambling at Entain, provided the history surrounding a settlement entered into with the UK Gambling Commission. Mr. Lycka stated that the settlement arose from incidents relating to responsible gaming and anti-money laundering occurring between June 2019 and June 2020, and in which Entain did not handle the issues to the satisfaction of the UK Gambling Commission. Entain was subject to a 70-count indictment stemming from

these incidents, but was ultimately found guilty of only 6 of those counts. Mr. Lycka stated that while Entain could have contested those 6 counts, Entain ultimately decided not to in order to maintain a positive and cooperative approach with the UK Gambling Commission. Since that settlement, Entain has developed a new responsible gaming program, hired additional employees for its responsible gaming and anti-money laundering teams, and enhanced its training.

The Commission noted its concerns about fines BetMGM had been subject to, including multiple fines in the same jurisdiction in the early years of BetMGM. BetMGM stated that those violations arose from manual errors during an early time in BetMGM’s operation when it did not have a dedicated trade and compliance team. BetMGM stated that its practices, processes, and controls are different now to mitigate the risk of similar future incidents, and that it closely tracks trends in errors to determine whether implemented remedial actions are effective. IEB Director Lillios added that it is not surprising that any given sports wagering operator has incurred fines, as sports wagering is a highly regulated industry and operators often operate in many jurisdictions. The IEB’s focus is: (i) whether a sports wagering operator commits multiple violations of the same type without addressing those violations for a long period of time; (ii) whether violations are inadvertent or intentional; (iii) whether fines are paid in a timely fashion; and (iv) whether the operator has implemented any audit functions.

The Commission went into executive session pursuant to G.L. c. 30A, § 21(a)(7) and G.L. c. 23N, § 6(i) to discuss an ongoing confidential investigation, BetMGM’s collaboration in a marketing agreement, ongoing litigation regarding alleged patent infringement, seven episodes related to Entain’s regulator’s settlement, and ongoing judicial and administrative proceedings in Maryland . The Commission ultimately concluded those matters did not negatively impact BetMGM’s suitability at that point in time and would be further investigated.

The Commission may determine that an applicant or qualifier is suitable to hold a Sports Wagering license based on (1) the applicant and its qualifiers, or the qualifier, certifying to their suitability under the pains and penalties of perjury, and (2) the IEB’s investigative report. *See* 205 CMR 215.01(2)(a). The Commission deliberated on BetMGM’s preliminary suitability during its deliberations on BetMGM’s application on December 19, 2022. *See* 205 CMR 215.01(2)(c). Based on BetMGM’s and its qualifiers’ certifications, the IEB’s investigative report, information obtained through previous investigations into BetMGM and its qualifiers as described above, the Commission determined that BetMGM and its qualifiers are suitable to hold a Sports Wagering license. *See* 205 CMR 215.01(2)(d)(1).

The Commission is satisfied with BetMGM’s suitability, and that of its qualifiers. It therefore found BetMGM preliminarily suitable, and concluded there is substantial evidence that BetMGM’s suitability meets expectations.

SUMMARY OF EVALUATION BY CRITERIA	
Criteria	Finding

Corporate integrity	BetMGM is suitable to hold a Sports Wagering license.
Individual qualifier integrity	The IEB’s investigative report prepared for the purposes of this License decision did not reveal any disqualifying information concerning BetMGM or its qualifiers’ integrity, honesty, good character, or reputation.
Financial stability, integrity, and background	BetMGM’s Independent Audit Report and Material Weakness Statement submitted pursuant to 205 CMR 139.07(1), and its quarterly spending reports, did not reveal any disqualifying information concerning BetMGM or its financial stability, integrity, or background.
History of compliance	See narrative description of Suitability of BetMGM and its qualifiers, above.

IV. Award

THE COMMISSION FINDS THAT THERE IS SUBSTANTIAL EVIDENCE IN THE RECORD THAT BETMGM’S APPLICATION MEETS EXPECTATIONS IN ALL CATEGORIES AND THEREFORE FINDS THAT BETMGM IS ELIGIBLE FOR A TEMPORARY TETHERED CATEGORY 3 SPORTS WAGERING LICENSE.

On November 21, 2022, the MGC received BetMGM’s request for a License, and an initial licensing fee of \$1,000,000 payable to the Commission. *See* 205 CMR 219.02(1). On December 19, 2022, the Commission deemed BetMGM (“Licensee”) eligible to request a Temporary Tethered Category 3 Sports Wagering Operator License (“License”) pursuant to the terms and conditions of this Agreement (“Agreement”). On December 19, 2022, the Commission voted to issue the requested License. *See* 205 CMR 219.02(3).

This License is subject to the following conditions:

1. Compliance with all of the requirements of G.L. c. 23N, as now in effect and as hereafter amended and 205 CMR, as now in effect and as hereafter amended.
2. Compliance with all applicable federal, state and local laws, rules and regulations, now in effect or as hereafter amended or promulgated.
3. Compliance with the license conditions required by 205 CMR 220, namely:
 - a. That the Licensee obtain an Operation Certificate before conducting any Sports Wagering in the Commonwealth;
 - b. That the Licensee comply with all terms and conditions of its license and Operation Certificate;
 - c. That the Licensee comply with G.L. c. 23N and all rules and regulations of the Commission;

- d. That the Licensee make all required payments to the Commission in a timely manner;
 - e. That the Licensee maintain its suitability to hold a Sports Wagering license; and
 - f. That the Licensee conduct Sports Wagering in accordance with its approved system of internal controls, and in accordance with its approved house rules, in accordance with G.L. c. 23N, § 10(a) and with 205 CMR.
4. Compliance with the following license conditions discussed on December 19, 2022:
 - a. The Licensee provide timely and ongoing notice to the IEB about any developments in the matters being confidentially investigated and discussed during Executive Session.
 - b. The Licensee supplement its vendor diversity list
 5. The Licensee post the License, in a form prescribed by the Commission, in a location continuously conspicuous to the public on the Licensee's Sports Wagering Platform and website at all times.
 6. Payment of assessments made pursuant 205 CMR 221.00 in accordance with that regulation.
 7. The Sports Wagering Operation shall substantially conform to the information included in the application filed by the Licensee and abide by all affirmative statements made in the Licensee's application.
 8. The term of the License awarded to Licensee commences upon February 23, 2023, and shall expire as set out in 205 CMR 219.03.

SO ORDERED

MASSACHUSETTS GAMING COMMISSION

Cathy Judd-Stein, Chair

Eileen M. O'Brien, Commissioner

Bradford R. Hill, Commissioner

Nakisha L. Skinner, Commissioner

Jordan M. Maynard, Commissioner

**COMMONWEALTH OF MASSACHUSETTS
MASSACHUSETTS GAMING COMMISSION**

In the Matter of)
)
)
Application of Betr Holdings, Inc. d/b/a Betr, for a Temporary)
Untethered Category 3 Sports Wagering Operator License)
)

**DECISION DEEMING BETR HOLDINGS, INC. D/B/A BETR
ELIGIBLE TO REQUEST A TEMPORARY UNTETHERED
CATEGORY 3 SPORTS WAGERING OPERATOR LICENSE**

I. Introduction

Betr Holdings, Inc. d/b/a Betr (“Betr”) applied to the Massachusetts Gaming Commission (“MGC” or “Commission”) for an Untethered Category 3 Sports Wagering License on November 14, 2022. Under G.L. c. 23N, the Commission may issue an Untethered Category 3 Sports Wagering License (“License”) to an entity that offers Sports Wagering through a mobile or other digital platform that meets the requirements of c. 23N and the rules and regulations of the Commission. For the following reasons, the Commission hereby deems Betr eligible to request a License.

II. Procedural History

On November 14, 2022, the Commission received Betr’s Sports Wagering License Application (the “Application”), including the \$200,000 application fee. *See* G.L. c. 23N, § 7(A) and 205 CMR 214.01. The MGC Division of Licensing reviewed the Sports Wagering License Application for administrative sufficiency and determined that the application was sufficient. *See* 205 CMR 218.03. On January 3, 2023, the Commission held a virtual public meeting to hear public comment on all Untethered Category 3 Sports Wagering applications. *See* 205 CMR 218.05 and 205 CMR 218.06, which are contained in the Commission’s public record. On January 10, 2023, the Commission held a virtual public meeting to determine whether to issue Betr a preliminary finding of suitability, which included hearing an informal presentation from Betr and the Commission’s consultants. *See* 205 CMR 218.04(1)(a)-(b), 218.05(1)(b), 218.06(1). On January 19, 2023, at a separately held virtual public meeting, the Commission discussed all seven of the Untethered Category 3 Sports Wagering License Applications and conducted final votes on each, *see* 205 CMR 218.06(4)-(5). After the meeting, the Commission, by a 4 to 1 vote, found Betr preliminarily suitable and eligible to request a Temporary License. *See* 205 CMR 215.01(2)(c)-(d), 218.07(1)(a).

III. Findings and Evaluation

In evaluating whether to issue the Category 3 Untethered Sports Wagering License to Betr, the Commission considered: all information in the application submitted by Betr; the public

comments made on December 5, 2022; the presentations made by Betr and the Commission's external consultants¹ on January 10, 2023; and a written report prepared by the Investigations and Enforcement Bureau ("IEB") in accordance with 205 CMR 215.01(2)(b).

In accordance with 205 CMR 218.06(5), in determining whether to deem Betr eligible to request a Temporary Untethered Category 3 Sports Wagering License, the Commission evaluated all materials and information in the record to determine whether a license award would benefit the Commonwealth, and considered the following factors:

- a) Betr's experience and expertise related to Sports Wagering, including:
 1. Betr's ability to offer Sports Wagering in the Commonwealth;
 2. A description of Betr's proposed Sports Wagering operation;
 3. The technical features & operation of Betr's proposed Sports Wagering Platform;
- b) The economic impact and other benefits to the Commonwealth if Betr is awarded a License, including:
 1. Employment opportunities within the Commonwealth;
 2. The projected revenue from wagering operations, and tax revenue to the Commonwealth;
 3. Community engagement;
- c) Betr's proposed measures related to responsible gaming, including:
 1. Betr's responsible gaming policies;
 2. Betr's advertising and promotional plans;
 3. Betr's history of demonstrated commitment to responsible gaming;
- d) A description of Betr's willingness to foster racial, ethnic, and gender diversity, equity, and inclusion, including:
 1. Within Betr's workforce;
 2. Through Betr's supplier spend;
 3. In Betr's corporate structure;
- e) The technology that Betr intends to use in its operation, including:
 1. Geofencing;
 2. Know-your-customer ("KYC") measures;
 3. Technological expertise and reliability;

¹ The consultants include RSM US LLP ("RSM"), which presented on Betr's financial projections; Gaming Laboratories International LLC ("GLI"), which presented on technology considerations; and the Commission's Investigations and Enforcement Bureau ("IEB"), which presented on Betr's suitability.

- f) The suitability of Betr and its qualifiers, including:
1. Betr's corporate integrity
 2. The integrity of Betr's individual qualifiers;
 3. Betr's financial stability, integrity, and background;
 4. Sports Wagering Betr's history of compliance with gaming or Sports Wagering licensing requirements in other jurisdictions; and
- g) Any other appropriate factor, in the Commission's discretion.

Further, the Commission decided whether each section of Betr's application addressing these factors failed to meet, met, or exceeded expectations.

In addition, and in accordance with 205 CMR 218.06(6), the Commission also considered the "variations between the Applicants as they relate to any other Sports Wagering License Applicants or licensees" in order to determine whether and the extent to which of the Applicants, if any, would collectively benefit the Commonwealth. This consideration is specific to Category 3 Licenses.

After full consideration, the Commission finds there is substantial evidence in the record to conclude that Betr's proposed Sports Wagering operation meets the requirements set forth in each of the categories listed in G.L. c. 23N and 205 CMR 218. The Commission further finds there is substantial evidence to adopt the following specific findings of fact and conclusions of law related to Betr's Application.

A. Experience and Expertise Related to Sports Wagering

Betr was founded in 2022 by Joey Levy and Jake Paul, who described their sports wagering platform to the Commission as "next-gen sports fan engagement." As of the date of the hearing, Betr explained that it had over 120,000 downloads on mobile platforms, where users experienced a product that Betr described as combining its media and gaming branches. During its presentation to the Commission, Betr introduced its leadership team, which includes co-founders Paul and Levy, Alex Ursa (gaming), Mike DeNevi (media), and Ashwin Krishnan (legal).

Betr explained that its sports wagering operations are primarily micro- and in-play wagering for basketball, baseball, and football. As of the date of the presentation, Betr was active in Ohio, and applying for licenses in Indiana, Maryland, and Virginia (in addition to Massachusetts).

Commissioner Skinner raised a concern regarding Mr. Levy's prior role with SimpleBet, Inc., another sports wagering platform. Mr. Levy assured the Commission that Mr. Levy is only a fiduciary of Betr, and that he no longer works for SimpleBet, though he is still a shareholder in SimpleBet. Commissioners also inquired about the unique nature of Betr's sports wagering operation. Betr explained that although most sports wagering platforms in the United States are "outcome-based," Betr's focuses on "discrete moments" – meaning that wagers can be placed on specific moments within a game (e.g., an at-bat, or a possession in football). The Commissioners asked Betr regarding its experience in Ohio thus far, and Betr explained that, as of the date of the hearing, it was still in a "soft launch" phase, but expected to be fully operational within a matter

of days. Commissioners also inquired regarding Betr’s customer service. Betr explained that its customer service team of six (out of twenty-seven full-time employees) was available twenty-four hours a day, seven days a week, and would be capable of dealing with any issue the customer was facing by email or, eventually, by live chat. Commissioner Hill expressed concern that six people might not be enough.

Overall, there is substantial evidence that Betr has the experience and expertise to develop and operate a Sports Wagering Platform. Therefore, Betr’s proposal in the experience and expertise category meets expectations.

SUMMARY OF EVALUATION BY CRITERIA	
Criteria	Finding
Betr’s ability to offer Sports Wagering in the Commonwealth	<p>The Commission inquired into Betr’s experience in Ohio. Betr responded that the soft launch was going well, that it had taken a “phased approach,” and that it would notify the Commission if anything changed about its Ohio operation.</p> <p>For the reasons stated above, the Commission unanimously agreed that Betr has sufficient ability to offer Sports Wagering in the Commonwealth.</p>
Description of Betr’s proposed Sports Wagering Platform	<p>The Commission asked how Betr plans to make discreet wagering (i.e., in game betting) functional, given the practical challenges presented by broadcast delay and other potential latency issues. Betr’s response was that although latency issues will limit construction of the wagers, they will not limit them altogether.</p> <p>Betr further described its proposed Sports Wagering Platform on pages 50-72 of its Application and the Commission found it satisfactory.</p>
Technical features and operation of Betr’s proposed Sports Wagering Platform	Betr described the technical features and operation of its proposed Sports Wagering Platform on pages 73-77 and 102-119 of its Application and the Commission found them satisfactory.

B. Economic Impact

Betr provided the Commission with a review of its objectives for a positive economic impact on and partnerships with the Commonwealth. Given that it is an electronic platform, Betr had limited plans for an increase in employment in the Commonwealth. Betr nonetheless stated that it expects to hire in-state employees for media, customer service, and other business components as necessary.

RSM informed the Commission that Betr’s projections for revenue and hold percentage were aggressive, but reasonable.

The Commission was impressed with Betr’s robust plans for meaningful engagement with the Commonwealth. Jake Paul, Betr’s President, has an established program called “Boxing Bullies,” a community service project designed to help school-age children, especially those afflicted by bullying, advocate for themselves through mentorship, martial arts, and camaraderie. Paul stated he hoped to bring Boxing Bullies to a neighborhood in Massachusetts but emphasized that this initiative would not be directly tied to Betr.

Betr stated that it plans to enter into partnerships with local universities, including the University of Massachusetts – Boston, and Harvard. The Commission commented that it would like to see a commitment to reaching underserved communities in addition to relationships with schools, especially since most university students are under the age of 21, and Betr committed to doing so.

Overall, there is substantial evidence that Betr’s proposal in the economic impact category meets expectations.

SUMMARY OF EVALUATION BY CRITERIA	
Criteria	Finding
Employment opportunities within the Commonwealth	Betr does not anticipate significant employment opportunities for Massachusetts residents other than for media and customer service roles.
Projected revenue	<p>In addition to RSM’s presentation, Betr’s presentation included a discussion of how the in-game betting experience Betr focuses on is expected to generate revenue, given that in-game wagering is more prevalent in non-US jurisdictions than other forms of wagering.</p> <p>Betr further described its projected Sports Wagering revenue on pages 123-29, of its Application and the Commission found it satisfactory.</p>
Community engagement	<p>The Commission asked Betr to confirm its plans to work with the Massachusetts Lottery, and Betr committed to doing so.</p> <p>Betr stated that one of its goals was to invest in the local community in general, in ways not necessarily tied to the Sports Wagering operation. These kinds of investments include directing money towards public parks and charities. The Commission found Betr’s description satisfactory.</p>

C. **Responsible Gaming**

Much of the Commission's focus on Betr's application was with respect to Section E, Responsible Gaming ("RG"). The most acute concern concerned the relationship between Betr's wagering and media branches. The Commission inquired as to how the appeal of someone like Jake Paul would affect the demographics of Betr's platform and make it harder to ensure only people over the age of twenty-one were wagering.

During its demonstration and presentation, Betr explained its policy to limit the amount that bettors aged 21-25 were able to wager to protect the demographic potentially most prone to non-responsible gaming. To promote the importance of responsible gaming, Betr's platform (and promotional media) will also feature thorough, frequent, and visible responsible gaming messages, comments, notifications, and "caption callouts."

Betr's media and promotional presence caused the Commission the most concern. Specifically, the Commission asked how Betr President Jake Paul's participation in sports on which the Betr platform will allow betting would not threaten the integrity of the product. Betr's response was that there was a clear separation between Jake Paul the individual and athlete and Betr as a company.

Although discussed while analyzing suitability, the Commission raised concerns about Betr's practice of "repetitive marketing" – the practice of sending multiple marketing messages to prospective consumers with excessive promotional material until they try the product or service. The Commission was concerned that the promotion of microbetting might lead to larger scale gambling and become problematic. Betr responded by clarifying that no particular product or service – including microbetting – would be promoted via "repetitive marketing."

In Executive Session, the Commission heard additional details about the demographics of Jake Paul's audience, considering the Commission's concern about whether Betr's users would be twenty-one or older in accordance with G.L. c. 30A, § 21(a)(7) and G.L. c. 23N, § 6(i). A majority of the Commission was ultimately satisfied that the dynamics of Betr's leadership would not negatively impact Betr's ability to offer Sports Wagering in accordance with responsible gaming principles.

Overall, there is substantial evidence that Betr's proposal in the responsible gaming category meets expectations.

SUMMARY OF EVALUATION BY CRITERIA	
Criteria	Finding
Responsible Gaming Policies	Betr stated that it has a dedicated prohibited patron enforcement team, represented at the meeting by former gaming regulator Robert Warren. Outside that team all of Betr’s employees have been trained in anti-bribery, code of conduct, and other threats to responsible gaming.
Advertising and Promotional Plans	The Commission concluded that even though there was some risk of conflating Betr the platform with Mr. Paul’s personal ventures, Betr had the tools and flexibility to manage issues as they came up. The Commission also determined that Betr’s promotion of responsible gaming messaging has been so extensive that it is unlikely that someone would conflate Mr. Paul with the operations of Betr.
History of Dedicated Commitment to Responsible Gaming	Since Betr’s platform only recently launched in its first jurisdiction, Betr’s only corporate responsible gaming plan was submitted in that state. As of the hearing, Betr had not had any issues with responsible gaming.

D. Diversity, Equity, and Inclusion

The Commission included Diversity, Equity, and Inclusion (“DEI”) as a stand-alone consideration to demonstrate the value it places on this category of an applicant’s application. The Commission found that Betr currently has a comprehensive DEI focus, with broad minority representation across its fourteen-person leadership team.

Betr included in its application some specific goals related to the network of vendors, suppliers, and business partners with whom it plans to work. One of these goals was that by the end of 2024, Betr would have committed 30% of its vendor and supplier expenditures on Minority-owned Business Entities (MBEs). Betr explained that it had a similar commitment to working with nonprofits and advocacy groups to continue to identify diverse or underrepresented suppliers and vendors, evaluate non-diverse suppliers and vendors, and engage in other initiatives where possible to increase its DEI footprint. Some of these entities include the Black Economic Council, the NAACP, the Urban League, and Women in the Enterprise of Science & Technology.

There is therefore substantial evidence that Betr’s commitment to Diversity, Equity, and Inclusion exceeds expectations.

SUMMARY OF EVALUATION BY CRITERIA	
Criteria	Finding
Workforce	The Commission commended Betr’s commitment to diversity and representation, especially among its senior leadership.
Supplier spend	Betr described its supplier spending goals on pages 148-49 of its Application and the Commission found it satisfactory.
DEI in corporate structure	<i>See above section “DEI within the workforce.”</i>

E. Technology

Betr’s technological and security measures include ID verification, closed loop withdrawals, geolocation checks, and regulatory reporting.

During the public meeting, Betr demonstrated how consumer verification works, including that people under twenty-one would be blocked and identified by their social security number. Betr showed that its betting options included both players and teams, and that wagers were set by “multipliers.” Betr also explained that geolocation was included in of its platform.

Overall, there is substantial evidence that Betr’s proposal in the technology category meets expectations.

SUMMARY OF EVALUATION BY CRITERIA	
Criteria	Finding
Geofencing	Betr described its geofencing measures on pages 173-76 of its Application and the Commission found them satisfactory.
Know your customer measures	Betr described its know your customer measures in the Responsible Gaming section, on pages 157-61 of its Application, and the Commission found them satisfactory.
Technological expertise and reliability	Betr described its technological expertise and reliability on pages 195-226 of its Application and the Commission found them satisfactory.

F. Suitability of Betr and Its Qualifiers

Another preliminary area of concern for the Commission was the effect on Betr’s suitability of controversy surrounding Betr president Jake Paul. The Commission noted that Jake Paul has an audience, platform, and persona that can often be controversial. The Commission expressed concern about whether the perception of Betr, with someone as visible as Jake Paul in a senior

leadership position, would in turn impair the integrity and perception of the MGC or the Commonwealth as a whole.

Additionally, the Commission highlighted three legal actions related to defamation, alleged sexual assault, and digital currency and asked for Betr’s insight as to how these claims might be addressed. Mr. Paul addressed the Commission, explaining that despite some of the controversy and opinions that are popular in media, he has a clean record and a reputation for his business deals, and encouraged the Commission to focus on those facts in deciding whether to grant Betr a license. The Commission cited several publicly available news articles discussing some of the litigation in which Betr or Mr. Paul was involved and asked the applicant for comment. Betr answered the Commission’s questions and promised to provide the Commission with copies of any complaints against it or Mr. Paul for active cases.

Overall, the Commission commended Mr. Paul and the Betr team for their responsiveness and candor and stated that they were prepared to find that suitability had met expectations, pending the submission of more documentation from Betr (including complaints in any active litigation). The Commission received the supplemental material by its public meeting on January 19, 2023, the required information was received by the Commission, and the Commission was satisfied.

The majority of the Commission is satisfied with Betr’s suitability, and that of its qualifiers. It therefore found Betr preliminary suitable, and concluded there is substantial evidence that Betr’s suitability meets expectations.

SUMMARY OF EVALUATION BY CRITERIA	
Criteria	Finding
Corporate integrity	Betr is suitable to hold a Sports Wagering license.
Individual qualifier integrity	Betr provided its corporate and individual qualifiers’ suitability qualifications on pages 545-50 of its Application. The Commission found this section of Betr’s Application to be satisfactory.
Financial stability, integrity, and background	Betr benefits from leadership that includes an individual with substantial financial means and a high degree of name recognition. Even though Betr is not as established as some of its would-be competitors in the Commonwealth, the Commission was satisfied with Betr’s financial stability.
Compliance	Betr has a very limited history in compliance because it has limited experience in Sports Wagering. The Commission expects to be kept up to date on any compliance issues that may arise in other jurisdictions.

IV. Award

THE COMMISSION FINDS THAT BETR’S APPLICATION MEETS EXPECTATIONS IN ALL CATEGORIES AND THEREFORE BETR IS ELIGIBLE FOR A TEMPORARY UNTETHERED CATEGORY 3 SPORTS WAGERING LICENSE.

On January 19, 2023, the Commission deemed Betr (“Licensee”) eligible to request a Temporary Category 3 Untethered Sports Wagering Operator License (“License”) pursuant to the terms and conditions of this Agreement (“Agreement”). On November 21, 2022, the Commission received Betr’s request for a temporary license, and an initial licensing fee of \$1,000,000 payable to the Commission. *See* 205 CMR 219.02(1). On January 19, 2023, the Commission voted, 4 to 1 to issue the requested License. *See* 205 CMR 219.02(3).

This License is subject to the following conditions:

1. Compliance with all requirements of G.L. c. 23N, as now in effect and as hereafter amended and 205 CMR, as now in effect and as hereafter amended.
2. Compliance with all applicable federal, state, and local laws, rules and regulations, now in effect or as hereafter amended or promulgated.
3. Compliance with the license conditions required by 205 CMR 220, namely:
 - a. That the Licensee obtain an Operation Certificate before conducting any Sports Wagering in the Commonwealth;
 - b. That the Licensee comply with all terms and conditions of its license and Operation Certificate;
 - c. That the Licensee comply with G.L. c. 23N and all rules and regulations of the Commission;
 - d. That the Licensee make all required payments to the Commission in a timely manner;
 - e. That the Licensee maintain its suitability to hold a Sports Wagering license; and
 - f. That the Licensee conduct Sports Wagering in accordance with its approved system of internal controls, and in accordance with its approved house rules, in accordance with G.L. c. 23N, § 10(a) and with 205 CMR
4. The Licensee post the License, in a form prescribed by the Commission, in a location continuously conspicuous to the public on the Licensee’s Sports Wagering Platform and website at all times.
5. Payment of assessments made pursuant 205 CMR 221.00 in accordance with that regulation.

6. The Sports Wagering Operation shall substantially conform to the information included in the application filed by the Licensee and abide by all affirmative statements made in the Licensee's application.
7. The term of the License awarded to Licensee commences upon February 23, 2023, and shall expire as set out in 205 CMR 219.03.

SO ORDERED

MASSACHUSETTS GAMING COMMISSION

Cathy Judd-Stein, Chair

Eileen M. O'Brien, Commissioner²

Bradford R. Hill, Commissioner

Nakisha L. Skinner, Commissioner

Jordan M. Maynard, Commissioner

² Commissioner O'Brien did not vote in favor of issuing this License to Betr.

**COMMONWEALTH OF MASSACHUSETTS
MASSACHUSETTS GAMING COMMISSION**

In the Matter of)
)
)
Application of Digital Gaming Corporation USA for a)
Untethered Category 3 Sports Wagering Operator License)
)

**DECISION DEEMING DIGITAL GAMING CORPORATION USA
ELIGIBLE TO REQUEST A TEMPORARY
UNTETHERED CATEGORY 3 SPORTS WAGERING OPERATOR LICENSE**

I. Introduction

Digital Gaming Corporation USA (“DGC”) applied to the Massachusetts Gaming Commission (“MGC” or “Commission”) for an Untethered Category 3 Sports Wagering License. Under G.L. c. 23N, the Commission may issue an Untethered Category 3 Sports Wagering License (“License”) to an entity that offers sports wagering through a mobile application or other digital platform that meets the requirements of c. 23N and the rules and regulations of the Commission. For the following reasons, the Commission hereby deems DGC eligible to request a temporary license.

II. Procedural History

On November 17, 2022, the Commission received DGC’s application, including the required \$200,000 application fee. *See* G.L. c. 23N, § 7(A) and 205 CMR 214.01. The MGC Division of Licensing reviewed the Sports Wagering License Application (the “Application”) for administrative sufficiency and determined that the application was sufficient. *See* 205 CMR 218.03. On January 3, 2023, the Commission held a virtual public meeting in order to hear public comment on all Untethered Category 3 Sports Wagering applications, *see* 205 CMR 218.05 and 205 CMR 218.06, which are contained in the Commission’s public record. On January 13, 2023, the Commission held a virtual public meeting to determine whether to issue DGC a preliminary finding of suitability, which included hearing an informal presentation from DGC and the Commission’s consultants (the “Consultants”) to review various elements of the Application. *See* 205 CMR 218.04(1)(a)-(b), 218.05(1)(b), 218.06(1). The Consultants included RSM US LLP (“RSM”), which presented on DGC’s financial projections; Gaming Laboratories International LLC (“GLI”), which presented on technology considerations; and the Commission’s Investigations and Enforcement Bureau (“IEB”), which presented on DGC’s suitability. *See* 205 CMR 218.04(1)(a)-(b), 218.05(1)(b), 218.06(1). At that same meeting, the Commission deliberated on the license application, *see* 205 CMR 218.06(4)-(5), and on January 19, 2023, the Commission found DGC preliminarily suitable and eligible to request a temporary license. *See* 205 CMR 215.01(2)(c)-(d), 218.07(1)(a).

III. Findings and Evaluation

In evaluating whether to issue the Category 3 Sports Wagering License to DGC, the Commission considered: all information in the Application; the public comments made on January 3, 2023; the presentations made by DGC and the Commission's Consultants on January 13, 2023; and a written report prepared by the Investigations and Enforcement Bureau ("IEB" or "Bureau") in accordance with 205 CMR 215.01(2)(b).

In accordance with 205 CMR 218.06(5)-(6), in determining whether to deem DGC eligible to request a Temporary Sports Wagering License, the Commission evaluated all materials and information in the record to determine whether a license award would benefit the Commonwealth, and specifically considered the following factors:

205 CMR 218.06(5)

- a) DGC's experience and expertise related to Sports Wagering, including:
 - 1. DGC's ability to offer Sports Wagering in the Commonwealth;
 - 2. A description of DGC's proposed Sports Wagering Platform;
 - 3. The technical features & operation of DGC's proposed Sports Wagering Platform;

- b) The economic impact and other benefits to the Commonwealth if DGC is awarded a License, including:
 - 1. Employment opportunities within the Commonwealth;
 - 2. The projected revenue from wagering operations, and tax revenue to the Commonwealth;
 - 3. Community engagement;

- c) DGC's proposed measures related to responsible gaming, including:
 - 1. DGC's responsible gaming policies;
 - 2. DGC's advertising and promotional plans;
 - 3. DGC's history of demonstrated commitment to responsible gaming;

- d) A description of DGC's willingness to foster racial, ethnic, and gender diversity, equity, and inclusion, including:
 - 1. Within DGC's workforce;
 - 2. Through DGC's supplier spend;
 - 3. In DGC's corporate structure;

- e) The technology that DGC intends to use in its operation, including:
 - 1. Geofencing;
 - 2. Know-your-customer measures; and
 - 3. Technological expertise and reliability;

- f) The suitability of DGC and its qualifiers, including:
1. Whether DGC can be or has been determined suitable in accordance with 205 CMR 215;
 2. DGC's and all parties in interest to the license's integrity, honesty, good character, and reputation;
 3. DGC's financial stability, integrity, and background;
 4. DGC's business practices and business ability to establish and maintain a successful sports wagering operation;
 5. DGC's history of compliance with gaming or sports wagering licensing requirements in other jurisdictions;
 6. Whether DGC is a defendant in litigation involving its business practices; and
- g) Any other appropriate factor, in the Commission's discretion.

Further, the Commission decided whether each section of DGC's application addressing these factors failed to meet, met, or exceeded expectations.

The Commission finds there is substantial evidence in the record to conclude that DGC's proposed sports wagering operation meets the requirements set forth in G.L. c.23N and 205 CMR 218. The Commission adopts the following specific findings of fact and conclusions of law for DGC's application.

A. Experience and Expertise Related to Sports Wagering

DGC was acquired by Super Group in January 2023, shortly before the Commission heard its application. DGC has substantial experience in sports betting and gaming across Europe, Africa, and the Americas.

Commissioners inquired about why DGC's potential launch date in the Commonwealth was delayed. DGC requested to discuss the topic in Executive Session. Commissioners also asked about DGC's customer service policies, including the availability of phone operators and calls in languages other than English. DGC explained that it intends to offer 24/7 phone availability, and that it likely will offer customer service in both English and Spanish in Massachusetts. Commissioners also inquired about the registration process for DGC's free-to-play product in Massachusetts. DGC explained that a person registering for the free-to-play product must make a self-attestation about age, and DGC verifies a free-to-play patron's identity and age if and when she wins a prize.

Overall, there is substantial evidence that DGC's proposal in the category of expertise and experience meets expectations.

SUMMARY OF EVALUATION BY CRITERIA	
Criteria	Finding
<p>Ability to offer Sports Wagering in the Commonwealth</p>	<p>Super Group has licensed and regulated sports betting and gaming operations in the UK, Europe, and many other jurisdictions outside the US. It is the holding company for Betway, a premier online sports betting brand; and Spin, a multi-brand online casino offering. Collectively, Super Group, its subsidiaries, and affiliates are licensed in over 20 jurisdictions throughout Europe, the Americas, and Africa. Super Group took in more than €2.5 billion in wagers per month in the six months ending June 30, 2022, and currently have over 2.6 million monthly unique active customers.</p> <p>DGC and its subsidiaries, holding company, and qualifiers have thus far received licenses or approvals to participate in consumer-facing sports betting in eight US states: Arizona, Colorado, Indiana, Iowa, New Jersey, Ohio, Pennsylvania, and Virginia.</p> <p>The Commission was satisfied as to DGC’s ability to offer sports wagering in the Commonwealth.</p>
<p>Description of DGC’s proposed Sports Wagering Platform</p>	<p>DGC, operating as Betway, plans to offer pre-match and in-play sports betting across all major US and European sports leagues (subject to Commission approval), which will be accessible to customers via mobile web, mobile native apps (iOS and Android), and desktop web.</p> <p>Betway will have 40 Pre-Game and In-Play Sports available.</p> <p>NFL and NBA will typically house 200+ pre-game wager types per game including main lines, alternate lines, game props, and player props.</p> <p>Betway has official data agreements with Sportradar, Betgenius, IMG, and Sports Content Co in place for all major sports.</p> <p>Betway’s platform will contain the following features:</p> <ul style="list-style-type: none"> • Cash Out – Customers can choose if they wish to take an early offer on their wager or can take a partial payment and allow the remainder of the bet to run. • Add2Bet – Customers can add outcomes to a pre-existing parlay. • Same Game Parlay –Customers can build their own parlay from a single game. • Live Streaming on a daily basis

	<p>Betway also plans to offer extensive retention offers, including event-based promotions, daily communications of specials via email, in-app lobby messages, and push messages.</p> <p>The Commission was satisfied by the described plan for Sports Wagering Platform.</p>
Technical features and operation of DGC’s proposed Sports Wagering Platform	See Description of DGC’s proposed Sports Wagering Platform, above.

B. Economic Impact

The Commissioners inquired about the number of employees DGC would have in Massachusetts; DGC clarified that it would have three in-Commonwealth employees. The Commissioners also asked DG to elaborate on its plans to involve the tourism industry and its community engagement plans, expressing concerns that DGC may have difficulty engaging in these aspects given their limited physical presence in Massachusetts. However, the Commissioners also praised DGC for the fulsome nature of this section of its application.

Overall, there is substantial evidence that DGC’s proposal in the economic impact category meets expectations.

SUMMARY OF EVALUATION BY CRITERIA	
Criteria	Finding
Employment opportunities	<p>DGC currently has two full-time employees who reside within the Commonwealth (Vice President of Marketing and AML Officer). If granted a license, DGC would employ a State Manager to manage operations in Massachusetts and look to build out a locally-based team.</p> <p>As the market grows, the number of DGC employees in Massachusetts could increase to cover roles such as marketing, CRM, and customer support. DGC anticipates that after three years, depending on growth, the team could reach thirty or more individuals.</p> <p>DGC envisions offering the following roles in the Commonwealth, with salaries ranging from \$33,200 to \$210,000: State Manager, Marketing Director, Marketing Manager, Marketing and Retention Specialist, Content Marketer, Social Media Manager, Customer Support Agent.</p> <p>The Commission was satisfied by the proposed employment plan.</p>

<p>Projected revenue from wagering operations, and tax revenue</p>	<p>DGC described its projected Sports Wagering revenue in Attachment 1 of its Application and the Commission found it satisfactory.</p>
<p>Community engagement</p>	<p>DGC envisions creating a Regional Tourism Marketing Plan along the lines of those that have successfully been drafted and implemented by the Massachusetts casino licensees. This Plan, as proposed, could involve links on DGC’s website and within its mobile application to Regional Tourism Council websites and a joint marketing program with the Massachusetts Office of Travel and Tourism.</p> <p>DGC appreciates the importance of the Massachusetts State Lottery (“the Lottery”) to the Commonwealth and the considerable revenue it generates. DGC intends to build on the successful models of collaboration with the Lottery followed by the Massachusetts casino licensees. DGC envisions negotiating a written memorandum of understanding or similar document upon consultation with the Lottery that would address, among other subjects, providing users of the mobile application with information about the Lottery and cross-marketing.</p> <p>DGC envisions having the same kind of partnership with Massachusetts’s vibrant sports scene, and sporting and entertainment venues, as it has with those in Pennsylvania and Ohio. DGC has partnered with a local minor league baseball team and a local sports bar in Allentown, Pennsylvania. Similarly, in Ohio, DGC partnered with the Cleveland Cavaliers, and planned to give away \$37,000 worth of tickets for the 2022-23 season as part of sweepstakes that Ohio players can join.</p> <p>The Commission was satisfied by DGC’s representations regarding its past, ongoing, and future plans for community engagement.</p>

C. Responsible Gaming

DGC has extensive Responsible Gaming Policies meant to reach three objectives: (1) avoid criminality in gaming operations, (2) conduct gaming in a fair and open way, and (3) protect children and other vulnerable persons from harm or exploitation from gaming.

Commissioners asked DGC to refrain from using the term “Free Bet” in all materials. DGC agreed to instead use its term “First-Bet Reset.” Commissioners also inquired about the possibility of an in-app time limit for users of DGC’s app who request such limits. DGC noted that that feature is already in place in Iowa, and that it offers hour-long increments of play. The

Commissioners also asked whether patrons coming out of cooling off periods are notified that such a period is ending; DGC explained that they are not.

Overall, there is substantial evidence that DGC’s proposal in the responsible gaming category meets expectations.

SUMMARY OF EVALUATION BY CRITERIA	
Criteria	Finding
Responsible Gaming Policies	<p>DGC requires patrons to verify their age before they are able to deposit funds into their account; access free-to-play games; or gamble with their own money, free bets, or bonuses. DGC also trains staff in the effective use of these age-verification procedures and performs regular reviews of these age verification systems and procedures.</p> <p>DGC also has a responsible gambling page available on its website which contains direct links to resources to assist with problem gambling, and a full list of available responsible gambling tools and instructions on how to use them including setting wager, deposit, spend or time limits, as well as information on temporary and permanent self-exclusion options. DGC will supplement its existing resources with any additional resources required by Massachusetts regulations.</p> <p>Patrons also receive a pop-up notification upon having \$2,500 in lifetime deposits. This notification advises the patron of their lifetime deposits, the responsible gambling tools available to them and of the 1-800-GAMBLER resource. Additionally, patrons are required to acknowledge this message prior to any further deposits or gameplay is permissible.</p> <p>A reminder notification is also triggered for each patron on the anniversary of the initial message advising of responsible gambling tools available to them and of the 1-800-GAMBLER resource. Additionally, patrons are required to acknowledge this message prior to any further deposits or gameplay is permissible.</p> <p>DGC’s Customer Interaction Program (“CIP”) is used to ensure DGC proactively identifies concerning behaviors –such as regularly engaging in high-risk wagering – and addresses them with patrons. This program is based on series of key indicators which identify potential concerns in behavior. DGC uses models and other deterministic factors to identify where there is out of the ordinary behavior taking place. DGC commits to ensuring all</p>

	<p>patrons are contacted when CIP determines it is required in order to maintain a responsible environment.</p> <p>DGC will engage regularly with the Massachusetts Council on Compulsive Gambling, the Massachusetts Partnership on Responsible Gaming, and similar entities to gather community feedback and share its experiences in the responsible gaming context.</p>
<p>Advertising and Promotional Plans</p>	<p>DGC takes all reasonable steps to prevent marketing communications from posing a risk to vulnerable groups and to ensure all marketing of gaming products and services are performed in a socially responsible manner. DGC’s marketing does not target or entice minors, vulnerable persons, or excluded patrons, and refrains from the use of symbols, endorsements, and language intended to appeal to persons under age 21. Moreover, DGC works with its marketing partners to closely consider audience composition, and avoids marketing in areas adjacent to schools, college campuses, and similar areas.</p> <p>DGC does not make representations suggesting that wagering will guarantee an individual’s social, financial, or personal success, nor exaggerate chances of winning. DGC does not encourage individuals to play beyond their means or engage in excessive or irresponsible levels of wagering.</p> <p>DGC will advertise to Massachusetts patrons using a combination of brand media (TV, radio, print), digital media (display, paid social, PPC, SEO), affiliate marketing and sponsorship channels. DGC intends to utilize Massachusetts-based firms for a significant amount of its advertising spend, in order to contribute to community economic development.</p>
<p>History of Dedicated Commitment to Responsible Gaming</p>	<p>DGC described its History of Dedicated Commitment to Responsible Gaming on pages 157-159 of its Application and the Commission found it satisfactory.</p>

D. Diversity, Equity, and Inclusion

The Commission included diversity, equity, and inclusion as stand-alone considerations to demonstrate the value it places on this category of an applicant’s application. DGC has considered the importance of diversity, equity, and inclusion at all levels of its organization and operations, including through its employment practices, its business relationships, and its customer interactions.

Commissioners asked DGC to explain its recent downward trend in percentage of female employees. DGC explained that the company’s workforce had quickly nearly doubled in size, and thus it had some difficulty scaling its more preferable gender ratio. However, DGC noted that it will place greater pressure on the hiring process to ensure better gender parity in the company.

Overall, there is substantial evidence that DGC’s proposal in the diversity, equity, and inclusion category meets expectations.

SUMMARY OF EVALUATION BY CRITERIA	
Criteria	Finding
DEI within the workforce	<p>DGC intends to attain its goal of creating opportunities for all through a multi-pronged focus on equal opportunity and the promotion of diversity. Specifically, DGC’s Diversity Plan is focused on the following:</p> <ul style="list-style-type: none"> • Employment – foster and maintain relationships within the community that increase awareness and identify potential candidates for employment. • Procurement/Vendor – foster and maintain relationships within the community that increase awareness and identify qualified vendors – ensuring that qualified WBE’s, MBE’s and VBE’s, as well as other qualified diverse groups, are given equal access in the process. • Education – Educating all employees on diversity and inclusion, as well as the significance of maintaining its diversity plan. • Process and Plan Improvement – Input and feedback, at every level, to identify areas of improvement within the diversity plan. <p>DGC’s recruiting efforts will include posting employment opportunities in newsprint, radio, TV/media, and online, and attendance at community job fairs sponsored by local institutions of higher education, trade schools, media, and diversity groups.</p> <p>DGC will strive to maintain a workforce that reasonably reflects the diversity of its community and surrounding areas.</p>
DEI through supplier spend	<p>DGC intends to undertake an aggressive initial marketing push as it builds out its business in Massachusetts, and envisions considerable spending on brand media (TV, radio, print), digital media (display, paid social, PPC, and SEO), affiliate marketing, and sponsorships. While DGC works with national partners on certain of these efforts, DGC also intends to involve local businesses, including women-, minority-, and veteran-owned businesses. An additional category could be property rental and related agencies and services.</p>

	<p>As to all these categories, on a dollar value basis, DGC aims to have at least 10% percent of local spending comprise women-, minority-, and veteran-owned businesses. With respect to outreach to minority-, women-, and veteran-owned businesses, DGC will proactively reach out to national organizations that represent these entities such as the National Minority Supplier Development Council; the Women’s Business Enterprise National Council; the National LGBT Chamber of Commerce; the National Veteran Business Development Council; and similar state and local organizations within Massachusetts. DGC will then work with these local partners to identify specific local vendors and make them aware of opportunities to work with DGC.</p> <p>DGC will also gather self-reported data on job applicants, applicants invited for interviews, and applicants hired, as well as data on promotions, terminations, and employees voluntarily leaving their positions, in order to analyze whether its policies – at any stage of the employment life cycle – tend to discourage full participation by all persons regardless of their background. DGC will conduct employee training on the value of diversity and inclusion and implement a zero-tolerance policy for harassment. DGC’s human resources team will periodically review this data and determine and implement any necessary policy changes.</p>
DEI in corporate structure	<p>DGC has consistently included minority persons, women, and veterans in its ownership, leadership, and governance. DGC’s subsidiaries in Virginia and Maryland are owned in part by minorities, women, and veterans. Super Group, which owns DGC, has likewise has traditionally been inclusive at the highest levels of leadership. Super Group’s Chairman is a veteran, and Super Group’s Chief Financial Officer and one member of its Board are women.</p>

E. Technology

Commissioners were impressed by DGC’s lack of data breaches in the United States. They also asked for elaboration on DGC’s experience in the United States; DGC responded that it is currently live in 8 U.S. States.

Overall, there is substantial evidence that DGC’s proposal in the technology category meets expectations.

SUMMARY OF EVALUATION BY CRITERIA	
Criteria	Finding
Geofencing	DGC described its Geofencing policy in its Attachment 2 to the Application and the Commission found that submittal satisfactory.

Know your customer measures	DGC described know your customer measures in Attachment 2 to its Application and the Commission found those measures satisfactory.
Technological expertise and reliability	DGC described its technological expertise and reliability in Attachment 2 to its Application and the Commission found them satisfactory.

F. Suitability of DGC and Its Qualifiers

Commissioners requested supplemental information on DGC’s suitability from a post-application submission in November, given that Super Group acquired DGC in January 2023. Commissioners did not have additional questions beyond RSM’s analysis of DGC’s suitability.

Overall, there is substantial evidence that DGC’s proposal in the suitability category meets expectations.

SUMMARY OF EVALUATION BY CRITERIA	
Criteria	Finding
Suitability in accordance with 205 CMR 215	DGC is preliminarily suitable to hold a sports wagering license.
DGC’s and all parties in interest to the license’s integrity, honesty, good character and reputation	The IEB’s investigative report prepared for the purposes of this temporary license decision has not revealed any disqualifying information concerning DGC or its qualifiers’ integrity, honesty, good character, or reputation.
DGC’s financial stability, integrity, and background	DGC’s Independent Audit Report and Material Weakness Statement submitted pursuant to 205 CMR 139.07(1) and its quarterly spending reports have not revealed any disqualifying information concerning DGC or its financial stability, integrity, or background.
DGC’s business practices and business ability to establish and maintain a successful sports wagering operation	At this time, the Commission has not been made aware of any disqualifying information concerning DGC’s business practices. As described in Experience and Expertise Related to Sports Wagering, above, DGC has the business ability to establish and maintain a successful sports wagering operation.
DGC’s history of compliance with gaming or sports wagering licensing requirements in other jurisdictions	DGC has never been found unsuitable for a gaming license, never had a gaming license non-renewed or considered for non-renewal, and never had a gaming license suspended, denied, or revoked. DGC voluntarily withdrew applications in Michigan, Virginia, and Illinois:

	<p>DGC IL LLC (the subsidiary of DGC USA created to apply/bid for licensure in Illinois) was informed by the Illinois Gaming Board that the company’s failure to supply all required qualifier fingerprints by the deadline of January 2, 2022, would mandate denial of its bid. Nevertheless, DGC IL was offered the opportunity to request withdrawal of its application/bid in lieu of denial.</p> <p>On 1/10/2021, DGC USA was informed by the Virginia Lottery that it had not been selected to receive a Sports Betting Permit in their competitive process. They explained that this was because at that point in time DGC USA was not live in any US states. Given this, DGC USA was able to withdraw all applications with the Virginia Lottery without prejudice and receive a full refund for payment of the application fees. However, on 5/31/2021, DGC reapplied for a Sports Betting Permit with Virginia Lottery, which was approved on 11/24/2021.</p> <p>A former subsidiary of DGC USA, Banyan Gaming, LLC, was the entity through which sales of land-based gaming products and services were licensed or otherwise approved in all jurisdictions in which land-based gaming business was transacted. When DGC decided to exit the land-based business, Banyan Gaming, LLC withdrew applications or let existing licenses lapse in a number of jurisdictions, most of them tribal.</p> <p>DGC incurred two violations in Indiana. The first involved a failure of Betway’s TIN verification check, which had been deactivated during an IT system health check between October 25, 2021, and December 22, 2021. A total of 1,526 accounts were processed successfully despite the TIN verification being deactivated. The second violation involved two counts: (1) a patron was able to create two accounts with the same personal identifiable information, and (2) a Gaming Agent found 14 prohibited participant omissions during an audit. DGC has reached settlements with the Indiana Gaming Commission on all of these matters.</p>
Whether DGC is a defendant in litigation involving its business practices	DGC is not a defendant in any litigation involving its business practices.
Any other appropriate factor in the Commission’s discretion	The Commission initially expressed concern over DGC’s timeline for operation in Massachusetts, as DGC is not proposing to go live in the Commonwealth until 2024, despite having gone live in Ohio just before the hearing on its Massachusetts application. DGC explained that the staggered nature of its go-

	<p>lives in executive session. The Commission was concerned that the grant of a license that DGC did not intend to use immediately could be used as leverage to sell the Applicant’s business, rather than to actually commence sports wagering operations. DGC assured the Commission that it had no intention to sell the business, and would agree, if necessary, to a condition prohibiting them from transferring its sports wagering license for a given period of time. The Commission ultimately decided against implementing such a condition, as it is in the process of developing regulations addressing transferability. <i>See</i> 205 CMR 229.00.</p>
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IV. Award

THE COMMISSION FINDS THAT THERE IS SUBSTANTIAL EVIDENCE IN THE RECORD THAT DGC’S APPLICATION MEETS EXPECTATIONS IN ALL CATEGORIES AND THAT DGC IS ELIGIBLE FOR A TEMPORARY UNTETHERED CATEGORY 3 SPORTS WAGERING LICENSE

On January 19, 2023, the Commission deemed DGC (“Licensee”) eligible to request a Temporary Category 3 Sports Wagering Operator License (“License”) pursuant to the terms and conditions of this Agreement (“Agreement”). On November 21, 2022, the MGC received DGC’s request for a temporary license, and an initial licensing fee of \$1,000,000 payable to the Commission. *See* 205 CMR 219.02(1). On January 19, 2023, the Commission voted to issue the requested temporary license. *See* 205 CMR 219.02(3).

This License is subject to the following conditions:

1. Compliance with all of the requirements of G.L. c. 23N, as now in effect and as hereafter amended and 205 CMR, as now in effect and as hereafter amended.
2. Compliance with all applicable federal, state, and local laws, rules and regulations, now in effect or as hereafter amended or promulgated.
3. Compliance with the license conditions required to be inserted into all sports wagering licenses by 205 CMR 220, namely:
 - a. That the Licensee obtain an Operation Certificate before conducting any sports wagering in the Commonwealth.
 - b. That the Licensee comply with all terms and conditions of its license and Operation Certificate;
 - c. That the Licensee comply with G.L. c. 23N and all rules and regulations of the Commission;

- d. That the Licensee make all required payments to the Commission in a timely manner;
 - e. That the Licensee maintain its suitability to hold a sports wagering license;
 - f. That the Licensee conduct sports wagering in accordance with its approved system of internal controls, and in accordance with its approved house rules, in accordance with G.L. c. 23N, § 10(a) and with 205 CMR; and
4. The Licensee post the License, in the form prescribed by the Commission, in a location continuously conspicuous to the public on the Licensee’s Sports Wagering Platform and website at all times.
 5. Payment of assessments made pursuant 205 CMR 221.00 in accordance with that regulation.
 6. The Sports Wagering Operation shall substantially conform to the information included in the application filed by the Licensee and abide by all affirmative statements made in the Licensee’s application.
 7. The term of the temporary license awarded to Licensee commences upon February 28, 2023, and shall expire as set out in 205 CMR 219.03.

SO ORDERED

MASSACHUSETTS GAMING COMMISSION

Cathy Judd-Stein, Chair

Eileen M. O’Brien, Commissioner

Bradford R. Hill, Commissioner

Nakisha L. Skinner, Commissioner

Jordan M. Maynard, Commissioner

COMMONWEALTH OF MASSACHUSETTS
MASSACHUSETTS GAMING COMMISSION

In the Matter of)
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Application of Crown MA Gaming, LLC d/b/a DraftKings)
for a Temporary Untethered Category 3 Sports Wagering)
Operator License)
)
)

**DECISION DEEMING CROWN MA GAMING, LLC D/B/A DRAFTKINGS
ELIGIBLE TO REQUEST A TEMPORARY UNTETHERED
CATEGORY 3 SPORTS WAGERING OPERATOR LICENSE**

I. Introduction

Crown MA Gaming, LLC d/b/a DraftKings (“DraftKings”) applied to the Massachusetts Gaming Commission (“MGC” or “Commission”) for an Untethered Category 3 Sports Wagering License. Under G.L. c. 23N, the Commission may issue an Untethered Category 3 Sports Wagering License (“License”) to an entity that offers sports wagering through a mobile application or other digital platform that meets the requirements of c. 23N and the rules and regulations of the Commission. For the following reasons, the Commission hereby deems DraftKings eligible to request a License.

II. Procedural History

On November 21, 2022, the Commission received DraftKings’ Sports Wagering License Application (“Application”), including the \$200,000 application fee. *See* G.L. c. 23N, § 7(A) and 205 CMR 214.01. The MGC Division of Licensing reviewed the Application for administrative sufficiency and determined that the application was sufficient. *See* 205 CMR 218.03. On January 3, 2023, the Commission held a virtual public meeting to hear public comments on all Untethered Category 3 Sports Wagering applications, *see* 205 CMR 218.05 and 205 CMR 218.06, which are contained in the Commission’s public record. On January 11, 2023, the Commission held a virtual public meeting to determine whether to issue DraftKings a preliminary finding of suitability, which included hearing an informal presentation from DraftKings and the Commission’s consultants. *See* 205 CMR 218.04(1)(a)-(b), 218.05(1)(b), 218.06(1). On January 11, 2023, the Commission deliberated on the Application, *see* 205 CMR 218.06(4)-(5), and found DraftKings preliminarily suitable and eligible to request a Temporary License. *See* 205 CMR 215.01(2)(c)-(d), 218.07(1)(a).

III. Findings and Evaluation

In evaluating whether to issue the Category 3 Sports Wagering License to DraftKings, the Commission considered all information in the application submitted by DraftKings; the public comments made on January 3, 2023; the presentations made by DraftKings and the

Commission’s external consultants¹ on January 11, 2023; and a written report prepared by the Investigations and Enforcement Bureau (“IEB” or “Bureau”) in accordance with 205 CMR 215.01(2)(b).

In accordance with 205 CMR 218.06(5), in determining whether to deem DraftKings eligible to request a Temporary Untethered Category 3 Sports Wagering License, the Commission evaluated all materials and information in the record to determine whether a license award would benefit the Commonwealth, and considered the following factors:

- a) DraftKings’ experience and expertise related to Sports Wagering, including:
 - 1. DraftKings’ ability to offer Sports Wagering in the Commonwealth;
 - 2. A description of DraftKings’ proposed Sports Wagering Platform;
 - 3. The technical features & operation of DraftKings’ proposed Sports Wagering Platform;
- b) The economic impact and other benefits to the Commonwealth if DraftKings was awarded a License, including:
 - 1. Employment opportunities within the Commonwealth;
 - 2. Projected revenue;
 - 3. Community engagement;
- c) DraftKings’ proposed measures related to responsible gaming, including:
 - 1. DraftKings’ responsible gaming policies;
 - 2. DraftKings’ advertising and promotional plans;
 - 3. DraftKings’ history of demonstrated commitment to responsible gaming;
- d) A description of DraftKings’ willingness to foster racial, ethnic, and gender diversity, equity, and inclusion, including:
 - 1. Within DraftKings’ workforce;
 - 2. Through DraftKings’ supplier spend;
 - 3. In DraftKings’ corporate structure;
- e) The technology that DraftKings intended to use in its operation, including:
 - 1. Geofencing;
 - 2. Know your customer measures; and
 - 3. Technological expertise and reliability;
- f) The suitability of DraftKings and its qualifiers, including:

¹ The consultants include RSM US LLP (“RSM”), which presented on DraftKings’ financial projections; Gaming Laboratories International LLC (“GLI”), which presented on technology considerations; and the Commission’s Investigations and Enforcement Bureau (“IEB”), which presented on DraftKings’ suitability.

1. DraftKings' corporate integrity;
2. The integrity of DraftKings' individual qualifiers;
3. DraftKings' financial stability, integrity, and background;
4. DraftKings' history of compliance with gaming or Sports Wagering licensing requirements in other jurisdictions; and

g) Any other appropriate factor, in the Commission's discretion.

In each case, the Commission decided whether each section of DraftKings' application addressing these factors failed to meet, met, or exceeded expectations.

Ultimately, the Commission finds there is substantial evidence in the record to conclude that DraftKings' proposed Sports Wagering operation meets the requirements set forth in G.L. c.23N and 205 CMR 218. The Commission further finds there is substantial evidence to adopt the following specific findings of fact and conclusions of law related to DraftKings' Application.

A. Experience and Expertise Related to Sports Wagering

As reported during the January 11, 2023, hearing, DraftKings first launched in 2012 as a daily fantasy sports company. In 2018, DraftKings became the first company to launch a mobile sport wagering platform, doing so in New Jersey. As of January 11, 2023, DraftKings has launched its platform in over 20 states and the province of Ontario, giving it the leading market presence amongst sports wagering operators. DraftKings also reported that it has over 4,000 employees and sees traffic of over 2.7 million players per month.

During its presentation, DraftKings stated that customer service is its "number one value" and that DraftKings has over 1,000 customer service associates who are able to provide customer support 24/7, 365 days/year through email, webchat, phone, and social media.

Members of the Commission raised concerns about DraftKings use of the word "free" in its promotions (which the Commission noted resulted in a high retention rate), and asked DraftKings to address how it would comply with the Commission's regulation prohibiting the use of "free" in promotions and advertisements. DraftKings stated that while it has historically used "free" in its marketing efforts, DraftKings was consistently evaluating the language employed in its promotions and advertisements and would stop using "free" to comply with the Commission's regulations.

Members of the Commission also asked DraftKings to elaborate on its exclusive agreement with the Ultimate Fighting Championship and Conor McGregor. DraftKings responded it has an active relationship with the Ultimate Fighting Championship and various mixed martial arts fighters, as well as other professional sports teams. DraftKings further explained that all these relationships are formed through partnerships with the governing body of the sport, and that the governing body approves any promotional messages that are advertised through the league, team, or athlete. In response to concerns raised by Commissioners, DraftKings clarified that it implements controls, such as prohibiting an athlete from betting on competitions in which they

participate or at events in their sport, in order to ensure the integrity of sports betting. DraftKings further responded that it vets each celebrity or athlete before partnering with them, and if required under the relevant law, has that individual obtain a vendor or partner license.

In response to questions raised by Commissioners, DraftKings clarified that its existing Commonwealth customers are either customers who participate in daily fantasy sports or have created an account to engage in sports wagering in a nearby jurisdiction, such as New Hampshire. DraftKings further clarified that it has not engaged in any prelaunch marketing and would not do so until the Commission issues guidance permitting such marketing.

Commissioners also asked DraftKings to clarify its satisfaction rates, which it noted were low. DraftKings stated that when it first launched its sports wagering platform, its technology was still evolving. Since then, DraftKings has added additional identification verification measures, as well as multiple deposit and withdrawal options. DraftKings stated that if it were to survey its customers across all states in which it operates, it believes it would yield positive reactions.

The Commission went into executive session to discuss why DraftKings’ odds differ from those offered by other sports wagering operators and how DraftKings sets its odds in accordance with G.L. c. 30A, § 21(a)(7) and G.L. c. 23N, § 6(i). The Commission was ultimately satisfied that DraftKings’ odds setting practices did not negatively impact its ability to offer Sports Wagering in the Commonwealth.

Overall, there is substantial evidence that DraftKings has the experience and expertise required to develop and operate a Sports Wagering Platform. Therefore, DraftKings’ proposal in the experience and expertise category meets expectations.

SUMMARY OF EVALUATION BY CRITERIA	
Criteria	Finding
DraftKings’ ability to offer Sports Wagering in the Commonwealth	<p>As of January 11, 2023, DraftKings operates in over 20 states and the province of Ontario. DraftKings has over 4,000 employees, with over 1,000 of those employees dedicated to customer service.</p> <p>For the reasons stated above, the Commission unanimously agreed that DraftKings has sufficient ability to offer Sports Wagering in the Commonwealth.</p>
Description of DraftKings’ proposed Sports Wagering Platform	<p>DraftKings stated that its sports wagering product is fully vertically integrated, meaning that DraftKings runs all the technology necessary to operate, from its online platform to its sports book.</p> <p>DraftKings further described its proposed Sports Wagering Platform on pages 55-78 of its Application and the Commission found it satisfactory.</p>

Technical features and operation of DraftKings' proposed Sports Wagering Platform	DraftKings described the technical features and operation of its proposed Sports Wagering Platform on pages 80-317 of its Application and the Commission found it satisfactory.
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B. Economic Impact

During its January 11, 2023, presentation, DraftKings stated that it has experienced “massive growth,” is “well capitalized,” and expects to be profitable “soon.” Based on its experiences in other states and trends in sports wagering, DraftKings stated it would be “positioned well” to operate a sportsbook in the Commonwealth.

DraftKings stated that as of January 11, 2023, it has 1,300 employees living in 150 cities and towns of the Commonwealth. It further stated that it anticipates hiring 75-85 new employees in the Commonwealth, 25 of whom it anticipates would be directly associated with offering sports wagering in the Commonwealth.

The Commission asked DraftKings to address its plans to partner with the Massachusetts Lottery. DraftKings stated it currently does not have any business agreements with the Lottery, but that it was open to having conversations with the Lottery about working together. Based on its experience in other jurisdictions, DraftKings stated it believed it would be able to develop a strong partnership with the Lottery.

Commissioners also asked DraftKings to describe its plans to partner with local restaurants and businesses. DraftKings stated it would seek to undertake the same partnerships DraftKings has established through daily fantasy sports for sports wagering. Such partnerships could include providing partners promotional codes and hosting launch parties once its sports wagering platform is live, as it has done in other states. The Commission encouraged DraftKings to consider developing such partnerships with minority and women-owned businesses, and that similar partnerships could be established with the Lottery.

The Commission went into executive session to further discuss DraftKings' plans to hold live events to promote its platform if awarded a license and the anticipated impact on daily fantasy sports if DraftKings was awarded a Sports Wagering license in accordance with G.L. c. 30A, § 21(a)(7) and G.L. c. 23N, § 6(i). The Commission was ultimately satisfied that DraftKings' proposed plans would further its community engagement efforts and would not have a negative effect on its economic impact.

Overall, there is substantial evidence that DraftKings' proposal in the economic impact category meets expectations.

SUMMARY OF EVALUATION BY CRITERIA	
Criteria	Finding
Employment opportunities within the Commonwealth	<p>During its January 11, 2023, presentation, DraftKings stated it currently has 1,300 employees in the Commonwealth and anticipates hiring an additional 75-85 employees in the Commonwealth, 25 of whom would be directly associated with sports wagering in the Commonwealth.</p> <p>The Commission was satisfied by this proposed employment plan.</p>
Projected revenue	DraftKings described its projected Sports Wagering revenue on pages 344-356 of its Application and the Commission found it satisfactory.
Community engagement	DraftKings described its plans for community engagement on pages 406-416 of its Application and the Commission found it satisfactory.

C. Responsible Gaming

DraftKings stated responsible gaming is its top priority. To that end, it utilizes a system-based public health approach and has partnered with the Cambridge Health Alliance. DraftKings reported that it employs a five-pillar approach to responsible gaming: (1) training and education; (2) detection and intervention; (3) external engagements and research; (4) marketing and advertising; and (5) platform tools and resources. This approach includes training all employees from their first day at DraftKings; maintaining responsible gaming resources for employees on DraftKings’ intranet; providing an education hub on the DraftKings platform that players can access even if they do not have a DraftKings account (dkplayforsafe.com); temporarily banning and permanently closing player account as appropriate; and providing players the contact information for problem gaming help lines.

With respect to its marketing efforts, DraftKings reported that it is a member of many responsible gaming groups, including the American Gaming Association. As a member of the American Gaming Association, DraftKings adheres to the American Gaming Association’s marketing code, so its marketing and advertising effort comport with responsible gaming principles. If any of its third-party marketing and advertising partners violate those principles,

DraftKings takes action to enforce those principles, including terminating its relationships with those partners.

The Commission asked DraftKings to elaborate on disciplinary action it had faced because of responsible gaming violations. DraftKings explained that it was subject to enforcement actions in New Jersey on three separate occasions for: (1) sending direct mail to individuals on the voluntary self-exclusion list; (2) sending emails, text messages, and push notifications to individuals on the voluntary self-exclusion and “cooling-off” lists; and (3) an incident involving proxy wagering. In Indiana, DraftKings was subject to enforcement action for sending direct mail to customers on the voluntary self-exclusion list, as well as failing to timely submit the licensing paperwork for a new member of its Board of Directors and failing to disclose certain information regarding its licensed employees. In Illinois, DraftKings was subject to enforcement action for its failure to timely disclose a letter of intent to partner with a company affiliated with the Chicago Cubs. In Ontario, DraftKings was subject to enforcement action for promoting an odds offer on television and social media that the Alcohol and Gaming Commission of Ontario characterized as an inducement. The Commission went into executive session to discuss the remedial efforts taken in response to these matters, as well as to review two pending enforcement matters in Ohio involving the marketing of a promotion to individuals between the ages of 18 and 20 and the failure to include clear and conspicuous information about responsible gaming in certain advertisements in accordance with G.L. c. 30A, § 21(a)(7) and G.L. c. 23N, § 6(i). The Commission was ultimately satisfied that these matters did not negatively impact DraftKings’ ability to offer Sports Wagering in accordance with responsible gaming principles.

Overall, there is substantial evidence that DraftKings’ proposal in the responsible gaming category meets expectations.

SUMMARY OF EVALUATION BY CRITERIA	
Criteria	Finding
Responsible gaming policies	DraftKings described its responsible gaming policies on pages 443-459 of its Application and the Commission found it satisfactory.
Advertising and promotional plans	DraftKings abides by the American Gaming Association’s marketing code. DraftKings stated if any of its third-party marketing and advertising partners violated its marketing code, DraftKings would take enforcement action up to terminating its relationship with the third-party partner. The Commission was satisfied that DraftKings’ advertising and promotional plans would adhere to its responsible gaming policies.
History of demonstrated commitment to responsible gaming	DraftKings described its history of commitment to responsible gaming on pages 486-507 of its Application and the Commission found it satisfactory.

D. Diversity, Equity, and Inclusion

The Commission included Diversity, Equity, and Inclusion as stand-alone considerations to demonstrate the value it places on this category of an applicant's application.

As explained by DraftKings during the January 11, 2023, hearing, DraftKings approaches diversity, equity, and inclusion from a four-point framework: "hire, wire, empower, and sustain." The philosophy behind its framework is to maintain parity and opportunity through the employee life cycle. To do so, DraftKings utilizes a data and partnership-oriented approach in its talent acquisition and management. Within DraftKings, the company offers business resource groups for diverse employees, and provides reproductive and gender affirmation care for employees and their families.

DraftKings' diversity, equity, and inclusion focus began in 2019. Since then, DraftKings has doubled its number of black, indigenous and other people of color ("BIPOC") employees and seen an increase in the number of women hired. At the January 11, 2023, hearing, DraftKings also reported that it had recently hired a Vice President of Diversity, Equity, and Inclusion and was investing \$1 million internally to support diversity, equity, and inclusion efforts at DraftKings.

DraftKings acknowledged during the January 11, 2023, hearing that its current supplier diversity has not met its supplier diversity goals. DraftKings stated that it is gathering data to assess its current supplier diversity so it can set realistic goals. Once its supplier diversity goals have been set, DraftKings will utilize the same approaches it uses to promote employee diversity to promote supplier diversity.

Members of the Commission raised concerns about the number of women in DraftKings' workforce, noting that it seemed low. DraftKings acknowledged that it has not met its women in the workforce goals, but stated that it has made progress hiring women, despite the relative lack of women in the technology industry. To further improve its women in the workforce numbers, DraftKings stated it was working on internal supports and providing benefits that would attract women to the company. Commissioners suggested DraftKings could benefit from conducting outreach through various state resources that reach women in STEM fields.

There is therefore substantial evidence that DraftKings' commitment to Diversity, Equity, and Inclusion meets expectations.

SUMMARY OF EVALUATION BY CRITERIA	
Criteria	Finding
Workforce	<p>As of January 11, 2023, 31% of DraftKings employees identified as BIPOC and 22% as women. Within managers and directors, 17% identified as BIPOC and 28% as women. Amongst employees at the Vice President level and above, 13% identified as BIPOC and 22% as women.</p> <p>DraftKings stated that by 2025, its goal is to have 40% of its US workforce identify as BIPOC, and 35% of its global workforce identify as women.</p> <p>The Commission was satisfied by DraftKings' workforce composition and goals.</p>
Supplier spend	<p>DraftKings stated it is currently in the process of gathering data about its supplier spending in order to set goals and benchmarks for its diversity spending.</p> <p>DraftKings further described its supplier spend goals on pages 431-436 and the Commission found it satisfactory.</p>
Corporate structure	<p>As of January 11, 2023, out of the 11 members of DraftKings' Board of Directors, 3 identified as BIPOC (2 identified as Black) and 3 identified as women.</p> <p>DraftKings further described its corporate structure on pages 438-440 of its Application and the Commission was satisfied by DraftKings' corporate structure.</p>

E. Technology

As explained during the January 11, 2023, hearing, DraftKings's platform is fully vertically integrated, meaning DraftKings owns the entirety of its sports betting platform, from the software to the sportsbook. DraftKings represented that its platform is GLI-certified and incorporates Know-Your-Customer and geofencing measures.

DraftKings demonstrated its product to the Commission, including account creation, log in, deposits, withdrawal, setting responsible gaming limits, accessing responsible gaming help resources, and placing a bet. DraftKings stated it would be able to customize its home page to highlight responsible gaming resources.

The Commission went into executive session to discuss a data breach incident involving the withdrawal of customer funds from their Sports Wagering Account to a threat actor's bank account and how DraftKings manages high-risk financial transactions in accordance with

G.L. c. 30A, § 21(a)(7) and G.L. c. 23N, § 6(i). The Commission was ultimately satisfied that DraftKing’s data breach and risk management practices did not negatively impact its technologic expertise and reliability.

Overall, there is substantial evidence that DraftKings’ proposal in the technology category meets expectations.

SUMMARY OF EVALUATION BY CRITERIA	
Criteria	Finding
Geofencing	DraftKings described its geofencing measures on pages 510-514 of its Application and the Commission found it satisfactory.
Know your customer	DraftKings described its know your customer measures on pages 516-519 of its Application and the Commission found it satisfactory.
Technological expertise and reliability	DraftKings described its technological expertise and reliability on pages 521-545 of its Application and the Commission found it satisfactory.

F. Suitability of DraftKings and Its Qualifiers

The Commission raised concerns about allegations made against DraftKings in a Hindenberg Research report and DraftKings’ relationship with Ingen Media. DraftKings stated that the publicly reported allegations in the Hindenberg Research report concerned SBTech, which DraftKings acquired in 2020. DraftKings stated that it terminated its relationship with SBTech as of July 2021, and is conducting an investigation in cooperation with the SEC regarding the allegations raised in the Hindenberg report. DraftKings stated that it is currently in active litigation with Ingen Media based on patent and trademark disputes.

The Commission also asked DraftKings to report on the status of a class action lawsuit against DraftKings regarding daily fantasy sports. DraftKings reported that the lawsuit was consolidated in Massachusetts and ultimately settled for an “immaterial” amount.

The Commission went into executive session to discuss DraftKings’ financial reporting system in accordance with G.L. c. 30A, § 21(a)(7) and G.L. c. 23N, § 6(i). The Commission was ultimately satisfied that DraftKings’ odds setting practices did not negatively impact its ability to offer Sports Wagering in the Commonwealth.

The Commission is satisfied with DraftKings’ suitability, and that of its qualifiers. It therefore found DraftKings preliminarily suitable, and concluded there is substantial evidence that DraftKings’ suitability meets expectations.

SUMMARY OF EVALUATION BY CRITERIA	
Criteria	Finding
Corporate integrity	DraftKings is suitable to hold a Sports Wagering license.
Individual qualifier integrity	The IEB’s investigative report prepared for the purposes of this License decision has not revealed any disqualifying information concerning DraftKings or its qualifiers’ integrity, honesty, good character, or reputation.
Financial stability, integrity, and background	DraftKings’ Independent Audit Report and Material Weakness Statement submitted pursuant to 205 CMR 139.07(1), and its quarterly spending reports, have not revealed any disqualifying information concerning DraftKings or its financial stability, integrity, or background.
History of compliance	See narrative description of Responsible Gaming, above.

IV. Award

THE COMMISSION FINDS THAT THERE IS SUBSTANTIAL EVIDENCE IN THE RECORD THAT DRAFTKINGS’ APPLICATION MEETS EXPECTATIONS IN ALL CATEGORIES AND THAT DRAFTKINGS IS ELIGIBLE FOR A TEMPORARY UNTETHERED CATEGORY 3 SPORTS WAGERING LICENSE

On November 21, 2022, the MGC received DraftKings’ request for a License, and an initial licensing fee of \$1,000,000 payable to the Commission. *See* 205 CMR 219.02(1). On December 20, 2022, the Commission voted to issue the requested License. *See* 205 CMR 219.02(3). On January 11, 2023, the Commission deemed DraftKings (“Licensee”) eligible to request a Temporary Untethered Category 3 Sports Wagering Operator License (“License”) pursuant to the terms and conditions of this Agreement (“Agreement”).

This License is subject to the following conditions:

1. Compliance with all of the requirements of G.L. c. 23N, as now in effect and as hereafter amended and 205 CMR, as now in effect and as hereafter amended.
2. Compliance with all applicable federal, state and local laws, rules and regulations, now in effect or as hereafter amended or promulgated.
3. Compliance with the license conditions required by 205 CMR 220, namely:
 - a. That the Licensee obtain an Operation Certificate before conducting any Sports Wagering in the Commonwealth;

- b. That the Licensee comply with all terms and conditions of its license and Operation Certificate;
 - c. That the Licensee comply with G.L. c. 23N and all rules and regulations of the Commission;
 - d. That the Licensee make all required payments to the Commission in a timely manner;
 - e. That the Licensee maintain its suitability to hold a Sports Wagering license; and
 - f. That the Licensee conduct Sports Wagering in accordance with its approved system of internal controls, and in accordance with its approved house rules, in accordance with G.L. c. 23N, § 10(a) and with 205 CMR.
- 4. The Licensee post the License, in a form prescribed by the Commission, in a location continuously conspicuous to the public on the Licensee’s Sports Wagering Platform and website at all times.
 - 5. Payment of assessments made pursuant 205 CMR 221.00 in accordance with that regulation.
 - 6. The Sports Wagering Operation shall substantially conform to the information included in the application filed by the Licensee and abide by all affirmative statements made in the Licensee’s application.
 - 7. The term of the License awarded to Licensee commences upon February 23, 2023, and shall expire as set out in 205 CMR 219.03.

SO ORDERED
MASSACHUSETTS GAMING COMMISSION

Cathy Judd-Stein, Chair

Eileen M. O’Brien, Commissioner

Bradford R. Hill, Commissioner

Nakisha L. Skinner, Commissioner

Jordan M. Maynard, Commissioner

**COMMONWEALTH OF MASSACHUSETTS
MASSACHUSETTS GAMING COMMISSION**

In the Matter of)
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Application of FBG Enterprises Opco, LLC for a Temporary)
Tethered Category 3 Sports Wagering Operator License)
)

**DECISION DEEMING FBG ENTERPRISES OPCO, LLC
ELIGIBLE TO REQUEST A TEMPORARY
TETHERED CATEGORY 3 SPORTS WAGERING OPERATOR LICENSE**

I. Introduction

FBG Enterprises Opco, LLC (“Fanatics” or “Fanatics Betting and Gaming”) applied to the Massachusetts Gaming Commission (“MGC” or “Commission”) for a Tethered Category 3 Sports Wagering License. Fanatics intends to offer its mobile sports wagering platform in the Commonwealth under a tethered commercial agreement with Plainville Gaming and Redevelopment, LLC d/b/a Plainridge Park Casino, a Category 1 sports wagering applicant. Under G.L. c. 23N, the Commission may issue a Tethered Category 3 Sports Wagering License to an entity that offers sports wagering in connection with a Category 1 or 2 license, and through a mobile application or other digital platform that meets the requirements of c. 23N and the rules and regulations of the Commission. For the following reasons, the Commission hereby deems Fanatics eligible to request a temporary license (“License”).

II. Procedural History

On November 21, 2022, the Commission received Fanatics’ Sports Wagering License Application (“Application”), including the \$200,000 application fee. *See* G.L. c. 23N, § 7(A) and 205 CMR 214.01. The MGC Division of Licensing reviewed the Application for administrative sufficiency and determined that the Application was sufficient. *See* 205 CMR 218.03. On December 12, 2022, the Commission held a virtual public meeting in order to hear public comment on all Tethered Category 3 Sports Wagering applications, *see* 205 CMR 218.05 and 205 CMR 218.06, which are contained in the Commission’s public record. On January 4, 5, 11 and 12, 2023, the Commission held virtual public meetings to determine whether to issue Fanatics a durable finding of suitability, which included hearing informal presentations from Fanatics and the Commission’s consultants. *See* 205 CMR 218.04(1)(a)-(b), 218.05(1)(b), 218.06(1). The Commission deliberated on the Application at the January 12, 2023 meeting, *see* 205 CMR 218.06(4)-(5), and at that same meeting, found Fanatics preliminarily suitable and deemed Fanatics eligible to request a License. *See* 205 CMR 215.01(2)(c)-(d), 218.07(1)(a).

III. Findings and Evaluation

In evaluating whether to issue the Category 3 Sports Wagering License to Fanatics, the Commission considered: all information in the Application; the public comments made on

December 12, 2022; the presentations made by Fanatics and the Commission’s external consultants¹ on January 4, 5, 11 and 12, 2023; and a written report prepared by the Investigation and Enforcement Bureau (“IEB” or “Bureau”) in accordance with 205 CMR 215.01(2)(b).

In accordance with 205 CMR 218.06(5), in determining whether to deem Fanatics eligible to request a Temporary Tethered Category 3 Sports Wagering License, the Commission evaluated all materials and information in the record to determine whether a license award would benefit the Commonwealth, and considered the following factors:

- a) Fanatics’ experience and expertise related to Sports Wagering, including:
 1. Fanatics’ ability to offer Sports Wagering in the Commonwealth;
 2. A description of Fanatics’ proposed Sports Wagering Platform;
 3. The technical features & operation of Fanatics’ proposed Sports Wagering Platform;
- b) The economic impact and other benefits to the Commonwealth if Fanatics is awarded a License, including:
 1. Employment opportunities within the Commonwealth;
 2. The projected revenue from wagering operations, and tax revenue to the Commonwealth;
 3. Community engagement;
- c) Fanatics’ proposed measures related to responsible gaming, including:
 1. Fanatics’ responsible gaming policies;
 2. Fanatics’ advertising and promotional plans;
 3. Fanatics’ history of demonstrated commitment to responsible gaming;
- d) A description of Fanatics’ willingness to foster racial, ethnic, and gender diversity, equity, and inclusion, including:
 1. Within Fanatics’ workforce;
 2. Through Fanatics’ supplier spend;
 3. In Fanatics’ corporate structure;
- e) The technology that Fanatics intends to use in its operation, including:
 1. Geofencing;
 2. Know-your-customer measures; and
 3. Technological expertise and reliability;
- f) The suitability of Fanatics and its qualifiers, including:

¹ The consultants include RSM US LLP (“RSM”), which presented on Fanatics’ financial projections; Gaming Laboratories International LLC (“GLI”), which presented on technology considerations; and the Commission’s Investigations and Enforcement Bureau (“IEB”), which presented on Fanatics’ suitability.

1. Fanatics' corporate integrity;
2. The integrity of Fanatics' individual qualifiers;
3. Fanatics' financial stability, integrity, and background;
4. Fanatics' history of compliance with gaming or sports wagering licensing requirements in other jurisdictions; and

g) Any other appropriate factor, in the Commission's discretion.

Further, the Commission decided whether each section of Fanatics' Application addressing these factors failed to meet, met, or exceeded expectations.

Ultimately, the Commission finds there is substantial evidence in the record to conclude that Fanatics' proposed Sports Wagering operation meets the requirements set forth in G.L. c.23N and 205 CMR 218. The Commission further finds there is substantial evidence to adopt the following specific findings of fact and conclusions of law related to the Application.

A. Experience and Expertise Related to Sports Wagering

Fanatics is a subsidiary of Fanatics Holdings, Inc. ("FHI"), a privately held corporation. FHI also owns Fanatics Commerce, the largest seller of licensed sports merchandise in the world, and Fanatics Collectibles, a licensed trading card brand in the U.S.

Matt King, CEO of Fanatics, previously served as CEO of FanDuel and helped grow FanDuel's business. Mr. King partnered with Michael Rubin, whom Mr. King described as one of the most successful entrepreneurs in sports betting, to launch Fanatics. To launch Fanatics, Mr. King also sought out others with experience in other digital categories, including former FanDuel employees. Mr. King discussed the experience that the leadership team has in operating and leading regulated sports wagering platforms, along with the team's mix of experience in both domestic and international markets. The leadership team is comprised of individuals who have experience in sports wagering and also high-end technology.

During the presentation, Fanatics also discussed how the company intends to be an innovator in the online sports betting business. Fanatics reviewed the ways in which its team has previously been successful in sports betting and other digital categories and how this translates into the operation of its sports wagering platform.

The Commission expressed concerns regarding Fanatics' heavy reliance on FHI and its posture. Fanatics noted there is some integration between Fanatics and FHI for marketing and funding. The Commission inquired about the organizational structure and ownership and control of Fanatics and FHI. As Fanatics is a private company, details of the corporate structure and ownership were discussed in executive session. The Commission was ultimately satisfied that Fanatics would be sufficiently independent in its sports wagering operations.

There is substantial evidence that Fanatics has the experience and expertise required to develop and operate a Sports Wagering Platform. Therefore, Fanatics' proposal for its Sports Wagering Operation meets expectations.

SUMMARY OF EVALUATION BY CRITERIA

Criteria	Finding
<p>Ability to offer Sports Wagering in the Commonwealth</p>	<p>Fanatics is a subsidiary of FHI, which operates Fanatics Commerce, Fanatics Collectibles and Fanatics Betting and Gaming. Fanatics Commerce is the largest seller of licensed sports merchandise in the world; Fanatics Collectibles is the largest collectibles business in the country.</p> <p>Fanatics asserts that digital markets require innovation, and that as a second mover it can bring a unique and innovative perspective to the market. Fanatics stated it had a proven track-record in sports betting and other digital categories, and that it has extensive experience in the U.S. and globally in sports wagering and high-end technology.</p> <p>Fanatics intends to offer its mobile sports wagering platform in Massachusetts under a tethered commercial agreement with Plainville Gaming and Redevelopment, LLC (a Category 1 sports wagering applicant). Matt King, former CEO of FanDuel, is serving as Fanatics’ CEO.</p> <p>As of January 12, 2023, Fanatics holds online and retail sports wagering operator licenses in Maryland and Ohio, though operations have not yet commenced. In addition, as of January 12, 2023, Fanatics has applications pending in five other jurisdictions.</p> <p>Fanatics is on track to launch its gaming business in Q1 2023, and plans to be in all major markets by September of 2023. Fanatics’ executive team brings experience from a number of international markets. Notably, Mr. King has a proven track- record with sports betting in the U.S. and helped build FanDuel.</p> <p>The Commission was satisfied with Fanatics’ ability to offer Sports Wagering in the Commonwealth.</p>
<p>Description of Fanatics’ proposed Sports Wagering Platform</p>	<p>Fanatics intends to build a stable platform powered by AWS. Fanatics is partnering with Amelco to purchase its core code base. During the presentation, Fanatics described how Amelco has a proven code base with an operating platform in seventeen U.S. and international markets.</p> <p>The Commission was satisfied with Fanatics’ proposed Sports Wagering platform.</p>
<p>Technical features and operation of Fanatics’ proposed Sports Wagering Platform</p>	<p>Due to the proprietary nature of Fanatics’ platform, Fanatics stated its platform was a trade secret and that Fanatics would be put at a competitive disadvantage if its platform was presented publicly. Fanatics therefore demonstrated its platform in executive session,</p>

	and the Commission was satisfied with the technical features and operation of Fanatics’ sports wagering platform.
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B. Economic Impact

During its presentation, Fanatics discussed how it anticipates it will bring significant benefits to the gaming business by building an easy to use and innovative platform for all sports fans. Fanatics asserted that it stands behind an existing brand that is well known and trusted.

The Commission questioned what Fanatics intends to bring to Massachusetts in terms of employment, if a sports wagering license was awarded. Fanatics discussed its intention to continually grow, and with that growth, add employees in Massachusetts. However, Fanatics did not have a specific plan for adding employees upon the award of a sports wagering license. Fanatics intended to find opportunities to add employment in the Commonwealth, which included opportunities in marketing and technology.

The Commission questioned Fanatics’ assertion in its application that it would bring additional revenue to Massachusetts based on its marketing and ad initiatives and specifically, whether the additional revenue was tied to media outlets or Fanatics’ contribution of revenue. Fanatics stated that in its experience, sports betting increases customer engagement with sports, which leads to increased advertising and local channels having the ability to charge more for ads. Fanatics asserted that the underlying engagement of sports betting will help lift the overall advertising market for the Commonwealth. Fanatics plans to complement this with its paid media with local advertising channels. The Commission raised concerns with extra money flowing into the Commonwealth solely from sports betting advertising. Fanatics agreed that sports betting advertisements should not inundate viewers during games. Fanatics discussed its plans to ensure the use of proper channels to engage the demographic it is trying to reach, which is people of legal age.

Fanatics’ proposal in the economic impact category meets expectations.

SUMMARY OF EVALUATION BY CRITERIA	
Criteria	Finding
Employment opportunities	<p>Fanatics is focused on building a diverse team with experience in other digital categories. As of January 12, 2023, Fanatics does not have any physical locations in the Commonwealth.</p> <p>However, FHI employs 400+ remote employees in Massachusetts and plans to hire more.</p> <p>As of January 12, 2023, Fanatics had eight employees living in Massachusetts, but working remotely, and had hired an additional employee. The employees do not exclusively serve the Massachusetts business, but also work on business in other jurisdictions. Fanatics stated it does not have a specific plan to</p>

	<p>hire a certain number of employees if it were to obtain a license in Massachusetts.</p> <p>The Commission was satisfied with Fanatics’ employment arrangement.</p>
<p>Projected revenue from wagering operations, and tax revenue</p>	<p>As of January 12, 2023, Fanatics was still in the pre-launch phase and was unable to present its financial and operational plans. The Commission’s external consultant, RSM, noted that FHI has adequate resources to operate Fanatics’ business. However, it is up to FHI to allocate its resources; if Fanatics experiences losses, there is no guarantee FHI will continue to subsidize the business in Massachusetts. According to Fanatics, FHI is a strongly capitalized business and is on pace to do more than six billion in revenue in 2023.</p> <p>Fanatics provided RSM with five years of financial information for FHI. Based on Fanatics’ self-disclosed information, Fanatics has been preparing for a simultaneous nationwide launch of its product in all licensed jurisdictions.</p> <p>Based on the information that RSM reviewed, it was able to look at Fanatics’ market share projections, which were discussed with the Commission in executive session. RSM was able to forecast gross gaming revenue and the hold percentage.</p> <p>Fanatics asserted it can provide additional tax revenue for Massachusetts by expanding its customer base through a wide variety of advertising and by leveraging its database to curate products to attract broader customer segments.</p> <p>The Commission found Fanatics’ projected revenue satisfactory.</p>
<p>Community engagement</p>	<p>Michael Rubin - Founder, Executive Chairman, and Chief Executive Officer of FHI is the co-founder of the REFORM Alliance, an organization dedicated to advancing criminal justice reform. The company also participates in the All-In Challenge that addresses food insecurity, Make a Wish Foundation, and the Special Olympics.</p> <p>The Commission was satisfied with Fanatics’ proposed plans for community engagement.</p>

C. Responsible Gaming

Fanatics has hired dedicated responsible gaming staff on its compliance team, its operations team, and its data science team. Fanatics discussed how before Fanatics takes a bet on its mobile platform, every employee will be trained on responsible gaming matters. All

employees who join after the initial training will receive the same training. Customer-facing staff will receive additional training. Refresher training will be provided annually to all employees.

Fanatics stated that at a minimum, its platform will offer all required regulatory tools and resources (i.e., daily, weekly and monthly limits on play). National and state specific resources will also be provided to customers.

Fanatics intends to market responsibly by adopting industry best practices to include the American Gaming Association’s Responsible Marketing Code for Sports Wagering. Fanatics will also include responsible gaming messaging in all marketing materials.

The Commission raised concerns about Fanatics’ responsible gaming due to Fanatics’ plans to leverage the FHI database to market its product. The database has been developed over many years and the Commission was concerned about how Fanatics would segregate people not of gaming age in the database. The Commission also expressed concerns as to what people in the database opted in and out of when they signed up for the database. Fanatics stated it intends to address both concerns through technology and the use of third parties to verify the accuracy of its information.

The Commission agreed that prior to launching in Massachusetts, Fanatics must provide a board approved responsible gaming plan to the Commission. Therefore, Fanatics responsible gaming measures conditionally meets expectations.

SUMMARY OF EVALUATION BY CRITERIA	
Criteria	Finding
Responsible Gaming Policies	<p>Fanatics will give patrons an option to utilize reality checks. Fanatics will have daily, weekly, and monthly time limits.</p> <p>Fanatics will remove self-excluded and otherwise prohibited players from their direct marketing activities.</p> <p>Fanatics will not advertise in areas where patrons are expected to be predominantly under 21 years old, including on Massachusetts college campuses.</p> <p>Fanatics will require marketing affiliates to adhere to content controls with termination rights for failure to comply.</p> <p>Fanatics’ compliance committee will regularly review responsible marketing practices. All employees will be trained on responsible gaming.</p>

	<p>As of January 12, 2023, Fanatics was in the process of developing its responsible gaming plan. Fanatics agreed to provide its approved plan to the Commission.</p> <p>The Commission was satisfied with Fanatics’ responsible gaming policies, on the condition that Fanatics provide the Commission a copy of its responsible gaming plan prior to any launch in Massachusetts.</p>
Advertising and Promotional Plans	<p>Fanatics intends to spend with local media businesses in the Commonwealth to attract Massachusetts customers through a variety of mediums.</p> <p>The Commission was concerned about Fanatics’ use of the term “risk-free” in its marketing materials and the predatory nature of that term. Fanatics noted that it would look to apply the highest industry standards in its promotions.</p> <p>Fanatics is open to discussions on how it can partner with the Massachusetts State Lottery.</p> <p>The Commission was satisfied that Fanatics’ advertising and promotional plans will adhere to its responsible gaming policies.</p>
History of Dedicated Commitment to Responsible Gaming	<p>Fanatics is a new company and does not have a history of responsible gaming outreach; however, the Commission was satisfied with Fanatics’ Responsible Gaming Policies, as described above.</p>

D. Diversity, Equity, and Inclusion

The Commission included Diversity, Equity, and Inclusion as a stand-alone consideration to demonstrate the value it places on this category of an applicant’s application.

During its presentation, Fanatics discussed how over the last two years, the wider Fanatics business has brought on additional staff to build out its global inclusion team. Fanatics has also updated its recruiting practices, expanded training, and formed employee resource groups. Fanatics discussed its DEI efforts and its intentions to build upon it as demonstrated by its leadership team. For example, Fanatics established the “IDEA” initiative to foster inclusion, diversity, equality and advocacy within its organization. Furthermore, Fanatics also includes compensation on its job postings and hosts two annual company-wide DEI summits. Fanatics has ten entities that it partners with to diversify its employment teams.

Fanatics is in the beginning stages of its DEI efforts for diversity spend in procurement. For 2023, this includes requirements that all competitive bids include at least two vendors classified as WBE/MBE businesses. Fanatics intends to create benchmarks for minority spend across the

company and will update its RFP template to require suppliers to provide their organizations commitment to DEI. Fanatics planned to target a three percent annual growth and create benchmarks for qualified minority spend across the company.

The Commission inquired about any in-house programs Fanatics has to assist with employee advancement. At the time of the presentation, Fanatics was in the midst of building an internal program. All of Fanatics’ HR programs come from within the organization, which the management and leadership teams develop to internally grow the team.

The Commission inquired about Fanatics’ workforce goals and diversity spend in the Commonwealth, and the progress that the company made in either area. For workforce diversity, Fanatics said that it was looking at its past work. Fanatics is working on establishing benchmarks to determine the company’s current status is and how it can improve and thereby develop future goals. Starting in Q1 2023, Fanatics will collect data on applicants to create benchmarks for new applications. Fanatics is looking to improve hiring at the director level and above, which it found helps to increase diversity at all levels of its business. On a bi-weekly basis, Fanatics anonymously asks its employees through a survey on Fanatics’ success in increasing diversity, equity, and inclusion. Fanatics is also looking to implement recruiting efforts with specific sources (e.g., Minorities in Sports Network, Power to Fly, National Black Engineers, Women in Tech, and Out in Tech) this year that targets specific diverse groups. The Commission questioned whether these organizations were the same organizations that Fanatics included in its application. Fanatics acknowledged that although some of the organizations overlapped, some were new for 2023. The Commission further questioned if any of these organizations were Massachusetts based; Fanatics agreed to follow up with additional information.

Fanatics’ diversity, equity, and inclusion efforts meet expectations.

SUMMARY OF EVALUATION BY CRITERIA	
Criteria	Finding
DEI within the workforce	<p>Over fifty-two percent of Fanatics’ employees identify as either female or diverse. Fanatics also has a diverse executive team.</p> <p>Fanatics noted that for Massachusetts, they now have nine employees in the Commonwealth. 78% of these employees identify as either female, ethnically diverse or both. One is a senior manager and one is a director. At a minimum, all employees are at the Software Engineer 2 level (which is above entry level) and span through the director level.</p> <p>In 2021, Fanatics established a Global Inclusion team to set cross-functional strategies, establish goals and facilitate its commitment to the company’s “IDEA” initiative. IDEA stands for inclusion, diversity, equality and advocacy. Through IDEA, Fanatics strives to drive diversity and build an inclusive culture.</p>

	<p>Over the past two years, Fanatics has brought on additional staff to build up its Global Inclusion team. The Global Inclusion team is led by a vice president who reports to the Chief People Officer of FHI. The Global Inclusion team includes employees at various levels in the company from multiple departments. During this time, Fanatics has also expanded its training, formed employee resource groups and updated its recruiting practices.</p> <p>In 2023, Fanatics intends to expand its outreach to diverse candidates with more targeted outreach to various groups, such as PowerToFly, posting on the National Black Engineers career page, and working with Women in Tech, and Out in Tech. Fanatics has also started posting its salary ranges on its job postings.</p> <p>The Commission was satisfied with Fanatics’ workforce goals.</p>
DEI through supplier spend	<p>In 2021, Fanatics partnered with supplier.io to analyze its data and create a baseline spend on small and diverse owned businesses.</p> <p>In 2023, Fanatics plans to build and enhance relationships within the organization to raise awareness and to identify minority-owned vendors.</p> <p>Fanatics intends to create benchmarks for qualified minority supplier spend across the organization, with an initial target of 3% annual growth company wide.</p> <p>Fanatics intends to comply with diversity plans developed by leading gaming regulators.</p> <p>The Commission was satisfied with Fanatics’ proposed goals for supplier spend.</p>
DEI in corporate structure	<p>48% of Fanatics U.S. employees identify as racially and ethnically diverse; 54% of Fanatics U.S. employees identify as women; 19% of Fanatics U.S. employees identify as racially and/or ethnically diverse; 33% of Fanatics U.S. employees that are directors and above identify as female; and 2 of 3 independent board directors are diverse.</p> <p>The Commission was satisfied with Fanatics’ DEI in corporate structure.</p>

E. Technology

Fanatics stated that all of its technology partners have significant experience in the U.S. iGaming and sports betting market.

Fanatics purchased Amelco’s source code for its core platform. Amelco is already certified by GLI in other jurisdictions. Fanatics plans to make changes to the Amelco system and will bring that platform to GLI for certification in early 2023. For data feeds, Fanatics is working with several major suppliers (e.g., Stats Perform, Sportradar, Genius Sports, IMG Arena), which will feed directly into the Amelco platform.

A concern was raised by the Commission about Fanatics’ use of Salesforce for staffing; Fanatics clarified that it would not be using Salesforce for staffing, only as a software platform for certain operations.

The Commission requested clarification on Fanatics’ assertion in its application that it would provide a software platform that would compete with the legal and illegal markets. Fanatics discussed its belief that its platform would speak to a broader segment of the population and thereby draw people away from the illegal market and into the legalized market.

The Commission inquired about whether Salesforce would be used for know your customer (“KYC”) checks. Fanatics described how initial KYC checks would be completed via Socure. If a customer could not pass the KYC check, the customer would have to upload documents via Salesforce to the customer service team. The Commission asked about Fanatics’ contingency plan if Salesforce was unable to meet expectations due to their layoffs. Fanatics stated it relies on Salesforce for its software, not staffing. Fanatics further stated it was not concerned with Salesforce layoffs, given Salesforce is cloud based and has a history of reliability. Fanatics also stated it intends to add another KYC provider which will allow them to move customers to either.

The Commission questioned the timeline for Fanatics launching its platform and GLI having an opportunity to test the platform. Fanatics’ goal was to be live around the time that sports wagering in Massachusetts goes live. However, specific timelines regarding launch of the platform were discussed in executive session. GLI confirmed that it is familiar with the Amelco platform and that it has also issued certification for the other two jurisdictions where Fanatics has received approval for a regulatory license. Fanatics clarified that they do not have technological approval in the other two jurisdictions, they only have regulatory approval.

Fanatics’ technology meets expectations.

SUMMARY OF EVALUATION BY CRITERIA	
Criteria	Finding
Geofencing	Fanatics’ platform will use the latest version of GeoComply’s technology.

	<p>The Commission was satisfied with Fanatics’ Geofencing system.</p>
<p>Know your customer measures</p>	<p>Upon registration, the customer’s identity will be confirmed by Socure; this process will be automated.</p> <p>When accessing the platform, customers will experience either a “pass,” “soft fail,” or “fail.” Different options are available to help a customer navigate access if they experience a soft fail or fail when they are trying to access the platform (which includes automated help and Fanatics’ customer service).</p> <p>The Commission was satisfied with Fanatics’ KYC measures.</p>
<p>Technological expertise and reliability</p>	<p>Platform – Fanatics’ core platform is powered by Amelco. Specifically, their player account management system and sports wagering system.</p> <p>Payment Processing – Fanatics’ player account management system will integrate with Paysafe’s gateway, which will allow customers the ability to deposit and withdraw with a wide range of MGC-approved processors. Customers will be able to use debit and credit cards. Through Paysafe, Fanatics will accept Paypal, Venmo, Apple Pay, online banking, ACH, wire and cash. Fanatics will utilize Sift as their software partner for fraud.</p> <p>Operations - Fanatics will utilize Salesforce. Salesforce will be Fanatics’ backbone for customer service/management and chat. Ada is the chat box service that will sit in front of the Salesforce chat service and help with routine customer questions to provide responses to customers in real time. Ada can also triage and solve some of the common customer issues in real time and deflect traffic to operators.</p> <p>Marketing - Fanatics will use Optimove and AppsFlyer for cohort, segmentation and mobile attribution. Fanatics is building native for IOS and Android, and Fanatics’ discussed these types of services are effective for managing customer communications at scale.</p> <p>Player Account Management System – Fanatics is using the Amelco platform. Fanatics is co-developing custom applications to make Amelco provide the user experience that Fanatics wants to bring to their customers. Similarly, Fanatics is co-developing select middleware applications to make sure the front-end works quickly.</p> <p>Cloud and Server Services - Fanatics will use AWS for out-of-state and in-state redundancy.</p>

	The Commission was satisfied with Fanatics’ technological expertise and reliability.
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F. Suitability of Fanatics and its Qualifiers

The Commission requested supplemental documents from Fanatics regarding its responsible gaming plan, supplier and diversity goals and investors. Fanatics subsequently provided the requested supplemental materials. As Fanatics is a private company, most of the requested supplemental materials were discussed in executive session. The Commission was satisfied with Fanatics’ responses.

In addition, the IEB noted that Fanatics had seven entities and six individuals that were identified as qualifiers in connection with Fanatics’ application. The IEB’s Licensing Division requested tax certifications from the entity qualifiers, which the IEB received. However, the tax certifications would not be reviewed by the IEB unless a full investigation ensued. As of the January 5, 2023, presentation, the IEB was still waiting for a certification and suitability form for Mr. Rubin, which Fanatics was in the process of providing.

The Commission was concerned with the April 2019 EEOC press release regarding ongoing litigation with Fanatics. Fanatics confirmed that no entity in the gaming structure was named in the litigation. The litigation related to the commerce structure which is a parallel company. FHI, rather than Fanatics, was named in the lawsuit. The Commission requested that Fanatics provide the complaint and the motion that was filed for the case.

The Commission also was concerned with the corporate structure of Fanatics, the settlement in New York regarding the tax issue, and the class action against Fanatics concerning the Sherman Act. Due to Fanatics being a private company and confidentiality reasons, Fanatics’ corporate structure, the settlement in New York, and the class action litigation were discussed in executive session.

Overall, there is evidence that Fanatics’ proposal in the suitability category meets expectations.

SUMMARY OF EVALUATION BY CRITERIA	
Criteria	Finding
Corporate integrity	Fanatics is preliminarily suitable to hold a sports wagering license on the condition that it submit its responsible gaming plan prior to its launch in Massachusetts.
Individual qualifier integrity	IEB’s investigative report prepared for the purposes of this temporary license decision has not revealed any disqualifying information concerning Fanatics’ integrity, honesty, good character, or reputation.
Fanatics financial stability, integrity, and background	The parent company, FHI, provides all capital funding to Fanatics.

History of Compliance	The Maryland State Lottery and Gaming Control Commission issued Fanatics an Online Sports Wagering Operator License on October 27, 2022, and a Sports Wagering Facility Operator License on June 23, 2022. Fanatics was also issued both retail and mobile licenses by the Ohio Casino Control Commission on November 16, 2022. Fanatics has five pending applications in other jurisdictions.
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IV. Award

THERE IS SUBSTANTIAL EVIDENCE IN THE RECORD THAT FANATICS’ APPLICATION MEETS EXPECTATIONS IN ALL MAJOR CATEGORIES AND THAT FANATICS IS ELIGIBLE TO REQUEST A TEMPORARY TETHERED CATEGORY 3 SPORTS WAGERING LICENSE

On January 12, 2023, the Commission deemed Fanatics (“Licensee”) eligible to request a Temporary Tethered Category 3 Sports Wagering Operator License (“License”) pursuant to the terms and conditions of this Agreement (“Agreement”). On November 21, 2022, the MGC received Fanatics’ request for a temporary license, and an initial licensing fee of \$1,000,000 payable to the Commission. *See* 205 CMR 219.02(1). On January 12, 2023, the Commission voted to issue the requested temporary license. *See* 205 CMR 219.02(3).

This License is subject to the following conditions:

1. Compliance with all of the requirements of G.L. c. 23N, as now in effect and as hereafter amended and 205 CMR, as now in effect and as hereafter amended.
2. Compliance with all applicable federal, state, and local laws, rules and regulations, now in effect or as hereafter amended or promulgated.
3. Compliance with the license conditions set by 205 CMR 220, namely:
 - a. That the Licensee obtain an Operation Certificate before conducting any sports wagering in the Commonwealth;
 - b. That the Licensee comply with all terms and conditions of its license and Operation Certificate;
 - c. That the Licensee comply with G.L. c. 23N and all rules and regulations of the Commission;
 - d. That the Licensee make all required payments to the Commission in a timely manner;
 - e. That the Licensee maintain its suitability to hold a Sports Wagering license; and

- f. That the Licensee conduct sports wagering in accordance with its approved system of internal controls, and in accordance with its approved house rules, in accordance with G.L. c. 23N, § 10(a) and with 205 CMR.
4. The Licensee post the License, in the form prescribed by the Commission, in a location continuously conspicuous to the public on the Licensee’s Sports Wagering Platform and website at all times.
5. Other specific conditions:
 - a. The Licensee must adopt an approved responsible gaming plan for the company pursuant to its governance procedures prior to any launch of its mobile platform in Massachusetts.
6. Payment of assessments made pursuant 205 CMR 221.00 in accordance with that regulation.
7. The Sports Wagering Operation shall substantially conform to the information included in the application filed by the Licensee and abide by all affirmative statements made in the Licensee’s application.
8. Compliance with any free play standards set by the Commission.
9. The term of the temporary license awarded to Licensee commences upon February 23, 2023, and shall expire as set out in 205 CMR 219.03.

SO ORDERED

MASSACHUSETTS GAMING COMMISSION

Cathy Judd-Stein, Chair

Eileen M. O’Brien, Commissioner

Bradford R. Hill, Commissioner

Nakisha L. Skinner, Commissioner

Jordan M. Maynard, Commissioner

**COMMONWEALTH OF MASSACHUSETTS
MASSACHUSETTS GAMING COMMISSION**

In the Matter of)
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Application of Blue Tarp reDevelopment, LLC for a)
Category 1 Sports Wagering Operator License)
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**DECISION APPROVING BLUE TARP REDEVELOPMENT LLC’S REQUEST FOR A
CATEGORY 1 SPORTS WAGERING OPERATOR LICENSE¹**

I. Introduction

Blue Tarp reDevelopment, LLC (d/b/a MGM Springfield) (“MGMS”), the holder of a gaming license under G.L. c. 23K § 2, applied to the Massachusetts Gaming Commission (“MGC” or “Commission”) for a Category 1 Sports Wagering License. Under G.L. c. 23N, the Commission may issue a Category 1 Sports Wagering License (“License”) to any holder of a G.L. c. 23K gaming license that meets the requirements of c. 23N and the rules and regulations of the Commission. For the following reasons, the Commission hereby approves MGMS’s request for a License.

II. Procedural History

On November 21, 2022, the Commission received MGMS’s Sports Wagering License Application (“Application”), including the \$200,000 application fee. *See* G.L. c. 23N, § 7(A) and 205 CMR 214.01. The MGC Division of Licensing reviewed the Application for administrative sufficiency and determined that the application was sufficient. *See* 205 CMR 218.03. On December 5, 2022, the Commission held a virtual public meeting to hear public comments on all Category 1 Sports Wagering applications, which are contained in the Commission’s public record. *See* 205 CMR 218.05 and 205 CMR 218.06. On December 7 and 19, 2022, the Commission held virtual public meetings to determine whether to issue MGMS a durable finding of suitability, which included hearing an informal presentation from MGMS and the Commission’s consultants. *See* 205 CMR 218.04(1)(a)-(b), 218.05(1)(b), 218.06(1). The Commission deliberated on the Application at the December 19, 2022, meeting, and at that same meeting found MGMS durably suitable and approved MGMS’s request for a License. *See* 205 CMR 215.01(2)(c)-(d), 218.06(4)-(5), 218.07(1)(a).

III. Findings and Evaluation

In evaluating whether to issue the Category 1 Sports Wagering License to MGMS, the Commission considered: all information in the application submitted by MGMS; the public comments made on December 5, 2022; the presentations made by MGMS and the Commission’s

¹ All facts referenced in this decision were current as of the date of the respective hearing for this applicant.

external consultants² on December 7 and 19, 2022; and a written report prepared by the Investigations and Enforcement Bureau (“IEB” or “Bureau”) in accordance with 205 CMR 215.01(2)(b).

In accordance with 205 CMR 218.06(5), in determining whether to approve MGMS’s request for a Sports Wagering License, the Commission evaluated all materials and information in the record to determine whether a license award would benefit the Commonwealth, and considered the following factors:

- a) MGMS’s experience and expertise related to Sports Wagering, including:
 - 1. MGMS’s ability to offer Sports Wagering in the Commonwealth;
 - 2. A description of MGMS’s proposed Sports Wagering operation;
- b) The economic impact and other benefits to the Commonwealth if MGMS was awarded a License, including:
 - 1. Employment opportunities within the Commonwealth;
 - 2. The projected revenue from wagering operations, and tax revenue to the Commonwealth;
 - 3. MGMS’s proposed plans for construction and capital investments associated with the License award;
 - 4. Community engagement;
- c) MGMS’s proposed measures related to responsible gaming, including:
 - 1. MGMS’s responsible gaming policies;
 - 2. MGMS’s advertising and promotional plans;
 - 3. MGMS’s history of demonstrated commitment to responsible gaming;
- d) A description of MGMS’s willingness to foster racial, ethnic, and gender diversity, equity, and inclusion, including:
 - 1. Within MGMS’s workforce;
 - 2. Through MGMS’s supplier spend;
 - 3. In MGMS’s corporate structure;
- e) The technology that MGMS intends to use in its operation, including:
 - 1. Geofencing;
 - 2. Know your customer measures; and
 - 3. Technological expertise and reliability;
- f) The suitability of MGMS and its qualifiers, including:

² The consultants include RSM US LLP (“RSM”), which presented on MGMS’s financial projections; Gaming Laboratories International LLC (“GLI”), which presented on technology considerations; and the Commission’s Investigations and Enforcement Bureau (“IEB”), which presented on MGMS’s suitability.

1. MGMS's corporate integrity;
 2. The integrity of MGMS's individual qualifiers;
 3. MGMS's financial stability, integrity, and background;
 4. MGMS's history of compliance with gaming or Sports Wagering licensing requirements in other jurisdictions; and
- g) Any other appropriate factor, in the Commission's discretion.

Further, the Commission decided whether each section of MGMS's application addressing these factors failed to meet, met, or exceeded expectations.

Ultimately, the Commission finds there is substantial evidence in the record to conclude that MGMS's proposed Sports Wagering operation meets the requirements set forth in G.L. c.23N and 205 CMR 218. The Commission further finds there is substantial evidence to adopt the following specific findings of fact and conclusions of law related to MGMS's application.

A. Experience and Expertise Related to Sports Wagering

MGMS reported its extensive experience in Sports Wagering through the experience of its parent company, MGM Resorts International ("MGMRI"), and MGMRI's joint venture with Entain, BetMGM. MGMS reported that MGMRI was the first company to accept a sports wager, doing so in 1979. In 2018, following the Supreme Court's ruling legalizing sports betting in the United States, MGMRI entered a joint venture with UK-based Entain and created BetMGM, which provides services in support of physical and virtual sports betting. As of December 2021, MGMRI and BetMGM operated physical sports betting enterprises in five cities and states, and BetMGM operated (physically and virtually) in 24 cities and states, with another seven secured or anticipated. As of December 2021, BetMGM's operations reached approximately 41% of the adult population in the United States and Canada. MGMS stated that for purposes of this Application, BetMGM would provide its services as a vendor to MGMS.

Commissioners expressed concerns with MGMS's potential reliance on BetMGM (a tethered Category 3 applicant) to conduct its sportsbook operations. MGMS President Chris Kelley clarified that BetMGM would be utilized as a platform for and service provider to MGMS's sportsbook operations. In this arrangement the operations of MGMS and use of BetMGM's platform and system would be exclusive to MGMS, meaning that operators and team members of MGMS's retail sportsbooks would not be BetMGM employees and would instead be MGMS employees. He further noted that in addition to providing a sportsbook platform and system, BetMGM would provide advisory and consulting services to MGMS regarding best practices, as well as managing a linked rewards system between BetMGM and MGM Resorts.

The Commission also expressed concern that because BetMGM is responsible for the trading services underlying each sports bet, MGMS could not fully oversee sports betting at MGMS and ensure integrity of the same. However, the Commission was ultimately satisfied that MGMS would exercise appropriate control over its Sports Wagering operation.

Accordingly, MGMS has demonstrated by substantial evidence that it has the experience and expertise, both locally and among its corporate affiliates, required to develop and operate a physical retail sportsbook. Therefore, MGMS’s proposal in the experience and expertise category meets expectations.

SUMMARY OF EVALUATION BY CRITERIA	
Criteria	Finding
MGMS’s ability to offer Sports Wagering in the Commonwealth	For the reasons described above, the Commission unanimously agreed that MGMS has sufficient background in Sports Wagering and has been fully vetted in that regard.
Description of MGMS’s proposed Sports Wagering operation	<p>As MGMS explained in its presentation at the December 7, 2022, hearing, MGMS has already undertaken capital improvements and other steps to prepare for Sports Wagering at MGMS. Those steps include transforming an area of the gaming establishment previously used for slot machine play into a sports viewing area. That sports viewing area includes a 45-foot viewing wall, stadium seating, a VIP viewing area, and a bar. In anticipation of Sports Wagering, MGMS has also constructed an enclosed counter that can be used for staff operated point-of-sale, as well as space for wagering kiosks.</p> <p>Upon licensure, MGMS plans to convert the sports viewing lounge into a Sports Wagering lounge and place automated kiosks near the lounge, as well as in other locations around the gaming area. MGMS plans to utilize the same wager odds and writing software at the point-of-sale and automated kiosks.</p> <p>The Commission was satisfied by this described plan for Sports Wagering operations.</p>

B. Economic Impact

MGMS stated it anticipates that its physical retail Sports Wagering operation would initially create 15 new employment positions. MGMS further stated that it believed its physical retail Sports Wagering operation could create further employment opportunities downstream, as patrons that visit the retail sportsbook may also engage with other elements of MGMS’s integrated resort, creating demand for more employment opportunities across the MGMS property. MGMS also described the steps it has taken to enhance its position as an employer of choice and to improve the team member experience, such as offering free meals, health care and other benefits, higher compensation, and training.

Commissioners expressed concerns about MGMS’s expected non-gaming wagering revenue, which MGMS described in its application as zero. MGMS clarified that its projects were conservative in order to account for hiring difficulties. MGMS stated that it nonetheless believed

there would be opportunity to generate non-gaming wagering revenue from bars and restaurants near the proposed Sports Wagering area. The Commission was ultimately satisfied that MGMS’s projected revenues, while conservative, were sufficient.

Overall, there is substantial evidence that MGMS’s proposal in the economic impact category meets expectations.

SUMMARY OF EVALUATION BY CRITERIA	
Criteria	Finding
Employment opportunities within the Commonwealth	<p>As MGMS explained in its presentation at the December 7, 2022, hearing, it would hire 15 positions directly connected to the sports book. If patrons engaged with other parts of the MGMS property, such as its restaurants and movie theatre, MGMS would potentially hire for more positions across the property to meet that demand. These positions would be in addition to MGMS’s current workforce.</p> <p>The Commission was satisfied by this proposed employment plan.</p>
Projected revenue	MGMS described its projected Sports Wagering on pages 41-47 of its Application and the Commission found it satisfactory.
Construction plans	<p>MGMS invested \$4 million in April 2021 to convert an area of its gaming floor previously used for slot machine play into a sports viewing lounge with stadium seating and a 45-foot viewing wall. MGMS has also created an enclosed counter that can be used for staff operated point-of-sale betting, and space for Sports Wagering kiosks. That conversion and construction was completed in August 2021.</p> <p>MGMS has ordered and received 9 Sports Wagering kiosks and will install an additional 9 for a total of 18 Sports Wagering kiosks. Kiosks will be installed near the sports viewing lounge, as well as in other gaming areas of MGMS.</p> <p>The Commission was satisfied by MGMS’s construction plans to create a Sports Wagering area.</p>
Community engagement	MGMS has longstanding partnerships with local and regional community groups, tourism, economic development organizations, and various third-party stakeholders, including the Springfield Regional Chamber of Commerce, the Economic Development Council of Western Massachusetts, the Springfield Business Improvement District, and the Greater Springfield

	<p>Convention and Visitors Bureau. MGMS is also involved with multiple charitable organizations and events in Springfield and western Massachusetts, including the Puerto Rican Parade, Pride Parade, local soup kitchens, Habitat for Humanity, Walk for the Cure, Adopt a School, Rachel’s Table, and the Mayflower Marathon.</p> <p>MGMS will maintain its ongoing relationship and agreement with the Lottery and will continue to host lottery kiosks, lottery points of sale, and keno at the MGMS property.</p> <p>The Commission was satisfied by MGMS’s representations regarding its past, ongoing, and future plans for community engagement.</p>
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C. Responsible Gaming

MGMS described its history of commitment to responsible gaming and its efforts to ensure patrons engage in responsible gaming, regardless of the form of gaming. Since the introduction of GameSense, MGMS has licensed and integrated GameSense’s platform into its offerings company wide. MGMS has also undertaken efforts to increase messaging and awareness of GameSense, including by advertising GameSense on marquees, low-rise signage, and QR codes. Upon licensure for Sports Wagering, MGMS stated it would tailor GameSense information to focus on its Sports Wagering products in addition to the other platforms.

In addition to utilizing GameSense, MGMS trains all its employees on the fundamentals of responsible gaming and its responsible gaming programs. MGMS’s goal is to build employee awareness, confidence and commitment so employees are informed and confident when they engage with customers and can enforce positive play.

MGMS also offers responsible gaming programs such as voluntary self-exclusion and self-limitations. MGMS has a policy of verifying the identification and age of any patron who appears under the age of 30.

Commissioners asked MGMS to elaborate on its marketing practices and how MGMS it ensures responsible gaming principles are adhered to in its marketing efforts, particularly considering a recent fine levied against MGMS in Ontario. MGMS stated it follows industry best practices, including the American Gambling Association’s code of conduct. To that end, MGMS does not market on college and university campuses and does not advertise alcohol and gambling together. With respect to its national advertising campaigns, MGMS stated its marketing and compliance team work closely together to review language to ensure any language included in radio advertisements, print advertisements, and billboards does not violate any applicable regulations. With respect to the incident resulting in a fine by Ontario regulators, MGMS stated it was a result of human error, and MGMS has since retrained its staff on what is and is not permissible to advertise in Ontario. The Commission was ultimately satisfied that despite MGMS’s past fines for violating responsible gaming

requirements, MGMS has demonstrated a commitment to responsible gaming in its Sports Wagering and advertising and marketing policies.

Overall, there is substantial evidence that MGM’s proposal in the responsible gaming category meets expectations.

SUMMARY OF EVALUATION BY CRITERIA	
Criteria	Finding
Responsible gaming policies	<p>As MGMS explained in its presentation at the December 7, 2022, hearing, MGMS has fully adopted GameSense through its licensing and integration of GameSense’s platform into its offerings. MGMS assists patrons onsite by referring them to a GameSense advisor and by providing problem gambling helpline information. In partnership with the MGC, Massachusetts Council on Gaming and Health, and the American Gaming Association, MGMS promotes responsible gaming year-round through on-site, external, and social media messaging channels.</p> <p>MGMRI trains all employees on responsible gaming. In the past 12 months, it has conducted 55,000 trainings, and certified more than 200 GameSense advisors, including 11 in Springfield. Upon licensure, MGMRI’s Director of Responsible Gaming, Garret Farms, will travel to Springfield to conduct in-person responsible gaming training with sportsbook employees.</p> <p>The Commission was satisfied by MGMS’s responsible gaming policies.</p>
Advertising and promotional plans	<p>MGMS abides by the American Gaming Association Responsible Gaming Code of Conduct and the American Gaming Association’s Sports Wagering Marketing Code of Conduct. MGMS does not advertise on or in proximity of college campuses. MGMS does not advertise alcohol and gaming together.</p> <p>MGMS will only market to those eligible to participate in gaming and Sports Wagering. As with current messaging, any gaming or Sports Wagering products will include problem gambling assistance and age-related restriction verbiage.</p> <p>The Commission was satisfied that MGMS’s advertising and promotional plans would adhere to its responsible gaming policies.</p>

History of demonstrated commitment to responsible gaming	See Responsible Gaming Policies, above.
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D. Diversity, Equity, and Inclusion

The Commission included Diversity, Equity, and Inclusion as stand-alone considerations to demonstrate the value it places on this category of an applicant’s application.

As explained by MGMS during the December 7, 2022, hearing, MGMS implements its diversity, equity, and inclusion goals by focusing on its people, culture, and suppliers. Its people strategy is focused on attracting, developing, and retaining diverse talent and ensuring that diverse talent has equal access to leadership opportunities. To do so, MGMS embeds diversity and inclusion across its human resources practices, from recruiting, to onboarding, to mentoring, to succession planning and promotion. MGMS also actively seeks to grow its supplier diversity program and offers mentorship to diverse suppliers.

Commissioners inquired as to how MGMS would drive diversity spending efforts, given its stated reliance on BetMGM to provide platform and trading services. MGMS stated MGMS would be solely responsible for driving diversity goals, including hiring and contracting.

Commissioners also noted that while MGMS has met its goal with respect to employing veterans, it has not yet met its women in the workforce goal. MGMS described difficulties recruiting and hiring women since the COVID-19 pandemic, but stated it is adjusting its hiring and promotion efforts to attract and retain more women. The Commission was ultimately satisfied that while it has not met its women in the workforce goals as of the December 2022 hearings, it is actively working to bring more women into its workplace.

There is therefore substantial evidence that MGMS’s commitment to Diversity, Equity, and Inclusion meets expectations.

SUMMARY OF EVALUATION BY CRITERIA	
Criteria	Finding
Workforce	<p>MGMS’s workforce has the following demographics: 40% women, 5% veterans, 77% from the Commonwealth, 39% from Springfield, 75% from Western Massachusetts, and 51% from ethnic minority groups. The Commission noted MGMS has met its workforce goal with respect to veterans, but has not met its goal with respect to women.</p> <p>With the launch of the Sportsbook, MGMS will add 15 employees, and will emphasize recruitment of individuals from surrounding communities, ethnic minority groups, and women. In support of that goal, MGMS sponsors and recruits candidates from local, regional, state, and/or national organizations</p>

	<p>committed to the development and promotion of diversity, equity and inclusion initiatives, including Veterans, Inc., Jobs Corps, AARP, Dress for Success, YWCA, Goodwill, Urban League, ROCA, and Putnam Vocational High School.</p> <p>The Commission was satisfied by MGMS’s workforce goals.</p>
Supplier spend	<p>MGMS has the following goals with respect to its supplier spend: 10% on minority-owned business enterprises, 15% on women-owned business enterprises, and 2% on veteran-owned business enterprises.</p> <p>To meet its goals, MGMS will continue to work with the Greater New England Minority Supplier Development Council and the Center for Women & Enterprise and will participate in vendor matchmaking events which have helped MGMS identify new diverse suppliers. MGMS will also continue to use the Supplier io platform to identify certified diverse vendors.</p> <p>The Commission was satisfied by MGMS’s supplier spend goals.</p>
Corporate structure	<p>Of MGMS’s 11 Directors, 18.2% are racially diverse (2/11) and 36.4% are women (4/11). The Board has established a Corporate Social Responsibility Committee and a Social Impact & Sustainability Sub-Committee with accountability for DEI strategy and goals.</p> <p>The Commission was satisfied by MGMS’s corporate structure.</p>

E. Technology

MGMS plans to offer its Sports Wagering product in close coordination with BetMGM, which will provide the platform and services for MGMS’s sportsbook. Since launching three years ago, BetMGM has grown to offer Sports Wagering and igaming in 25 cities and states across North America and has the leading market share in several of those jurisdictions. GLI, technology consultants to the Commission, noted that while they have not tested BetMGM’s platform, BetMGM’s platform has been tested by other independent testing labs to GLI’s standards and has met the technology requirements of those jurisdictions.

However, Sports Wagering is more dynamic than land-based gaming operations, and as a result the initial testing and certification, while essential, is only the beginning. BetMGM intends to undertake continuing efforts in cooperation with regulatory bodies to ensure secure operations. A network security task force is essential to these systems in the long run.

Commissioners asked MGMS to explain the degree to which Entain, one of the companies that forms the joint venture from which BetMGM originates, is involved in BetMGM’s betting platform, which MGMS will utilize to provide its retail sportsbook. MGMS stated that Entain is a platform provider for mobile operations separate from BetMGM and is therefore inapplicable to MGMS’s retail point of sale.

Overall, there is substantial evidence that MGM’s proposal in the technology category meets expectations.

SUMMARY OF EVALUATION BY CRITERIA	
Criteria	Finding
Geofencing	Not applicable. As a retail entity offering in-person Sports Wagering, geofencing is not an applicable technology.
Know your customer	MGMS described its know your customer measures on page 98 of its Application and the Commission found it satisfactory.
Technological expertise and reliability	MGMS described its technological expertise and reliability on page 99 of its Application and the Commission found it satisfactory.

F. Suitability of MGMS and Its Qualifiers

MGMS has undergone extensive investigations in relation to its Category 1 Operator’s License, and in 2014 the Commission found MGMS and each of its then individual entity qualifiers suitable in connection with MGMS’s application for a gaming license. As new qualifiers joined MGMS, they were required to submit to full investigations as well, all of which are reviewed in the materials the IEB submitted to the Commission in accordance with 205 CMR 215.02. The criteria for suitability to hold a gaming license are substantially aligned with the criteria for suitability to hold a Sports Wagering license, and as a result the Commission used information obtained in past suitability investigations to evaluate MGMS’s suitability for a Sports Wagering license.

Since 2014 when MGMS received its Category 1 Operator’s License, MGMS and its qualifiers, both initial and later, have continued to maintain suitability. Through its near decade of operation in the Commonwealth, MGMS has demonstrated a record of compliance with MGC rules and regulations and has self-reported violations and taken voluntary and proactive corrective actions when necessary.

The Commission discussed whether BetMGM should be evaluated as a qualifier, based on MGMS’s proposal to offer its sports book in close cooperation with BetMGM. The Commission ultimately determined that where BetMGM functions as a vendor, it was not necessary to evaluate BetMGM as a qualifier. Nonetheless, BetMGM would undergo a preliminary review to receive a vendor license, and later a full suitability review.

The Commission entered executive session to discuss a recent BetMGM data breach and the confidential investigation conducted by BetMGM regarding said breach in accordance with G.L. c. 30A, § 21(a)(7) and G.L. c. 23N, § 6(i). The Commission ultimately concluded the matter did not negatively impact MGMS’s suitability and would be further investigated.

The Commission may determine that an applicant or qualifier is suitable to hold a Sports Wagering license based on (1) the applicant and its qualifiers, or the qualifier, certifying to their suitability under the pains and penalties of perjury, and (2) the IEB’s investigative report. *See* 205 CMR 215.01(2)(a). The Commission deliberated on MGMS’s suitability during its deliberations on MGMS’s application on December 19, 2022. *See* 205 CMR 215.01(2)(c). Based on MGMS’s and its qualifiers’ certifications, the IEB’s investigative report, information obtained through previous investigations into MGMS and its qualifiers as described above, the Commission determined that MGMS and its qualifiers are suitable to hold a Sports Wagering license. *See* 205 CMR 215.01(2)(d)(1).

The Commission is satisfied with MGMS’s suitability, and that of its qualifiers. It therefore found MGMS durably suitable, and concluded there is clear and convincing evidence that MGMS’s suitability meets expectations.

SUMMARY OF EVALUATION BY CRITERIA	
Criteria	Finding
Corporate integrity	MGMS is suitable to hold a Sports Wagering license.
Individual qualifier integrity	The IEB’s past investigations of MGMS and the IEB’s investigative report prepared for the purposes of this License decision have not revealed any disqualifying information concerning MGMS or its qualifiers’ integrity, honesty, good character, or reputation.
Financial stability, integrity, and background	MGMS’s Independent Audit Report and Material Weakness Statement submitted pursuant to 205 CMR 139.07(1), and its quarterly spending reports, have not revealed any disqualifying information concerning MGMS or its financial stability, integrity or background. Furthermore, MGMS’s operations as an integrated resort, which allow it to maintain other gaming and non-gaming revenue streams, are sufficiently robust to ensure its financial stability in the event of a Sports Wagering downturn.
Compliance	In 2020, the Pennsylvania Gaming Control Board issued a complaint that alleged violations of Pennsylvania’s post-employment restrictions related to the hiring of a former Pennsylvania employee by an MGMRI subsidiary. MGMRI ultimately entered into a settlement agreement and paid a fine and administrative costs.

	<p>Of concern, in 2009, MGMRI entered into a stipulation of settlement with the New Jersey Casino Control Commission and agreed to withdraw its renewal application for a casino license and sell its 50% interest in the Borgata Hotel and Casino in Atlantic City. The New Jersey Casino Control Commission allowed MGMRI to reapply for licensure in New Jersey in 2013, and MGMRI was granted a license in 2014.</p>
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IV. Award

THE COMMISSION FINDS THAT THERE IS SUBSTANTIAL EVIDENCE IN THE RECORD THAT MGMS’S APPLICATION MEETS EXPECTATIONS IN ALL CATEGORIES AND THAT MGMS IS ELIGIBLE FOR A CATEGORY 1 SPORTS WAGERING LICENSE.

On December 19, 2022, the Commission approved MGMS’s (“Licensee’s”) request for a Category 1 Sports Wagering Operator License (“License”) pursuant to the terms and conditions of this Agreement (“Agreement”). On November 21, 2022, the MGC received MGM’s request for a License, and a licensing fee of \$5,000,000 payable to the Commission. *See* 205 CMR 219.02(1). On December 19, 2022, the Commission voted to issue the requested License. *See* 205 CMR 219.02(3).

This License is subject to the following conditions:

1. Compliance with all the requirements of G.L. c. 23N, as now in effect and as hereafter amended and 205 CMR, as now in effect and as hereafter amended.
2. Compliance with all applicable federal, state and local laws, rules and regulations, now in effect or as hereafter amended or promulgated.
3. Compliance with all terms and conditions of the Resort-Casino License for the Gaming Establishment at MGMS dated June 13, 2014.
4. Compliance with the license conditions required by 205 CMR 220, namely:
 - a. That the Licensee obtain an Operation Certificate before conducting any Sports Wagering in the Commonwealth;
 - b. That the Licensee comply with all terms and conditions of its license and Operation Certificate;
 - c. That the Licensee comply with G.L. c. 23N and all rules and regulations of the Commission;
 - d. That the Licensee make all required payments to the Commission in a timely manner;

- e. That the Licensee maintain its suitability to hold a Sports Wagering license; and
 - f. That the Licensee conduct Sports Wagering in accordance with its approved system of internal controls, and in accordance with its approved house rules, in accordance with G.L. c. 23N, § 10(a) and with 205 CMR.
5. The Licensee post the License, in a form prescribed by the Commission, in a location continuously conspicuous to the public within the Sports Wagering Area at all times.
 6. Payment of assessments made pursuant 205 CMR 221.00 in accordance with that regulation.
 7. Compliance with any requirements to obtain federal, state and local permits and approvals to construct and operate the Sports Wagering area, and any conditions or requirements set forth therein.
 8. The Sports Wagering Operation shall agree to the information included in the application filed by the Licensee.
 9. The term of the License awarded to Licensee commences upon December 19, 2022, and shall be subject to renewal as set out in G.L. c. 23N, § 6(f).

SO ORDERED

MASSACHUSETTS GAMING COMMISSION

Cathy Judd-Stein, Chair

Eileen M. O'Brien, Commissioner

Bradford R. Hill, Commissioner

Nakisha L. Skinner, Commissioner

Jordan M. Maynard, Commissioner

**COMMONWEALTH OF MASSACHUSETTS
MASSACHUSETTS GAMING COMMISSION**

In the Matter of)
)
)
Application of Plainville Gaming Redevelopment, LLC for a)
Category 1 Sports Wagering Operator License)
)

**DECISION DEEMING PLAINVILLE GAMING REDEVELOPMENT, LLC
ELIGIBLE TO REQUEST A TEMPORARY
CATEGORY 1 SPORTS WAGERING OPERATOR LICENSE¹**

I. Introduction

Plainville Gaming Redevelopment, LLC (d/b/a Plainridge Park Casino), (“PPC” or “Plainridge Park Casino”), the holder of a gaming license under G.L. c. 23K § 2, applied to the Massachusetts Gaming Commission (“MGC” or “Commission”) for a Category 1 Sports Wagering License. Under G.L. c. 23N, the Commission may issue a Category 1 Sports Wagering License (“License”) to any holder of a G.L. c. 23K gaming license that meets the requirements of c. 23N and the rules and regulations of the Commission. For the following reasons, the Commission hereby deems PPC eligible to request a temporary license.

II. Procedural History

On November 21, 2022, the Commission received PPC’s application for a Category 1 Sports Wagering License and the \$200,000 application fee. *See* G.L. c. 23N, § 7(A) and 205 CMR 214.01. The MGC Division of Licensing reviewed the Sports Wagering License Application for administrative sufficiency and determined that the application was sufficient. *See* 205 CMR 218.03. On December 5, 2022, the Commission held a virtual public meeting to hear public comment on all Category 1 Sports Wagering applications, which are contained in the Commission’s public record. *See* 205 CMR 218.05-.06, On December 6, 2022, the Commission held a virtual public meeting to determine whether to issue PPC a preliminary or durable finding of suitability, which included hearing an informal presentation from PPC and the Commission’s consultants. *See* 205 CMR 218.04(1)(a)-(b), 218.05(1)(b), 218.06(1). At that same meeting, the Commission deliberated on the license application and on January 4, 2023, the Commission found PPC preliminarily suitable and deemed PPC eligible to request a Temporary License. *See* 205 CMR 215.01(2)(c)-(d), 218.06(4)-(5) and 218.07(1)(a).

III. Findings and Evaluation

In evaluating whether to issue the Category 1 Sports Wagering License to PPC, the Commission considered: all information in the application submitted by PPC; the public comments made on

¹ All facts referenced in this decision were current as of the date of the respective eligibility hearing for this applicant.

December 5, 2022; the presentations made by PPC and the Commission’s external consultants² on December 6, 2022; and a written report prepared by the Investigations and Enforcement Bureau (“IEB” or “Bureau”) in accordance with 205 CMR 215.01(2)(b).

In accordance with 205 CMR 218.06(5), in determining whether to deem PPC eligible to request a Temporary Sports Wagering License, the Commission evaluated all materials and information in the record to determine whether a license award would benefit the Commonwealth, and considered the following factors:

- a) PPC’s experience and expertise related to Sports Wagering, including:
 1. PPC’s background in Sports Wagering;
 2. PPC’s experience and licensure in other jurisdictions with Sports Wagering;
 3. A description of PPC’s proposed Sports Wagering operation;
- b) The economic impact and other benefits to the Commonwealth if PPC is awarded a License, including:
 1. Employment opportunities within the Commonwealth;
 2. The projected revenue from wagering operations and tax revenue to the Commonwealth;
 3. PPC’s proposed plans for construction and capital investments associated with the License award;
 4. Community engagement;
- c) PPC’s proposed measures related to responsible gaming, including:
 1. PPC’s responsible gaming policies;
 2. PPC’s advertising and promotional plans;
 3. PPC’s history of demonstrated commitment to responsible gaming;
- d) A description of PPC’s willingness to foster racial, ethnic, and gender diversity, equity, and inclusion, including:
 1. Within PPC’s workforce;
 2. Through PPC’s supplier spend;
 3. In PPC’s corporate structure;
- e) The technology that PPC intends to use in its operation, including:
 1. Geofencing;
 2. Know-your-customer measures; and
 3. Technological expertise and reliability;

²The consultants include RSM US LLP (“RSM”), which presented on financial projections; Gaming Laboratories International LLC (“GLI”), which presented on technology considerations; and the Commission’s Investigations and Enforcement Bureau (“IEB”), which presented on suitability.

- f) The suitability of PPC and its qualifiers, including:
1. Whether PPC can be or has been determined suitable in accordance with 205 CMR 215;
 2. PPC's and all parties in interest to the license's integrity, honesty, good character, and reputation;
 3. PPC's financial stability, integrity, and background;
 4. PPC's business practices and business ability to establish and maintain a successful sports wagering operation;
 5. PPC's history of compliance with gaming or sports wagering licensing requirements in other jurisdictions;
 6. Whether PPC is a defendant in litigation involving its business practices; and
- g) Any other appropriate factor, in the Commission's discretion.

Further, the Commission decided whether each section of PPC's application failed to meet, met, or exceeded expectations.

Ultimately, the Commission finds there is substantial evidence in the record to conclude that PPC's proposed sports wagering operation meets, and in many instances exceeds, the requirements set forth in G.L. c.23N and 205 CMR 218. The Commission further finds there is substantial evidence to adopt the following specific findings of fact and conclusions of law related to PPC's application.

A. Experience and Expertise Related to Sports Wagering

PPC reported that as of December 2021, PPC's parent company, Penn Entertainment, Inc. ("Penn"), had 21 retail sports betting locations generating \$85 million in gross gaming revenue, making Penn the second largest provider of sports wagering in the US. Also, as PPC explained in its presentation at the December 6, 2022, hearing, retail sports wagering at Plainridge Park Casino would be PPC General Manager North Grounsell's third retail sports wagering operation. Finally, PPC's VP of Operations led the sports wagering launch at his last property.

Commissioners expressed concerns with PPC's reliance on Penn Sports Interactive, LLC ("PSI") and Penn's experience and requested that the Applicant elaborate on the contractual relationship between PPC and PSI. Mr. Grounsell explained that PSI will provide equipment and certain trading services to PPC as a vendor. He further explained that all team members operating the sportsbook and taking bets would be PPC members licensed by the Commission.

Accordingly, PPC has demonstrated by substantial evidence that it has the experience and expertise, both locally and among its corporate affiliates, required to develop and operate a physical retail sportsbook. Therefore, PPC's proposal in the experience and expertise category exceeds expectations.

SUMMARY OF EVALUATION BY CRITERIA	
Criteria	Finding
Background in Sports Wagering	For the reasons described above, the Commission unanimously agreed that PPC has sufficient background in Sports Wagering, and experience and licensure in other jurisdictions with Sports Wagering, and has been fully vetted in that regard.
Experience and licensure in other jurisdictions with Sports Wagering	<p>As PPC explained in its application, PENN, PPC’s parent company, operates 43 entertainment destinations in 20 jurisdictions across the United States with a variety of retail and online gaming, live and simulcast racing, entertainment, and hospitality offerings, and currently has 25 retail sportsbooks in 11 states. Commissioners expressed concerns with PPC’s potential reliance on PSI (a tethered Category 3 applicant). PPC General Manager North Grounsell clarified that the relationship between the two would be an intercompany agreement, under which PSI will provide services as a vendor to PPC. He noted that having a third party manage the risk of large wagering pools is common within the sports wagering industry. He further clarified that PSI will not operate the sportsbook.</p> <p>The Commission initially expressed concerns that because PSI holds the contracts with PPC’s vendors, PSI would exercise inappropriate control over the sports wagering operation. However, the Commission was ultimately satisfied that PSI would not exercise inappropriate control over PPC’s sports wagering operation.</p>
Description of PPC’s proposed Sports Wagering Operation	<p>As PPC explained in its application and presentation, the Sportsbook at PPC will offer patrons the opportunity to wager on an estimated 5,000 or more markets where results can be determined on the field of play and can be proven by a box score or other statistical analysis.</p> <p>Guests will be able to place bets at automatic kiosks or teller windows with PPC team members available to answer questions about wagering. Wager pricing will be available via odds boards, sheets, PPC’s website, and at teller windows, and guests will have the option to wager on 5,000 or more wagering markets. PPC’s statistical analysis will incorporate over 1,000 leagues and include exhibition, pre-season, regular season, all-star events, and professional sports drafts—all subject to Commission approval.</p>

	<p>In accordance with G.L. c. 23N and 205 CMR some wagers will be prohibited, such as high school youth sports, injuries, penalties, discipline, replay reviews, proposition wagering on individual college athletes, and college sporting events involving Massachusetts colleges (unless otherwise specified).</p> <p>The wagering space will launch in two phases. First, there will be a temporary sportsbook near the Revolution Lounge with five teller windows and 18 kiosks.</p> <p>Upon granting of a durable license, a second phase of building out the sports wagering space would begin. This would include a multimillion-dollar capital investment to transform the existing Flutie space into a Barstool-branded bar and restaurant.</p> <p>The Commission was satisfied by this described plan for Sports Wagering operations.</p>
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B. Economic Impact

PPC provided a detailed description of the anticipated economic impact to the Commonwealth of receiving a sports wagering license.

The Commission was particularly impressed with the employment opportunities that would accompany PPC’s sports wagering operation. According to PPC, PPC’s retail sports wagering operation would create employment opportunities for 46 employees (or 30.8 FTEs). Additionally, PPC will continue to collaborate and build on its relationships with the Massachusetts Department of Labor and Workforce Development, various community colleges, and various other community organizations including the NAACP, United Regional Chamber of Commerce, and the URCC Women’s Impact Network, to increase employment opportunities within the Commonwealth.

Overall, there is substantial evidence that PPC’s proposal in the economic impact category is very good, and therefore exceeds expectations.

SUMMARY OF EVALUATION BY CRITERIA	
Criteria	Finding
Employment opportunities	Employment opportunities would be within sportsbook itself and in the space currently occupied by Flutie’s Sports Pub. PPC would hire for over 40 positions, including managers in front of house and culinary areas, hosts, servers, and bartenders. PPC would endeavor to use hiring for these positions as a tool towards restoring past gender balance among staff.

	<p>PPC anticipates the addition of 5.4 FTE (with a 9-person head count) within the sportsbook itself, and 25.4 FTE (with a 37 person head count) in the sports bar area housing the sportsbook. This includes adding the following positions: SportsBook Manager, SportsBook Assistant Manager, and SportsBook Teller.</p> <p>The Commission was satisfied by this proposed employment plan.</p>
<p>Projected revenue from wagering operations, and tax revenue</p>	<p>PPC described its projected revenue for Sports Wagering on pages 71-85 of its Application, which the Commission found satisfactory.</p>
<p>Proposed plans for construction and capital investments</p>	<p>PPC proposed a retail sportsbook location with mixed use space with central location on the gaming floor. The proposed square footage of the new venue is generally consistent with other sportsbook markets, including New Jersey and Pennsylvania.</p> <p>The proposed design of the sports wagering space, as well as the proposed remodel schedule, are comparable to other remodels.</p> <p>Considerations for construction timeline relate to supply chain uncertainties. Specialty items with long lead times may impact the ultimate completion of the project. However, the remodel of the space does not appear to be subject to a significant risk of supply chain issues, as the physical layout will not require specialized equipment. Elements including custom furnishings and custom carpeting might not be available within the timeframe provided by PPC, but PPC could easily install temporary fixtures that could later be replaced by these custom elements.</p> <p>The Commission was satisfied by PPC’s construction plans to create a Sports Wagering area.</p>
<p>Community engagement</p>	<p>PPC is involved with multiple local charitable organizations, including Boston Pearl, New Hope, New Colony Habitat for Humanity, and Tri-Town Chamber of Commerce.</p> <p>PPC will continue to work with the Lottery to expand on the initiatives established over the last 7 years.</p> <p>PPC has not and will not create, promote, operate or sell games that are similar to or in direct competition, as determined by the</p>

	<p>Massachusetts Gaming Commission, with games offered by the Massachusetts State Lottery Commission.</p> <p>The Commission was satisfied by PPC’s representations regarding its past, ongoing, and future plans for community engagement.</p>
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C. Responsible Gaming

PPC reported that its parent company Penn has a history of commitment to responsible gaming. This history includes annual support of various industry-wide responsible gaming initiatives including Responsible Gaming Education Month and Problem Gaming Awareness Month, an extensive and comprehensive employee responsible gaming training program, and consistent adherence to federal standards governing gaming advertising.

Penn also offers various responsible gaming tools such as self-exclusion and financial restriction in retail and online settings, and has an “exclude one, exclude all” policy. It also has responsible gaming committees at corporate and property levels that meet regularly, and Penn is a regular participant in industry discussions around responsible gaming.

However, the Commission was concerned with Penn’s current and future relationship with Barstool Sports. Specifically, the Commission expressed concerns highlighted in a recent New York Times article about Barstool Sports and the Barstool College Football Show. PPC explained that the Barstool College Football Show is a Barstool Media production, not a Barstool Sportsbook production. PPC also argued in its presentation that its relationship with Barstool Sports allows it to be more creative and effective in its responsible gaming messaging by, utilizing Barstool’s on-air personalities to deliver messages during other media content about the risks associated with gambling. The Commission concluded that this question required further investigation and consideration and decided to impose a condition on the temporary license accordingly.

The Commission entered Executive Session pursuant to G.L c. 31 s. 21A(7) to discuss the use of kiosks related to responsible gaming.

Overall, PPC put forth a compelling responsible gaming plan. However, the Commission has concerns about PPC’s relationship with Barstool Sports and its implications for PPC’s responsible gaming plans. Otherwise, there is substantial evidence that PPC’s proposal in the responsible gaming category is excellent and therefore exceeds expectations.

SUMMARY OF EVALUATION BY CRITERIA

Criteria	Finding
Responsible Gaming Policies	<p>As PPC explained in its presentation at the December 6, 2022, hearing, to maximize the acceptance of the program by the public and to provide a unified responsible gaming message throughout the Commonwealth, PPC branded its responsible gaming program with the GameSense brand. PPC hosts the GameSense Information Center, which provides resources and information on healthy and problem gambling and is staffed by representatives of the Massachusetts Council on Gaming and Health (MACGH) during designated hours and online via Live Chat 24 hours a day.</p> <p>PPC educates all team members regarding responsible gaming; the purpose and function of the on-site GameSense team; disordered gambling; the prohibition of underage gambling; the identification and suspension of excluded, self-excluded and suspended persons; and the confidentiality of this information.</p> <p>PPC has an established Responsible Gaming Committee, which meets quarterly, monitors compliance, and continues to evaluate the Responsible Gaming (“RG”) program’s effectiveness and authorizes changes to the program as necessary.</p> <p>PPC follows the advertising guidelines of the American Gaming Association’s Code of Conduct for Responsible Gaming.</p> <p>The Commission was satisfied by PPC’s responsible gaming policies.</p>
Advertising and Promotional Plans	<p>All PPC’s sports wagering advertisements will contain a responsible gaming message and will comply with federal standards. These ads will not appeal to children or minors, feature those who are under the age of 21, make claims that gambling will guarantee success, be placed in front of an audience where most are expected to be under 21, encourage people to play beyond their means, exaggerate chances of winning, or encourage irresponsible play.</p> <p>The Commission was satisfied that PPC’s advertising and promotional plans would adhere to its responsible gaming policies.</p>
History of Dedicated Commitment to Responsible Gaming	See Responsible Gaming Policies, above.

D. Diversity, Equity, and Inclusion

The Commission included Diversity, Equity, and Inclusion as a stand-alone consideration to demonstrate the value it places on this category of an applicant's application.

During the December 6, 2022, hearing, PPC noted that its parent company, Penn, has been recognized as a company leading the way for gender on corporate boards. It was also recognized in Forbes Magazine's "America's Best Employers for Diversity" and certified as an age-friendly employer.

Penn's commitment to diversity, equity, and inclusion has also been demonstrated in its commitment to the future of diversity and inclusion in the industry. In 2021, Penn launched a \$1,000,000 diversity scholarship program for children of employees. Penn also created a \$4,000,000 STEM scholarship fund, and has an internship program at six Historically Black Colleges and Universities in states in which the company operates.

Penn also makes diversity, equity and inclusion a priority through its supplier diversity initiative. Penn doubled its diversity spend in its first year. Its 2021 diversity spend also increased from \$52M in 2020 to \$68M in 2021. In its most recent quarter, Penn met or exceeded all goals of diverse supplier spend.

Locally, PPC also has small business incubator which supports minority businesses and assists them in growing from local to national suppliers. Penn offers ongoing assistance to Boston Pearl Foundation, a 501(c)(3) organization that provides young Black women with college financial assistance, and New Hope, a 501(c)(3) organization that serves individuals and families affected by domestic and sexual violence through combined crisis intervention, violence prevention, life transition, and self-sufficiency opportunities.

Commissioners expressed concerns with the fact that PPC's supplier diversity used to be higher. PPC addressed that concern by stating that part of the local spend is a function of what is considered a "surrounding community" in its various surrounding community agreements. PPC also noted that Mr. Grounsell meets monthly with PPC's procurement team to make sure that the diverse spend stays on track.

The Commission determined that PPC's application demonstrated an exemplary commitment to Diversity, Equity, and Inclusion. There is therefore substantial evidence that PPC's proposal in the diversity, equity, and inclusion category exceeds expectations.

SUMMARY OF EVALUATION BY CRITERIA	
Criteria	Finding
DEI within the workforce	<p>PPC reported that its workforce has the following demographics: 43% women, 5% veterans, 63% from the Commonwealth, 33% from host and designated surrounding communities, and 20% from ethnic minority groups.</p> <p>With the launch of the Sportsbook and re-opening of the Sports bar, PPC will add 46 employees, and will emphasize recruitment of individuals from surrounding communities, ethnic minority groups, and women. In support of that goal, PPC sponsors and recruits candidates from local, regional, state, and/or national organizations committed to the development and promotion of diversity, equity, and inclusion initiatives including Rolling Thunder, The Boston Pearl Foundation, New Hope, Old Colony Habitat for Humanity and the Attleboro YMCA, among others.</p> <p>Plainridge Park offers tuition reimbursement to existing team members and has an Emerging Leaders Program for hourly employees seeking management positions.</p> <p>The Commission was satisfied by PPC’s workforce goals.</p>
DEI through supplier spend	<p>The Commission noted that supplier diversity at PPC had been higher in the past. General Manager North Grounsell noted that he meets monthly with the procurement team to ensure that PPC is appropriately managing its diverse spend, and noted that a certain percentage of local diverse vendor spend is a function of the definition of “a surrounding community” in the Host Community Agreement.</p> <p>PPC set procurement goals for ongoing operations that match those of the Commonwealth for state agencies: 6% MBE, 12% WBE, and 3% VBE. PPC has also implemented two additional policies regarding minority, women, veteran and local business opportunities with PPC:</p> <ol style="list-style-type: none"> 1. Any qualified diverse supplier will be afforded a 5% consideration over competitive bids. 2. MBE/WBE/VBE and local, Massachusetts-based vendors will be eligible in the future to participate in Penn’s credit card payment program, which provides accelerated payment to these vendors upon completion of services or upon delivery of goods. <p>The Commission was satisfied by PPC’s supplier spend goals.</p>

DEI in corporate structure	<p>Penn was included in the 2021 and 2022 Champions of Board Diversity by The Forum of Executive Women and the 2021 Breakfast of Corporate Champions, which recognizes companies that lead the way for gender balance on corporate boards. In 2021 and 2022, Penn was included in Forbes Magazine’s list of America’s Best Employers for Diversity, and has received accolades from the All-In Diversity Project and is certified as an Age-Friendly Employer by the Age-Friendly Institute. Currently, Penn’s Board is 44% female, includes three military veterans, and members who are white/Latino/ Asian/African American and LGBTQ+.</p> <p>The Commission was satisfied by Penn’s corporate structure.</p>

E. Technology

PPC plans to partner with Kambi, a leading independent provider of premium sports betting technology and services, to provide and operate PPC’s sports wagering technology. Kambi has been certified in in over 25 jurisdictions in the United States and more worldwide. For fifteen years Kambi has provided sports betting platforms and systems and applications in European markets and was the first to do so in the U.S. Consultants to the Commission noted that PPC’s application was as thorough and complete on this section as possible and that the technology PPC plans to use is best in class.

However, sports wagering is much more dynamic than land-based gaming operations, so the initial testing and certification, while essential, is only the beginning. It will involve continuing efforts and cooperation with other regulatory bodies. A network security task force is essential to these systems in the long run.

Commissioners questioned whether PSI would have a regulatory structure in place to catch security breaches. Specifically, Commissioners asked whether an individual customer who notices a data breach will be able to speak with a person and stop a breach quickly, particularly because customers have their bank accounts tied to their sports betting accounts. PPC explained that customers do not register with accounts in the retail setting.

Overall, there is substantial evidence that PPC’s proposal in the technology category meets expectations.

SUMMARY OF EVALUATION BY CRITERIA	
Criteria	Finding
Geofencing	Not applicable. As a retail entity offering in-person Sports Wagering, geofencing is not an applicable technology.

Know your customer measures	Please refer to Section F.2 of Penn Sports Interactive, LLC Category 3 – Tethered Application for further details.
Technological expertise and reliability	PPC described its technological expertise and reliability in section F.3-b-01 on its Application, which the Commission found satisfactory.

F. Suitability of PPC and Its Qualifiers

PPC has undergone extensive investigations in relation to its Category 1 Operator’s License, and in 2013 the Commission found PPC and each of its then individual entity qualifiers suitable in connection with PPC’s application for a gaming license. As new qualifiers joined PPC, they were required to submit to full investigations as well, all of which are reviewed in the materials the IEB submitted in accordance with 205 CMR 215.02. Because the criteria for suitability to hold a gaming license are substantially aligned with the criteria for suitability to hold a sports wagering license, the Commission used information obtained in past suitability investigations here.

The Commission was concerned with the suitability of Barstool Sports, of which Penn currently owns 36%, and which Penn will own in the entirety at some point in February 2023. Specifically, the Commission was concerned with PPC’s decision to align with Barstool, and its founder Dave Portnoy, for branding purposes given Barstool’s historic position on gaming. To that end, the Commission has added conditions to this license (set forth below) requiring a full IEB investigation of Barstool’s suitability as it relates to PPC’s proposed sports wagering operation.

The Commission entered Executive Session pursuant to G.L c. 30A s. 21(a)(7) to discuss advertising issues regarding Barstool Sports and a review of associated data, to discuss the use of kiosks related to responsible gaming, and to discuss the suitability of Barstool Sports. These matters related to trade secrets and were competitively sensitive and/or proprietary, thus, their discussion at an open meeting would have placed the applicant at a competitive disadvantage.

The Commission may determine that an applicant or qualifier is preliminarily suitable to hold a sports wagering license based on (1) the applicant and its qualifiers, or the qualifier, certifying to their suitability under the pains and penalties of perjury, and (2) the IEB’s investigative report. *See* 205 CMR 215.01(2)(a). The Commission deliberated on PPC’s preliminary suitability during its deliberations on PPC’s application on December 6, 2022. *See* 205 CMR 215.01(2)(c). Based on PPC and its qualifiers’ certifications, the IEB’s investigative report, information obtained through previous investigations into PPC and its qualifiers as described above, and the license conditions requiring further investigation of Barstool’s suitability, the Commission determined that PPC and its qualifiers are preliminarily suitable to hold a sports wagering license. *See* 205 CMR 215.01(2)(d)(1).

The Commission is largely satisfied with PPC’s suitability, and that of its qualifiers. It therefore found PPC preliminarily suitable and concluded that PPC’s suitability meets expectations.

SUMMARY OF EVALUATION BY CRITERIA	
Criteria	Finding
Suitability in accordance with 205 CMR 215	PPC is preliminarily suitable to hold a sports wagering license.
PPC’s and all parties in interest to the license possess integrity, honesty, good character and reputation	The IEB’s past investigations of PPC and the IEB’s investigative report prepared for the purposes of this temporary license decision have not revealed any disqualifying information concerning PPC or its qualifiers’ integrity, honesty, good character, or reputation.
PPC’s financial stability, integrity, and background	PPC operated under a capital expenditure plan approved by the MGC from opening until December 31, 2020. In 2021, PPC received approval from the MGC on a capital plan that extends through December 31, 2025. The Ultimate Parent Company, Penn Entertainment (PENN) provides all capital funding to PPC.
PPC’s business practices and business ability to establish and maintain a successful sports wagering operation	At this time, the Commission has not been made aware of any disqualifying information concerning PPC’s business practices. As described in the section addressing Experience and Expertise Related to Sports Wagering above, PPC has the ability to establish and maintain a successful sports wagering operation.
PPC’s history of compliance with gaming or sports wagering licensing requirements in other jurisdictions	PENN Entertainment, Inc., the ultimate parent company of PPC, is currently licensed, or has subsidiaries that are licensed, in Arizona, Arkansas, Colorado, Florida, Iowa, Illinois, Indiana, Kansas, Louisiana, Maryland, Maine, Michigan, Missouri, Mississippi, New Jersey, New Mexico, New York, Nevada, Ohio, Pennsylvania, Tennessee, Texas, Virginia, Washington, and West Virginia. In 2014, the Iowa Racing and Gaming Commission (“IRGC”) issued a ruling not to renew the gaming license of Belle of Sioux City, L.P. (“Belle”), an operating subsidiary of PENN. This non-renewal was not due to the operating or suitability record of either Belle or PENN, but because Belle’s operating agreement with its previous charitable “qualified sponsoring organization” (“QSO”), required under Iowa law, expired after 20 years. That QSO chose to partner with another gaming operator and the IRGC did not grant Belle’s request to license a new QSO to partner with Belle. Instead, the IRGC opened the county up for

	<p>applications for a new land-based casino and granted that license to the Hard Rock Casino in Belle’s stead.</p> <p>In December 2022, the Ohio Casino Control Commission issued a Notice of Violation to Penn Sports Interactive, LLC (“PSI”). This Notice contained two counts of administrative charges. The first was that PSI, or its affiliate marketer, advertised or promoted on a college or university campus located in Ohio in violation of the Ohio Administrative Code. The second was that PSI, or its affiliate marketer, targeted individuals under the age of 21, also in violation of the Ohio Administrative Code. Based on these charges, the Ohio Casino Control Commission sought to impose the following administrative sanctions: (1) a monetary fine not less than \$250,000, (2) requiring PSI to ensure that its personnel are trained in all laws, policies, and procedures relevant to advertising and promoting sports betting compliant with Ohio law, and (3) any other sanction or remedy permitted.</p> <p>This matter was pending as of the date of license issuance.</p>
Whether PPC is a defendant in litigation involving its business practices	PPC is not a defendant in any litigation involving its business practices.
Any other appropriate factor in the Commission’s discretion	The Commission expressed concerned with PPC’s alignment with Barstool, which arguably glamorizes irresponsible gaming. For the purposes of this temporary license decision, the Commission is addressing this concern by requiring a full investigation as the licensing process continues.

IV. Award

PPC’S APPLICATION EXCEEDS EXPECTATIONS IN ALL MAJOR CATEGORIES AND THE COMMISSION FINDS PPC ELIGIBLE FOR A TEMPORARY CATEGORY 1 SPORTS WAGERING LICENSE

On January 4, 2023, the Commission deemed PPC (“Licensee”) eligible to request a Temporary Category 1 Sports Wagering Operator License (“License”) pursuant to the terms and conditions of this Agreement (“Agreement”). On November 21, 2022, the MGC received PPC’s request for a temporary license, and an initial licensing fee of \$1,000,000 payable to the Commission. *See* 205 CMR 219.02(1). On January 4, 2023, the Commission voted to issue the requested temporary license. *See* 205 CMR 219.02(3).

This License is subject to the following conditions:

1. Compliance with all the requirements of G.L. c. 23N, as now in effect and as hereafter amended and 205 CMR, as now in effect and as hereafter amended.
2. Compliance with all applicable federal, state and local laws, rules and regulations, now in effect or as hereafter amended or promulgated.
3. Compliance with all terms and conditions of the Gaming License for the Gaming Establishment at PPC dated June 24, 2020.³
4. Compliance with the license conditions required to be inserted into all sports wagering licenses by 205 CMR 220, namely:
 - a. That the Licensee obtain an Operation Certificate before conducting any sports wagering in the Commonwealth.
 - b. That the Licensee comply with all terms and conditions of its license and Operation Certificate;
 - c. That the Licensee comply with G.L. c. 23N and all rules and regulations of the Commission;
 - d. That the Licensee make all required payments to the Commission in a timely manner;
 - e. That the Licensee maintain its suitability to hold a sports wagering license; and
 - f. That the Licensee conduct sports wagering in accordance with its approved system of internal controls, and in accordance with its approved house rules, in accordance with G.L. c. 23N, § 10(a) and with 205 CMR.
5. That that the License, in the form prescribed by the Commission, shall be posted in a location continuously conspicuous to the public within the Sports Wagering Facility at all times.
6. Payment of assessments made pursuant 205 CMR 221.00 in accordance with that regulation.
7. Compliance with any requirements to obtain federal, state and local permits and approvals required to construct and operate the sports wagering facility, and any conditions or requirements set forth therein.
8. The Sports Wagering Operation shall substantially conform to the information included in the application filed by the Licensee.
9. Other specific conditions:

³ PPC's 5-year license renewal was approved as of June 24, 2020; however, the official Renewal Award is dated September 30, 2020.

- a. Fully cooperate with IEB in its suitability investigation, including, without limitation, the IEB’s investigation into Barstool Sports and its branding relationship with Licensee.
 - b. Prohibit anyone under 21 from attending the Barstool College Football Show as a live audience member.
10. The term of the temporary license awarded to Licensee commences upon January 12, 2023, and shall expire as set out in 205 CMR 219.03.

SO ORDERED

MASSACHUSETTS GAMING COMMISSION

Cathy Judd-Stein, Chair

Eileen M. O’Brien, Commissioner

Bradford R. Hill, Commissioner

Nakisha L. Skinner, Commissioner

Jordan M. Maynard, Commissioner

**COMMONWEALTH OF MASSACHUSETTS
MASSACHUSETTS GAMING COMMISSION**

In the Matter of)
)
)
Application of Penn Sports Interactive, LLC (“PSI”) for a)
Tethered Category 3 Sports Wagering Operator License)
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)

**DECISION DEEMING PENN SPORTS INTERACTIVE, LLC
ELIGIBLE TO REQUEST A TEMPORARY
TETHERED CATEGORY 3 SPORTS WAGERING OPERATOR LICENSE¹**

I. Introduction

Penn Sports Interactive, LLC (“PSI”) applied to the Massachusetts Gaming Commission (“MGC” or “Commission”) for a Tethered Category 3 Sports Wagering License. Under G.L. c. 23N, the Commission may issue a Tethered Category 3 license to an entity that offers sports wagering in connection with a Category 1 or 2 license, and through a mobile application or other digital platform that meets the requirements of c. 23N and the rules and regulations of the Commission. For the following reasons, the Commission hereby deems PSI eligible to request a temporary license.

II. Procedural History

On November 21, 2022, the Commission received PSI’s application, including the \$200,000 application fee. *See* G.L. c. 23N, § 7(A) and 205 CMR 214.01. The MGC Division of Licensing reviewed the Sports Wagering License Application for administrative sufficiency and determined that the application was sufficient. *See* 205 CMR 218.03. On December 5, 2022, the Commission held a virtual public meeting to hear public comment on all Category 3 Sports Wagering applications. *See* 205 CMR 218.05 and 205 CMR 218.06. On January 3, 2023, the Commission held a virtual public meeting to hear an informal presentation from PSI explaining its Application and to receive comments from consultants the Commission hired to review various elements of the Application. *See* 205 CMR 218.04(1)(a)-(b), 218.05(1)(b), and 218.06(1). At that same meeting, the Commission deliberated on the license application, and on January 4, 2023, the Commission found PSI preliminarily suitable and eligible to request a Temporary License. *See* 205 CMR 215.01(2)(c)-(d), 205 CMR 218.06(4)-(5), 218.07(1)(a).

III. Findings and Evaluation

In evaluating whether to issue the Category 3 Sports Wagering License to PSI, the Commission considered: all information in the application submitted by PSI; the public comments made on

¹ All facts referenced in this decision were current as of the date of the respective eligibility hearing for this applicant.

December 5, 2022; the presentations made by PSI and the Commission’s external consultants² on January 3 and 4, 2023; and a written report prepared by the Investigations and Enforcement Bureau (“IEB” or “Bureau”) in accordance with 205 CMR 215.01(2)(b).

In accordance with 205 CMR 218.06(5), in determining whether to deem PSI eligible to request a Temporary Sports Wagering License, the Commission evaluated all materials and information in the record to determine whether a license award would benefit the Commonwealth, and considered the following factors:

- a) PSI’s experience and expertise related to Sports Wagering, including:
 1. PSI’s background in Sports Wagering;
 2. PSI’s experience and licensure with Sports Wagering in other jurisdictions ;
 3. A description of PSI’s proposed Sports Wagering operation;
- b) The economic impact and other benefits to the Commonwealth if PSI is awarded a License, including:
 1. Employment opportunities within the Commonwealth;
 2. The projected revenue from wagering operations, and tax revenue to the Commonwealth;
 3. PSI’s proposed plans for construction and capital investments associated with the license award;
 4. Community engagement;
- c) PSI’s proposed measures related to responsible gaming, including:
 1. PSI’s responsible gaming policies;
 2. PSI’s advertising and promotional plans;
 3. PSI’s history of demonstrated commitment to responsible gaming;
- d) A description of PSI’s willingness to foster racial, ethnic, and gender diversity, equity, and inclusion, including:
 1. Within PSI’s workforce;
 2. Through PSI’s supplier spend;
 3. In PSI’s corporate structure;
- e) The technology that PSI intends to use in its operation, including:
 1. Geofencing;
 2. Know-your-customer measures; and
 3. Technological expertise and reliability;

² The consultants include RSM US LLP (“RSM”), which presented on financial projections; Gaming Laboratories International LLC (“GLI”), which presented on technology considerations; and the Commission’s Investigations and Enforcement Bureau (“IEB”), which presented on suitability.

- f) The suitability of PSI and its qualifiers, including:
1. Whether PSI can be or has been determined suitable in accordance with 205 CMR 215;
 2. PSI’s and all parties in interest to the license’s integrity, honesty, good character, and reputation;
 3. PSI’s financial stability, integrity, and background;
 4. PSI’s business practices and business ability to establish and maintain a successful sports wagering operation;
 5. PSI’s history of compliance with gaming or sports wagering licensing requirements in other jurisdictions;
 6. Whether PSI is a defendant in litigation involving its business practices; and
- g) Any other appropriate factor, in the Commission’s discretion.

Further, the Commission decided whether each section of PSI’s application failed to meet, met, or exceeded expectations.

Ultimately, the Commission is satisfied that PSI’s proposed sports wagering operation meets, and in many instances exceeds, the requirements set forth in G.L. c.23N and 205 CMR 218. The Commission further finds there is substantial evidence to adopt the following specific findings of fact and conclusions of law related to PSI’s application.

A. Experience and Expertise Related to Sports Wagering

According to its January 3, 2023, presentation, PENN is a leading provider of casino game experience serving customers across North America. As PSI explained in its application, PENN’s wholly owned interactive division, Penn Interactive Ventures, LLC (“PIV”), and its wholly owned subsidiary Penn Sports Interactive, LLC (“PSI”) (collectively, “PENN Interactive”), operate 25 retail sportsbooks, as well as online social casino, bingo, and iCasino products.

Overall, there is substantial evidence that PSI’s proposal in the experience and expertise category is excellent, and therefore exceeds expectations.

SUMMARY OF EVALUATION BY CRITERIA	
Criteria	Finding
Background in Sports Wagering	PSI offers iCasino products in Michigan, New Jersey, Pennsylvania, West Virginia, Ontario (CA) and online sports betting services in 14 jurisdictions, including Arizona, Colorado, Illinois, Indiana, Iowa, Kansas, Louisiana, Michigan, New Jersey, Ontario (CA), Pennsylvania, Tennessee, Virginia, and West Virginia.

	<p>The Commission unanimously agreed that PENN has sufficient background in Sports Wagering and has been fully vetted in that regard.</p>
<p>Experience and licensure in other jurisdictions with Sports Wagering</p>	<p>As PSI explained in its application, PENN, PSI’s ultimate parent company, operates 43 entertainment destinations in 20 jurisdictions across the United States with a variety of retail and online gaming, live and simulcast racing, entertainment, and hospitality offerings, and currently has 25 retail sportsbooks in 11 states.</p> <p>PIV has been approved for an online sports wagering license in Colorado, Illinois, Indiana, Iowa, Kansas, Maryland, Michigan, Louisiana, New Jersey, Ohio, Tennessee, Virginia, West Virginia, and Wyoming.</p> <p>For the reasons described above, the Commission unanimously agreed that PENN has sufficient experience and licensure in other jurisdictions with Sports Wagering and has been fully vetted in that regard.</p>
<p>Description of PSI’s proposed Sports Wagering Operation</p>	<p>Barstool Sportsbook will offer markets on various events/sports/leagues along with app features such as Parlay+, Move the Line, and “odds boosts.” Various promotions are offered on the platform, including insurance-style promotions, Bet & Gets, Deposit Matches, and giveaways.</p> <p>PENN has entered into multi-year agreements with online sports betting and/or iGaming operators DraftKings, PointsBet, The Stars Group, Boom Sports, BetMGM, Unibet, Rush Street Interactive, Golden Nugget Online Gaming, WAGR, Sporttrade, and Mojo for market access across the Company’s portfolio. Currently, PENN holds 13 skins agreements in 15 jurisdictions where PENN has a casino property.</p> <p>PSI intends to offer a full complement of markets and sports on which to wager, consistent with whatever is permitted by the Commission.</p> <p>The Commission was satisfied by this described plan for Sports Wagering operations.</p>

B. Economic Impact

PSI provided a detailed description of the anticipated economic impact to the Commonwealth of receiving a sports wagering license this is further elaborated on below.

Commissioners expressed concern that any increase in employment positions available due to PSI’s licensure would be dictated by what happens at Plainridge Park Casino, rather than due to PSI’s own efforts. PSI addressed this concern by stating that PENN has two operations in

Massachusetts: one at the Plainridge Park Casino, and the other at a game studio in Greenfield, MA, which produces Penn’s bespoke iCasino content.

Overall, there is substantial evidence that PSI’s proposal in the economic impact category meets expectations.

SUMMARY OF EVALUATION BY CRITERIA	
Criteria	Finding
Employment opportunities	<p>PSI currently has 26 full-time employees who live within the Commonwealth of Massachusetts, but granting a license to PSI will not necessarily create additional jobs within the Commonwealth.</p> <p>The Commission was satisfied by this proposed employment plan.</p>
Projected revenue from wagering operations, and tax revenue	<p>PSI described its projected revenue for Sports Wagering on pages 103-110 of its Application, which the Commission found satisfactory.</p>
Community engagement	<p>PSI referred the Commission to PPC’s application for this section. PPC is involved with multiple local charitable organizations, including Boston Pearl, New Hope, New Colony Habitat for Humanity, and Tri-Town Chamber of Commerce.</p> <p>PPC will continue to work with the Lottery to expand on the initiatives established over the last 7 years.</p> <p>PPC has not and will not create, promote, operate or sell games that are similar to or in direct competition, as determined by the Massachusetts Gaming Commission, with games offered by the Massachusetts State Lottery Commission.</p> <p>The Commission was satisfied by PSI’s representations regarding its past, ongoing, and future plans for community engagement.</p>

C. Responsible Gaming

PSI’s parent company PENN has a history of commitment to responsible gaming. This history includes annual support of various industry-wide responsible gaming initiatives including Responsible Gaming Education Month and Problem Gaming Awareness Month, an extensive and comprehensive employee responsible gaming training program, and consistent adherence to federal standards governing gaming advertising.

However, the Commission was concerned with Penn’s current and future relationship with Barstool Sports. PSI argued in its presentation that its relationship with Barstool Sports allows it to be more creative and effective in its responsible gaming messaging by, for example, utilizing Barstool’s on-air personalities to deliver messages during its involvement in other media content about the risks associated with gambling. The Commission concluded that this question required further investigation and consideration, and decided to impose a condition on the temporary license accordingly.

Overall, PSI put forth a compelling responsible gaming plan. Other than the Commission’s concerns about PSI’s relationship with Barstool Sports and its implications for PSI’s responsible gaming plans, there is substantial evidence that PSI’s proposal in the responsible gaming category exceeds expectations.

SUMMARY OF EVALUATION BY CRITERIA	
Criteria	Finding
Responsible Gaming Policies	<p>PPC hosts the GameSense Information Center, which provides resources and information on healthy and problem gambling, and is staffed by representatives of the Massachusetts Council on Gaming and Health (MACGH) during designated hours and online via Live Chat 24 hours a day.</p> <p>PSI has an established Responsible Gaming Committee, which meets quarterly, monitors compliance, and continues to evaluate the Responsible Gaming (“RG”) program’s effectiveness, including authorizing changes to the program as necessary.</p> <p>PSI has established a set of policies and guidelines modeled after the American Gaming Association’s (“AGA”) Code of Conduct for Responsible Gaming, which establishes minimum standards that address problem gambling, underage gambling, and responsible marketing and advertising. All of PENN, including PSI, voluntarily employ an “exclude one, exclude all” policy for every patron whereby a patron excluded from any PENN property or service is excluded from all PENN properties and services.</p> <p><u>Responsible Gaming Staff</u> PSI has a dedicated Responsible Gaming team, which continuously reviews and improves responsible gaming practices; assists in player responsible gaming matters; and audits responsible gaming procedures, responsible gaming reporting, local and national sponsorships.</p> <p><u>Employee Training</u> PSI educates all relevant employees during onboarding, and annually thereafter, regarding responsible gaming; disordered</p>

	<p>gambling; the prohibition of underage gambling; and the identification and suspension of excluded, self-excluded, and suspended persons, as well as the confidentiality of this information. Further, employees in direct customer-interfacing roles are given additional training at least twice per year.</p> <p><u>Responsible Gaming Limits</u> A registered player’s self-imposed limit(s), including deposit, spend, wager, and session limits, are enforced across all of Barstool’s skins and platforms. A player can utilize tools such as temporary suspension, which is a complete suspension of the account for a varying amount of time (from 72 hours to 365 days), or withdrawal control, which cannot be disabled until 24 hours has elapsed.</p> <p>The Player Protection Responsible Gaming Page (“PPRG”) will also be available on the platform’s main menu and will be accessible to patrons throughout their gaming session. The PPRG will include a prominent contact number for a jurisdiction-approved helpline, and direct links to self-exclude and to organizations dedicated to helping people with a potential gambling problem, among other resources.</p> <p>PSI recently conducted a six-month paid Twitter campaign advertising Responsible Gaming, which it would be open to renewing or continuing at the Commission’s request.</p> <p>The Commission was satisfied by PSI’s responsible gaming policies.</p>
<p>Advertising and Promotional Plans</p>	<p>All of PSI’s sports wagering advertisements will contain a responsible gaming message and will comply with federal standards. These ads will not appeal to children or minors, feature those who are younger than 21, make claims that success is guaranteed when gambling, be placed in front of an audience where most are expected to be under 21, encourage people to play beyond their means, exaggerate patrons’ chances of winning, or otherwise encourage irresponsible play.</p> <p>The Commission was satisfied that PSI’s advertising and promotional plans would adhere to its responsible gaming policies.</p>
<p>History of Dedicated Commitment to Responsible Gaming</p>	<p>In each jurisdiction, PSI drafts and supplies a full responsible gaming plan that aligns with local statutes, regulations, and guidance. Any potential breach or violation of a jurisdiction’s statutes, regulations, or guidance is self-reported upon discovery.</p>

	<p>PSI annually budgets for state specific and national responsible gaming initiatives.</p> <p>PENN has received many awards for responsible gaming, including the following:</p> <ul style="list-style-type: none"> • PSI and the Barstool Sportsbook is officially accredited through the Responsible Gaming Council (“RGC”). • PSI contracted with the Responsible Gaming Council (“RGC) to complete a Responsible Gaming Check accreditation on the Barstool Sportsbook platform. <p>PSI has been involved in six settlements in Florida, Indiana, and Pennsylvania.</p> <p>The Commission was satisfied that PSI has a history of dedicated commitment to responsible gaming.</p>
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D. Diversity, Equity, and Inclusion

The Commission included Diversity, Equity, and Inclusion as a stand-alone consideration to demonstrate the value it places on this category of an applicant’s application.

According to its January 3, 2023, presentation, PENN has a variety of DEI efforts. It established a STEM scholarship program that has given four million dollars over five years to fund STEM workshops at historically black colleges and universities (“HBCUs”). It has also created the Leadership Excellence at Penn Program, which provides experience to recent college graduates and those about to complete college who are interested in long term careers in the gaming industry.

PENN also has an internal diversity scholarship program which offers a million dollars in tuition scholarships annually. In 2022, more than half of the recipients were first generation college students.

Commissioners expressed concern with the diversity of PSI’s vendors, and asked why PSI noted in its application that it was limited with regards to diverse vendor spend. PSI noted in response that most of its vendor spend is with large national or multinational organizations such as payment processors and KYC vendors, and the biggest impact on supplier diversity can be made at the local level.

Commissioners also expressed concern with the lack of goals that PSI included in its application with regards to supplier diversity and diversifying the workforce. PSI responded that it did not want to prematurely set a dollar threshold or percentage of spend threshold because of how rapidly the market is changing. Commissioners noted that they voted to attach a condition requiring stated goals on the applications of other applicants; PSI noted that it will work with the Commission to develop appropriate goals in this area.

The Commission entered Executive Session in order to discuss the Barstool College Football Show incident in Indiana and any specific changes with respect to the company’s internal control procedures for social media postings.

PSI’s application demonstrated an exemplary commitment to Diversity, Equity, and Inclusion. There is substantial evidence that PSI’s proposal in the diversity, equity, and inclusion category was considered excellent, and therefore exceeds expectations.

SUMMARY OF EVALUATION BY CRITERIA	
Criteria	Finding
DEI within the workforce	<p>PENN focuses on key initiatives to assist with diversity and inclusion efforts, which are: Scholarship, Recruitment, Leadership Development, Procurement, and Community/Company Engagement.</p> <p>PENN’s recruitment efforts for open executive roles included either female or ethnically diverse candidates 100% of the time. PENN’s workforce development has grown through the Women Leading at PENN (WLP) program; the company’s executive team is now 37.5% female.</p> <p>PENN offers tuition reimbursement and certification programs for employees and offers the PENN Diversity Scholarship to team members’ children. 10% of recipients will be attending HBCUs. PENN has also committed \$4M in scholarships to support STEM programs at HBCUs.</p> <p>In 2021, 48% of PENN’s employees were women, and 46% identified as non-white (Asian, Black, Hispanic/Latinx, Indigenous, or multiracial). PSI’s current workforce demographic of women and BIPOC is 28% and 29%, respectively.</p> <p>PENN’s Diversity Committee leads a corporate-wide Supplier Diversity Initiative to coordinate efforts across all properties to develop new opportunities for diverse businesses, regardless of jurisdictional requirements. This initial effort resulted in a doubled diversity spend with businesses owned by minorities, women, disabled individuals and veterans.</p> <p>With the help of the National Minority Supplier Development Council (“NMSDC”), a diversity vendor specialist, PENN was able to increase its diversity spend from \$52 million in 2020 to \$68 million in 2021. In 2021, PENN launched its first virtual regional minority vendor fair, and launched a pilot for the PENN Minority Business Incubator.</p>

	<p>At the Commission’s request, PSI will work with the Commission to develop specific, measurable general workforce diversity goals.</p>
<p>DEI through supplier spend</p>	<p>PENN already has significant investments in the state of Massachusetts, and PSI will continue to utilize those relationships in its efforts to reach Massachusetts’ diverse communities and businesses.</p> <p>Currently 20% of PENN’s spend is categorized as Diverse Qualified Spend. In the online sphere over the last year, PSI has worked with numerous diverse vendors and actively searches for more to assist with its national operations. About 1% of PSI’s spend is on diverse vendors. As a national online gaming operator, PSI is limited in the diverse vendors available to support the operation with related products and services. However, PSI continues to actively search for diverse vendors that can offer services nationally.</p> <p>At the Commission’s request, PSI will work with the Commission to develop specific, measurable diversity spend goals.</p>
<p>DEI in corporate structure</p>	<p>PENN was included in the 2021 and 2022 Champions of Board Diversity by The Forum of Executive Women and the 2021 Breakfast of Corporate Champions, which recognizes companies that lead the way for gender balance on corporate boards. In 2021 and 2022, Penn was included in Forbes Magazine’s list of America’s Best Employers for Diversity and has received accolades from the All-In Diversity Project and is certified as an Age-Friendly Employer by the Age-Friendly Institute. Currently, Penn’s Board is 44% female, includes three military veterans, and members who are white/Latino/ Asian/African American and LGBTQ+.</p> <p>The Commission was satisfied by PENN’s corporate structure.</p>

E. Technology

PSI plans to partner with Kambi, a leading independent provider of premium sports betting technology and services, to provide and operate PSI’s sports wagering technology. Kambi has been certified in in over 25 jurisdictions in the United States and more worldwide. Consultants to the Commission noted that PSI’s application was thorough and complete, and that the technology PSI plans to use is best in class.

However, sports wagering is much more dynamic than land-based gaming operations, so the initial testing and certification, while essential, is only the beginning. It will involve continuing efforts and cooperation with other regulatory bodies.

Overall, there is substantial evidence that PSI’s proposal in the technology category meets expectations.

SUMMARY OF EVALUATION BY CRITERIA	
Criteria	Finding
Geofencing	PSI described its geofencing measures in response to section F.1 of its Application, which the Commission found satisfactory.
Know your customer measures	PSI described its Know Your Customer measures, including tools surrounding account creation and age and identity verification in response to section F.2 of its Application, which the Commission found satisfactory.
Technological expertise and reliability	PSI described its technological expertise and reliability in response to section F.3 of its Application, which the Commission found satisfactory.

F. Suitability of PSI and Its Qualifiers

PENN has undergone extensive investigations in relation to its Category 1 Operator’s License, and in 2013, the Commission found PENN and each of its then individual entity qualifiers suitable in connection with PENN’s application for a gaming license. As new qualifiers joined PENN, they were required to submit to full investigations as well, all of which are reviewed in the materials the IEB submitted in accordance with 205 CMR 215.02. Because the criteria for suitability to hold a gaming license are substantially aligned with the criteria for suitability to hold a sports wagering license, the Commission used information obtained in past suitability investigations here.

The Commission was concerned with the suitability of Barstool Sports, which Penn currently owns in its entirety. Specifically, the Commission is concerned with Penn’s decision to align with Barstool, and its founder Dave Portnoy, for branding purposes given Barstool’s historic position on gaming. Commissioners spent a significant portion of the January 3, 2023, hearing asking questions about this relationship to discern its effect on PSI’s suitability. To that end, the Commission has added conditions to this license (set forth below) requiring a full IEB investigation of Barstool’s suitability as it relates to PSI’s proposed sports wagering operation.

The Commission may determine that an applicant or qualifier is preliminarily suitable to hold a sports wagering license based on (1) the applicant and its qualifiers, or the qualifier, certifying to their suitability under the pains and penalties of perjury, and (2) the IEB’s investigative report. *See* 205 CMR 215.01(2)(a). The Commission deliberated on PSI’s

preliminary suitability during its deliberations on PSI’s application on December 6, 2022. *See* 205 CMR 215.01(2)(c). Based on PENN and its qualifiers’ certifications, the IEB’s investigative report, information obtained through previous investigations into PENN and its qualifiers as described above, and the license conditions requiring further investigation of Barstool’s suitability, the Commission determined that PENN and its qualifiers are preliminarily suitable to hold a sports wagering license. *See* 205 CMR 215.01(2)(d)(1).

Overall, the Commission is largely satisfied with PSI’s suitability. It therefore found PSI preliminarily suitable and concluded that there is substantial evidence that PSI’s suitability meets expectations.

SUMMARY OF EVALUATION BY CRITERIA	
Criteria	Finding
Suitability in accordance with 205 CMR 215	PSI is preliminarily suitable to hold a sports wagering license.
PSI’s and all parties in interest to the license’s integrity, honesty, good character and reputation	The IEB’s past investigations of PSI and the IEB’s investigative report prepared for the purposes of this temporary license decision have not revealed any disqualifying information concerning PSI or its qualifiers’ integrity, honesty, good character, or reputation.
PSI’s financial stability, integrity, and background	PSI’s financial stability was determined to be sufficient based on its relationship to PENN. PENN provides all capital funding to PSI. Further, PSI operated under a capital expenditure plan approved by the MGC from opening until December 31, 2020. In 2021, PSI received approval from the MGC for a capital plan that extends through December 31, 2025. PENN provides all capital funding to PSI.
PSI’s business practices and business ability to establish and maintain a successful sports wagering operation	At this time, the Commission has not been made aware of any disqualifying information concerning PSI’s business practices. As described in Experience and Expertise Related to Sports Wagering, above, PSI has the business ability to establish and maintain a successful sports wagering operation.
PSI’s history of compliance with gaming or sports wagering licensing requirements in other jurisdictions	PENN, the ultimate parent company of PSI, is currently licensed, or has subsidiaries that are licensed, in Arizona, Arkansas, Colorado, Florida, Iowa, Illinois, Indiana, Kansas, Louisiana, Maryland, Maine, Michigan, Missouri, Mississippi, New Jersey, New Mexico, New York, Nevada, Ohio, Pennsylvania, Tennessee, Texas, Virginia, Washington, and West Virginia. In 2014, the Iowa Racing and Gaming Commission issued a ruling not to renew the gaming license of Belle of Sioux City,

L.P. (“Belle”), an operating subsidiary of PENN. This non-renewal was not due to the operating or suitability record of either Belle or PENN, but because Belle’s operating agreement with its previous charitable “qualified sponsoring organization” (“QSO”), required under Iowa law, expired after 20 years. That QSO chose to partner with another gaming operator, and the Iowa Racing and Gaming Commission did not grant Belle’s request to license a new QSO to partner with Belle. Instead, the IRGC opened the county up for applications for a new land-based casino and granted that license to the Hard Rock Casino in Belle’s stead.

In December 2022, the Ohio Casino Control Commission issued a Notice of Violation to PSI. This Notice contained two counts of administrative charges. The first was that PSI, or its affiliate marketer, advertised or promoted on a college or university campus located in Ohio in violation of the Ohio Administrative Code. The second was that PSI, or its affiliate marketer, targeted individuals under the age of 21, also in violation of the Ohio Administrative Code. Based on these charges, the Ohio Casino Control Commission sought to impose the following administrative sanctions: (1) a monetary fine not less than \$250,000, (2) requiring PSI to ensure that its personnel are trained in all laws, policies, and procedures relevant to advertising and promoting sports betting compliant with Ohio law, and (3) any other sanction or remedy permitted. This matter was pending as of the date of license issuance.

In August 2021, the Indiana Gaming Commission (“IGC”) reached a settlement with PSI over an incident in which the logic being used by Platform Provider, White Hat Gaming, was not properly identifying and suspending accounts whose identity information duplicated that of existing PSI accounts. No deposits, wagers, or withdrawals were completed using these duplicate accounts.

In September 2021, the IGC reached an additional settlement with PSI over two incidents. First, the Terms and Conditions were not available to players upon the launch of the Barstool Sportsbook. Second, a Barstool Sports, Inc. intern posted a questionable social media video on a non-Barstool Sportsbook TikTok account. PSI self-reported both of these incidents to the IGC.

In March 2022, the IGC reached an additional settlement with PSI over a geolocation bug that caused the Sportsbook not to

	<p>conduct a new geolocation check when a patron changed IP addresses. No patrons were allowed to wager outside of Indiana.</p> <p>In June 2022, the IGC reached an additional settlement with PSI over three incidents. In the first, the IGC performed a prohibited participant audit and found 4 prohibited participant omissions. In another, PSI did not timely notify the IGC of its separation from service from its occupational licensing system. In the third, PSI had incorrectly notified the IGC that it had terminated a developer who then worked for 58 days without a license.</p> <p>In November 2021, the Pennsylvania Gaming Control Board reached a settlement with PSI over 9 iGaming self-exclusion violations. Four of those incidents occurred on the Barstool Sportsbook due to improper name-matching logic being utilized by the PAM.</p>
Whether PSI is a defendant in litigation involving its business practices	PSI is not a defendant in any litigation involving its business practices.
Any other appropriate factor in the Commission’s discretion	The Commission expressed concerns with PSI’s alignment with Barstool, which arguably glamorizes irresponsible gaming. For the purposes of this temporary license decision, the Commission is addressing this concern by requiring a full investigation as the licensing process continues.

IV. Award

THERE IS SUBSTANTIAL EVIDENCE IN THE RECORD THAT PSI’S APPLICATION MEETS EXPECTATIONS IN ALL MAJOR CATEGORIES AND THAT PSI IS ELIGIBLE TO REQUEST A TEMPORARY TETHERED CATEGORY 3 SPORTS WAGERING LICENSE

On January 4, 2023, the Commission deemed PSI (“Licensee”) eligible to request a Temporary Tethered Category 3 Sports Wagering Operator License (“License”) pursuant to the terms and conditions of this Agreement (“Agreement”). On November 21, 2022, the MGC received PSI’s request for a temporary license, and an initial licensing fee of \$1,000,000 payable to the Commission. *See* 205 CMR 219.02(1). On January 4, 2023, the Commission voted to issue the requested temporary license. *See* 205 CMR 219.02(3).

This License is subject to the following conditions:

1. Compliance with all of the requirements of G.L. c. 23N, as now in effect and as hereafter amended and 205 CMR, as now in effect and as hereafter amended.

2. Compliance with all applicable federal, state and local laws, rules and regulations, now in effect or as hereafter amended or promulgated.
3. Compliance with all terms and conditions of the Gaming License for the Gaming Establishment at PPC dated February 28, 2014.
4. Compliance with the license conditions required to be inserted into all sports wagering licenses by 205 CMR 220, namely:
 - a. That the Licensee obtain an Operation Certificate before conducting any sports wagering in the Commonwealth.
 - b. That the Licensee comply with all terms and conditions of its license and Operation Certificate;
 - c. That the Licensee comply with G.L. c. 23N and all rules and regulations of the Commission;
 - d. That the Licensee make all required payments to the Commission in a timely manner;
 - e. That the Licensee maintain its suitability to hold a sports wagering license;
 - f. That the Licensee conduct sports wagering in accordance with its approved system of internal controls, and in accordance with its approved house rules, in accordance with G.L. c. 23N, § 10(a) and with 205 CMR; and
5. That that the License, in the form prescribed by the Commission, shall be posted in a location continuously conspicuous to the public within the Sports Wagering Facility at all times.
6. Payment of assessments made pursuant 205 CMR 221.00 in accordance with that regulation.
7. Compliance with any requirements to obtain federal, state and local permits and approvals required to construct and operate the sports wagering facility, and any conditions or requirements set forth therein.
8. The Sports Wagering Operation shall substantially conform to the information included in the application filed by the Licensee.
9. Compliance with any free play standards set by the Commission.
10. Other specific conditions:
 - a. Fully cooperate with IEB in its suitability investigation, including, without limitation, the IEB's investigation into Barstool Sports and its branding relationship with Licensee.

- b. Prohibit anyone under 21 from attending the Barstool College Football Show as a live audience member.
11. The term of the temporary license awarded to Licensee commences on February 23, 2023, and shall expire as set out in 205 CMR 219.03.

SO ORDERED

MASSACHUSETTS GAMING COMMISSION

Cathy Judd-Stein, Chair

Eileen M. O'Brien, Commissioner

Bradford R. Hill, Commissioner

Nakisha L. Skinner, Commissioner

Jordan M. Maynard, Commissioner

**COMMONWEALTH OF MASSACHUSETTS
MASSACHUSETTS GAMING COMMISSION**

In the Matter of)
)
)
Application of PointsBet Massachusetts LLC d/b/a PointsBet)
for a Temporary Untethered Category 3 Sports Wagering)
Operator License)
)
)

**DECISION DEEMING POINTSBET MASSACHUSETTS LLC
D/B/A POINTSBET ELIGIBLE TO REQUEST A TEMPORARY UNTETHERED
CATEGORY 3 SPORTS WAGERING OPERATOR LICENSE**

I. Introduction

PointsBet Massachusetts LLC d/b/a PointsBet (“PointsBet”) applied to the Massachusetts Gaming Commission (“MGC” or “Commission”) for an Untethered Category 3 Sports Wagering License. Under G.L. c. 23N, the Commission may issue an Untethered Category 3 Sports Wagering License (“License”) to an entity that offers sports wagering through a mobile application or other digital platform that meets the requirements of c. 23N and the rules and regulations of the Commission. For the following reasons, the Commission hereby deems PointsBet eligible to request a License.

II. Procedural History

On November 21, 2022, the Commission received PointsBet’s Sports Wagering License Application (“Application”), including the \$200,000 application fee. *See* G.L. c. 23N, § 7(A) and 205 CMR 214.01. The MGC Division of Licensing reviewed the Application for administrative sufficiency and determined that the application was sufficient. *See* 205 CMR 218.03. On January 3, 2023, the Commission held a virtual public meeting to hear public comments on all Untethered Category 3 Sports Wagering applications, *see* 205 CMR 218.05 and 205 CMR 218.06, which are contained in the Commission’s public record. On January 17, 2023, the Commission held a virtual public meeting to determine whether to issue PointsBet a preliminary finding of suitability, which included hearing an informal presentation from PointsBet and the Commission’s consultants. *See* 205 CMR 218.04(1)(a)-(b), 218.05(1)(b), 218.06(1). At that same meeting, the Commission deliberated on the Application, *see* 205 CMR 218.06(4)-(5), and on January 19, 2023, the Commission found PointsBet preliminarily suitable and eligible to request a Temporary License.¹ *See* 205 CMR 215.01(2)(c)-(d), 218.07(1)(a).

¹ PointsBet withdrew from Massachusetts prior to requesting the issuance of their temporary license.

III. Findings and Evaluation

In evaluating whether to issue the Category 3 Sports Wagering License to PointsBet, the Commission considered all information in the application submitted by PointsBet; the public comments made on January 3, 2023; the presentations made by PointsBet and the Commission's external consultants² on January 17, 2023; and a written report prepared by the Investigations and Enforcement Bureau ("IEB" or "Bureau") in accordance with 205 CMR 215.01(2)(b).

In accordance with 205 CMR 218.06(5), in determining whether to deem PointsBet eligible to request a Temporary Untethered Category 3 Sports Wagering License, the Commission evaluated all materials and information in the record to determine whether a license award would benefit the Commonwealth, and considered the following factors:

- a) PointsBet's experience and expertise related to Sports Wagering, including:
 - 1. PointsBet's ability to offer Sports Wagering in the Commonwealth;
 - 2. A description of PointsBet's proposed Sports Wagering Platform;
 - 3. The technical features & operation of PointsBet's proposed Sports Wagering Platform;

- b) The economic impact and other benefits to the Commonwealth if PointsBet is awarded a License, including:
 - 1. Employment opportunities within the Commonwealth;
 - 2. Projected revenue;
 - 3. Community engagement;

- c) PointsBet's proposed measures related to responsible gaming, including:
 - 1. PointsBet's responsible gaming policies;
 - 2. PointsBet's advertising and promotional plans;
 - 3. PointsBet's history of demonstrated commitment to responsible gaming;

- d) A description of PointsBet's willingness to foster racial, ethnic, and gender diversity, equity, and inclusion, including:
 - 1. Within PointsBet's workforce;
 - 2. Through PointsBet's supplier spend;
 - 3. In PointsBet's corporate structure;

- e) The technology that PointsBet intends to use in its operation, including:

² The consultants include RSM US LLP ("RSM"), which presented on PointsBet's financial projections; Gaming Laboratories International LLC ("GLI"), which presented on technology considerations; and the Commission's Investigations and Enforcement Bureau ("IEB"), which presented on PointsBet's suitability.

1. Geofencing;
 2. Know your customer measures; and
 3. Technological expertise and reliability;
- f) The suitability of PointsBet and its qualifiers, including:
1. PointsBet’s corporate integrity;
 2. The integrity of PointsBet’s individual qualifiers;
 3. PointsBet’s financial stability, integrity, and background;
 4. PointsBet’s history of compliance with gaming or Sports Wagering licensing requirements in other jurisdictions; and
- g) Any other appropriate factor, in the Commission’s discretion.

In each case, the Commission decided whether each section of PointsBet’s application addressing these factors failed to meet, met, or exceeded expectations.

Ultimately, the Commission finds there is substantial evidence in the record to conclude that PointsBet’s proposed Sports Wagering operation meets the requirements set forth in G.L. c.23N and 205 CMR 218. The Commission further finds there is substantial evidence to adopt the following specific findings of fact and conclusions of law related to PointsBet’s Application.

A. Experience and Expertise Related to Sports Wagering

As reported during the January 17, 2023, presentation, PointsBet first launched in Australia in 2017 before launching in the United States in early 2019. As of January 17, 2023, PointsBet operated in Australia, Canada, and 14 U.S. states. PointsBet reported that it is one of the top three sports betting applications, and that PointsBet owns its source code and technology.

Members of the Commission asked PointsBet to describe “points betting” a type of wager that PointsBet offers. PointsBet stated that “points betting” is a proprietary wager of PointsBet and that via points betting, customers can wager on how “right” they are. PointsBet stated that points betting is optional for customers, as they may lose more than a traditional bet if they are unsuccessful. PointsBet stated that whatever wagering options they offer, including promotions, will be configured to conform to the Commission’s requirements.

Members of the Commission asked PointsBet to address its view of “risk free” or “free bet” language. In response, PointsBet stated that it previously used a combination of “risk free” and “free bet” language, but determined that it sent a negative message to customers such that PointsBet has stopped using such language and instead uses “bet credit.”

Overall, there is substantial evidence that PointsBet has the experience and expertise required to develop and operate a Sports Wagering Platform. Therefore, PointsBet’s proposal in the experience and expertise category meets expectations.

SUMMARY OF EVALUATION BY CRITERIA	
Criteria	Finding
PointsBet’s ability to offer Sports Wagering in the Commonwealth	<p>As of January 17, 2023, PointsBet operates in Australia, Canada, and 14 U.S. states.</p> <p>For the reasons stated above, the Commission unanimously agreed that PointsBet has sufficient ability to offer Sports Wagering in the Commonwealth.</p>
Description of PointsBet’s proposed Sports Wagering Platform	<p>PointsBet stated that it owns the source code and technology necessary to operate its Sports Wagering Platform.</p> <p>PointsBet further described its proposed Sports Wagering Platform on pages 26-29 of its Application and the Commission found it satisfactory.</p>
Technical features and operation of PointsBet’s proposed Sports Wagering Platform	<p>PointsBet described the technical features and operation of its proposed Sports Wagering Platform on pages 30-57 of its Application and the Commission found it satisfactory.</p>

B. Economic Impact

During its January 17, 2023, presentation, PointBet detailed its pre-launch and post-launch business models. PointsBet stated its pre-launch efforts would include deploying targeted social media advertisements, advertisements with affiliates, dedicated emails, and creating content through its internal content studio and team. During launch, PointsBet would partner with local media outlets, as well as professional sports leagues, including the NBA, NHL, and PGA. Post-launch, PointsBet would focus on retaining consumers and cultivating consumer loyalty. PointsBet stated that these efforts would be undertaken in accordance with its responsible gaming policies, and that its marketing team works closely with its compliance, legal, and responsible gaming teams. To that end, PointsBet stated that it plans to remove “risk free” language from all its promotions by 2023 Q3.

The Commission asked PointsBet to address its historical community engagement efforts in jurisdictions where it is operating. PointsBet stated that it views its responsibility to the community as “quite serious,” from its obligation to adhere to responsible gaming principles and to invest in the community. PointsBet stated that it is interested in long term partnerships and commitments and has initiated conversations with food banks and female owned businesses in the Commonwealth, modeling its Massachusetts outreach on its community engagement efforts in Denver where it partners with the local food bank, toy drives, meals program, and the MLK

Day parade. The Commission encouraged PointsBet to also work with the Commonwealth’s tourism bureau.

The Commission also asked PointsBet to address its stated plans to partner with a call center in Massachusetts. PointsBet stated it is still in the “nascent” stages of that plan, but that it appears that PointsBet will partner with a call center for brick-and-mortar operations, though PointsBet is still vetting the center’s capabilities.

The Commission also asked PointsBet to speak to its anticipated interactions with the Massachusetts Lottery. PointsBet stated that it does not believe its product and platform would directly compete with the Lottery and that it views its product and the Lottery as complementary. Despite those beliefs PointsBet stated that it would be willing to explore what it can do to partner with the Lottery.

The Commission heard from the Commission’s financial consultants in executive session on PointsBet’s projected market size and share and gross gaming revenue in accordance with G.L. c. 30A, § 21(a)(7) and G.L. c. 23N, § 6(i). The Commission was ultimately satisfied with PointsBet’s market projections and financial suitability.

The Commission also entered executive session to hear details regarding PointsBet’s prospective relationship with a local call center in accordance with G.L. c. 30A, § 21(a)(7) and G.L. c. 23N, § 6(i). The Commission was ultimately satisfied that PointsBet’s plans with the call center would support PointsBet’s economic impact plans.

Overall, there is substantial evidence that PointsBet’s proposal in the economic impact category meets expectations.

SUMMARY OF EVALUATION BY CRITERIA	
Criteria	Finding
Employment opportunities within the Commonwealth	PointsBet described the employment opportunities that would be offered if it was approved for licensure by the Commission on pages 58-59 of its Application and the Commission found this portion of the application satisfactory.
Projected revenue	PointsBet described its projected Sports Wagering revenue on pages 59-61 of its Application and the Commission found this portion of the application satisfactory.
Community engagement	PointsBet described its plans for community engagement on pages 62-65 of its Application and the Commission found this portion of the application satisfactory.

C. Responsible Gaming

PointsBet reported that responsible gaming is at the forefront of its operations. PointsBet stated that it strives to promote responsible gaming by demonstrating awareness of problem gaming and utilizing prevention and mitigation measures. To that end, PointsBet stated that its responsible gaming team works with all its departments to ensure that each department is optimized to promote responsible gaming. The customer service team receives responsible gaming training at a “heightened” level, so they can escalate and flag customer communications and surveil customer behavior.

On the customer end, customers first experience responsible gaming when they first signup with PointsBet, during know-your-customer checks when they begin to receive responsible gaming messages from PointsBet. As the customer continues to engage and spend with PointsBet, eventually reaching a higher status based on their spend, PointsBet provides them with more customized onboarding messaging. Customers can also control how much marketing and advertising they receive from PointsBet by unsubscribing from such communications, though PointsBet emphasized that customers cannot unsubscribe from responsible gaming communications. Customers can also see their account history.

PointsBet reported that it has partnered with industry groups dedicated to responsible gaming, and in 2022, received a responsible gaming check accreditation from the Responsible Gaming Council.

The Commission asked PointsBet to elaborate on its ad hoc practice of pushing customers responsible gaming information if a customer exhibits a red flag indicative of problem gaming behavior. PointsBet stated that it conducts cross disciplinary sweeps and that its responsible gaming team frequently works with other PointsBet teams. Ad hoc responsible gaming information is pushed out when customer communication triggers a problem gaming concern, which is then escalated through the responsible gaming team.

Members of the Commission asked PointsBet to address a concerning practice of offering bets on unauthorized and prohibited events, particularly in Indiana. PointsBet stated that its offerings are integrated with data feed providers, and that PointsBet has implemented trading blockers. However, PointsBet stated that the data it receives is complex, and there can sometimes be a lag where the data goes live on its website before the trading blocker kicks in. PointsBet stated this issue is not unique to PointsBet and reiterated that it provides manual oversight over all authorized markets.

Members also asked PointsBet to describe its marketing relationships with universities and colleges. PointsBet stated that it has relationships with Colorado and Maryland, and that there is a “heavy” responsible gaming component in both relationships. PointsBet stated that its relationship with Colorado is focused on recruitment, and helping the university grow its programs around sports and sports technology. To that end, PointsBet has made donations to Colorado’s business school and has installed signage in Colorado’s stadium, though clarified that the signage is focused on celebrating PointsBet’s role in bringing technology jobs to the state. Its relationship with Maryland is limited to donating to Maryland’s athletic program. PointsBet

clarified for the Commission that it does display general branding advertisements on those colleges' stadiums, but that those advertisements are limited to PointsBet's logo and tagline and does not advertise a sports wagering offer. PointBet stated regulators in Colorado and Maryland have not raised any issues with PointsBet's activities marketing on college campuses in those states.

Overall, there is substantial evidence that PointsBet's proposal in the responsible gaming category meets expectations.

SUMMARY OF EVALUATION BY CRITERIA	
Criteria	Finding
Responsible gaming policies	PointsBet described its responsible gaming policies on pages 70-74 of its Application and the Commission found this portion of the application satisfactory
Advertising and promotional plans	PointsBet described its advertising and promotional plans on pages 75-78 of its Application and the Commission found this portion of the application satisfactory.
History of demonstrated commitment to responsible gaming	PointsBet described its history of commitment to responsible gaming on pages 78-86 of its Application and the Commission found this portion of the application satisfactory.

D. Diversity, Equity, and Inclusion

The Commission included Diversity, Equity, and Inclusion as stand-alone considerations to demonstrate the value it places on this category of an applicant's application.

As explained by PointsBet during the January 17, 2023, presentation, PointsBet focuses on diversity in its workforce, workplace, supplier network, and marketplace. PointBet stated it has also invested in underrepresented groups and in 2022, donating over \$725,000 to those groups.

The Commission asked PointBet to elaborate on its workforce diversity and diversity supplier spending numbers. PointsBet stated that its goals are largely programmatic. It continues to invest in diversity and wants to grow its workforce diversity and diversity supplier spending numbers year over year. The Commission asked PointsBet to describe its efforts to improve its workforce diversity, given that only 18.75% of its workforce is women and 73% of its workforce is white. PointsBet stated that it actively trying to recruit women, and further clarified that 23% of its workforce are women, 39% of its workforce are diverse, 26% of leadership are women, and 14% of leadership are diverse.

There is therefore substantial evidence that PointsBet's commitment to Diversity, Equity, and Inclusion meets expectations.

SUMMARY OF EVALUATION BY CRITERIA	
Criteria	Finding
Workforce	<p>As of January 17, 2023, 39% of PointsBet employees identified as diverse and 23% as women. Of leadership, 14% identified as diverse and 25% as women.</p> <p>The Commission was satisfied by PointsBet’s workforce composition and goals.</p>
Supplier spend	<p>PointsBet stated that it is increasing its diversity spend on an annual basis and is slated to spend \$1.89 million on minority, women, and veteran owned businesses in 2023. PointsBet stated that it aims to award contracts to diverse suppliers where it can, even if that means replacing expiring contracts. To increase its diversity spend, PointsBet stated that it plans to attend or co-host supplier diversity events, and to partner with local chambers of commerce and diversity councils.</p> <p>The Commission was satisfied by PointsBet’s supplier spending goals and plans.</p>
Corporate structure	<p>PointsBet further described its corporate structure on pages 69-70 of its Application and the Commission was satisfied by PointsBet’s corporate structure.</p>

E. Technology

As explained during the January 11, 2023, hearing, PointsBets owns the code and technology necessary to operate its sports wagering platform. PointsBet also has a global trading team to provide 24/7/365 direct coverage, and a team dedicated to ensuring the regulatory compliance of all wagers. PointsBet represented that when launching in a new market, its trading team works directly with its legal team and utilizes a combination of technology and manual monitoring to ensure that it only accepts bets on approved events in that jurisdiction.

PointsBet demonstrated its product to the Commission, including: sign-up, know-your-customer measures, setting responsible gaming limits, viewing account history, accessible responsible gaming resources, and placing a bet.

Overall, there is substantial evidence that PointsBet’s proposal in the technology category meets expectations.

SUMMARY OF EVALUATION BY CRITERIA	
Criteria	Finding
Geofencing	PointsBet described its geofencing measures on pages 86-88 of its Application and the Commission found it satisfactory.
Know your customer	PointsBet described its know your customer measures on pages 88-89 of its Application and the Commission found it satisfactory.
Technological expertise and reliability	PointsBet described its technological expertise and reliability on pages 89-92 of its Application and the Commission found it satisfactory.

F. Suitability of PointsBet and Its Qualifiers

The Commission asked PointsBet to elaborate on its withdrawal of its sports wagering application in Ohio. PointsBet stated that it had been pursuing a partnership with a retail sportsbook but given the availability to licenses and where Ohio regulators appeared to be trending, it did not appear likely that its retail partner would be successful in obtaining a license. PointsBet stated thereafter, it decided it would focus on obtaining a mobile sports wagering license and consequently withdrew its application in Ohio.

The Commission is satisfied with PointsBet’s suitability, and that of its qualifiers. It therefore found PointsBet preliminarily suitable, and concluded there is substantial evidence that PointsBet’s suitability meets expectations.

SUMMARY OF EVALUATION BY CRITERIA	
Criteria	Finding
Corporate integrity	PointsBet is suitable to hold a Sports Wagering license.
Individual qualifier integrity	The IEB’s investigative report prepared for the purposes of this License decision has not revealed any disqualifying information concerning PointsBet or its qualifiers’ integrity, honesty, good character, or reputation.
Financial stability, integrity, and background	PointsBet’s Independent Audit Report and Material Weakness Statement submitted pursuant to 205 CMR 139.07(1), and its quarterly spending reports, have not revealed any disqualifying information concerning PointsBet or its financial stability, integrity, or background.
History of compliance	See narrative description of Responsible Gaming, above.

IV. Award

THE COMMISSION FINDS THAT THERE IS SUBSTANTIAL EVIDENCE IN THE RECORD THAT POINTSBET'S APPLICATION MEETS EXPECTATIONS IN ALL CATEGORIES AND THAT POINTSBET IS ELIGIBLE FOR A TEMPORARY UNTETHERED CATEGORY 3 SPORTS WAGERING LICENSE.

On November 21, 2022, the MGC received PointsBet's request for a License, and an initial licensing fee of \$1,000,000 payable to the Commission. *See* 205 CMR 219.02(1). On December 20, 2022, the Commission deemed PointsBet ("Licensee") eligible to request a Temporary Untethered Category 3 Sports Wagering Operator License ("License") pursuant to the terms and conditions of this Agreement ("Agreement"). On January 19, 2022, the Commission voted to issue the requested License. *See* 205 CMR 219.02(3).

This License is subject to the following conditions:

1. Compliance with all of the requirements of G.L. c. 23N, as now in effect and as hereafter amended and 205 CMR, as now in effect and as hereafter amended.
2. Compliance with all applicable federal, state and local laws, rules and regulations, now in effect or as hereafter amended or promulgated.
3. Compliance with the license conditions required by 205 CMR 220, namely:
 - a. That the Licensee obtain an Operation Certificate before conducting any Sports Wagering in the Commonwealth;
 - b. That the Licensee comply with all terms and conditions of its license and Operation Certificate;
 - c. That the Licensee comply with G.L. c. 23N and all rules and regulations of the Commission;
 - d. That the Licensee make all required payments to the Commission in a timely manner;
 - e. That the Licensee maintain its suitability to hold a Sports Wagering license; and
 - f. That the Licensee conduct Sports Wagering in accordance with its approved system of internal controls, and in accordance with its approved house rules, in accordance with G.L. c. 23N, § 10(a) and with 205 CMR.

4. The Licensee post the License, in a form prescribed by the Commission, in a location continuously conspicuous to the public on the Licensee’s Sports Wagering Platform and website at all times.
5. Payment of assessments made pursuant 205 CMR 221.00 in accordance with that regulation.
6. The Sports Wagering Operation shall substantially conform to the information included in the application filed by the Licensee and abide by all affirmative statements made in the Licensee’s application.
7. The term of the License awarded to Licensee commences upon February 23, 2023, and shall expire as set out in 205 CMR 219.03.³

SO ORDERED
MASSACHUSETTS GAMING COMMISSION

Cathy Judd-Stein, Chair

Eileen M. O’Brien, Commissioner

Bradford R. Hill, Commissioner

Nakisha L. Skinner, Commissioner

Jordan M. Maynard, Commissioner

³ PointsBet withdrew from Massachusetts prior to requesting the issuance of their temporary sports wagering license.

**COMMONWEALTH OF MASSACHUSETTS
MASSACHUSETTS GAMING COMMISSION**

In the Matter of)
)
)
Application of Encore Boston Harbor, a Wynn Resort, for a)
Category 1 Sports Wagering Operator License)
)

**DECISION APPROVING WYNN RESORTS HOLDING, LLC’S REQUEST FOR A
CATEGORY 1 SPORTS WAGERING OPERATOR LICENSE¹**

I. Introduction

Encore Boston Harbor (“EBH”), a subsidiary of Wynn Resorts Holdings, LLC (“WRH”) and holder of a gaming license under G.L. c. 23K, applied to the Massachusetts Gaming Commission (“MGC” or “Commission”) for a Category 1 Sports Wagering License. Under G.L. c. 23N, the Commission may issue a Category 1 Sports Wagering License (“License”) to any holder of a G.L. c. 23K gaming license that meets the requirements of c. 23N and the rules and regulations of the Commission and requests such a license. For the following reasons, the Commission hereby approves EBH’s request for a license.

II. Procedural History

On November 21, 2022, the Commission received EBH’s application (the “Application”) for a license, including the \$200,000 application fee. *See* G.L. c. 23N, § 7(A) and 205 CMR 214.01. On November 28, 2022, the Commission received supplemental information from EBH, as well as additional confidential information. The MGC Division of Licensing reviewed the Sports Wagering License Application for administrative sufficiency and determined that the application was sufficient. *See* 205 CMR 218.03. On December 5, 2022, the Commission held a virtual public meeting to hear public comment on all category 1 Sports Wagering applications. *See* 205 CMR 218.05-.06. On December 8, 2022, the Commission held a virtual public meeting to hear an informal presentation from EBH explaining its Application and receive comments from consultants hired by the Commission to review various elements of the Application. *See* 205 CMR 218.04(1)(a)-(b), 218.05(1)(b), 218.06(1). At that same meeting, the Commission deliberated on the license application and at the meeting’s conclusion, the Commission found EBH durably suitable and approved EBH’s request for a License. *See* 205 CMR 215.01(2)(c)-(d), 218.06(4)-(5), 218.07(1)(a).

III. Findings and Evaluation

In evaluating whether to issue the Category 1 Sports Wagering License to EBH, the Commission considered: all information in the application submitted by EBH; the public comments made on

¹ All facts referenced in this decision were current as of the date of the respective hearing for this applicant.

December 5, 2022; the presentations made by EBH and the Commission’s external consultants² on December 8, 2022; and a written report prepared by the Investigations and Enforcement Bureau (“IEB”) in accordance with 205 CMR 215.01(2)(b).

In accordance with 205 CMR 218.06(5), in determining whether to approve EBH’s request for a Sports Wagering License, the Commission evaluated all materials and information in the record to determine whether a license award would benefit the Commonwealth, and considered the following factors:

- a) EBH’s experience and expertise related to Sports Wagering, including:
 - 1. EBH’s ability to offer Sports Wagering in the Commonwealth;
 - 2. A description of EBH’s proposed Sports Wagering operation;
- b) The economic impact and other benefits to the Commonwealth if EBH is awarded a License, including:
 - 1. Employment opportunities within the Commonwealth;
 - 2. The projected revenue from wagering operations, and tax revenue to the Commonwealth;
 - 3. EBH’s proposed plans for construction and capital investments associated with the License award;
 - 4. Community engagement;
- c) EBH’s proposed measures related to responsible gaming, including:
 - 1. EBH’s responsible gaming policies;
 - 2. EBH’s advertising and promotional plans;
 - 3. EBH’s history of demonstrated commitment to responsible gaming;
- d) A description of EBH’s willingness to foster racial, ethnic, and gender diversity, equity, and inclusion, including:
 - 1. Within EBH’s workforce;
 - 2. Through EBH’s supplier spend;
 - 3. In EBH’s corporate structure;
- e) The technology that EBH intends to use in its operation, including:
 - 1. Geofencing;
 - 2. Know-your-customer (“KYC”) measures;
 - 3. Technological expertise and reliability;
- f) The suitability of EBH and its qualifiers, including:

² The consultants include RSM US LLP (“RSM”), which presented on MGMS’s financial projections; Gaming Laboratories International LLC (“GLI”), which presented on technology considerations; and the Commission’s Investigations and Enforcement Bureau (“IEB”), which presented on MGMS’s suitability.

1. EBH’s corporate integrity;
2. The integrity of EBH’s individual qualifiers;
3. EBH’s financial stability, integrity, and background;
4. EBH’s history of compliance with gaming or Sports Wagering licensing requirements in other jurisdictions; and

g) Any other appropriate factor, in the Commission’s discretion.

Further, the Commission decided whether each section of EBH’s Application addressing these factors failed to meet, met, or exceeded expectations.

Ultimately, the Commission finds there is substantial evidence in the record to conclude that EBH’s proposed sports wagering operation meets the requirements set forth in G.L. c. 23N and in 205 CMR 218. The Commission further finds there is substantial evidence to adopt the following specific findings of fact and conclusions of law related to EBH’s application.

A. Experience and Expertise Related to Sports Wagering

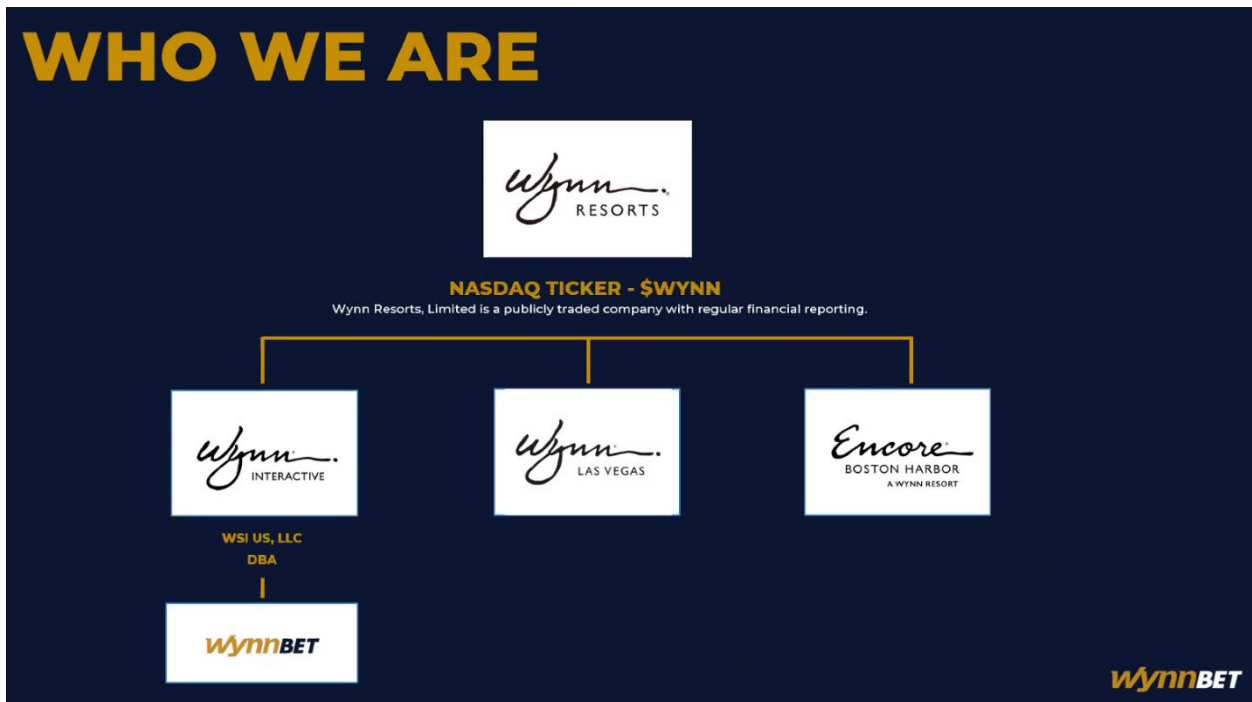


Figure 1. The Wynn corporate structure, as depicted in the EBH presentation to the Commission.

WRH is the main Wynn corporate brand and EBH’s parent entity (see Figure 1 above) and is also an established entity in the casino industry that has earned recognition for its performance and track record from Forbes and other industry evaluators. As of December 2021, WRH is operating four resorts globally, including EBH. WRH generated over \$460 million in revenue from all its operations in 2021 and has nearly \$3 billion in total liquidity. As of the date of the hearing, WRH had a comprehensive sports wagering operation in Nevada that generates \$200

million annually. It also operates sports wagering in nine other states.³ Accordingly, EBH has demonstrated its experience and expertise both locally and among its corporate affiliates and partnerships.

EBH has already invested significant amounts of capital in its physical sports wagering footprint. Construction included dozens of sports wagering kiosks designed for various bettor styles and capacities, mobile device compatibility, and a new sports bar. In total, EBH added over 3,000 square feet to its footprint, including the ability for patrons to conduct “express” sports wagering in the garage parking area, which it hopes to be a long-term fixture. Commissioners expressed concern about EBH’s ability to secure the express sports wagering area, but EBH reassured the Commission that its security plan, which involved manpower and input from the Massachusetts State Police, was sufficient, and that EBH would appear before the Commission again for any expanded sports wagering in that area.

EBH’s presentation included its relationship to the WRH brand. Although this relationship represents instant name recognition (in and outside of the United States) and added financial stability, it also presents concerns about influence on EBH’s operations by related corporate entities, especially since many of them, including WRH, are not qualifiers for the EBH Category 1 license. The Commission expressed concern about EBH’s autonomy, but EBH was clear that WRH’s impact on EBH would be limited to advisory services, branding, and trading services, and that EBH would be left to run itself. The Commission was ultimately satisfied that the EBH operation would not be unduly influenced by its non-qualifier corporate family members.

EBH has demonstrated that it has the experience and expertise required to develop and operate a successful sports wagering operation. Overall, EBH’s proposal in the experience and expertise category is satisfactory and has therefore met expectations.

SUMMARY OF EVALUATION BY CRITERIA	
Criteria	Finding
EBH’s ability to offer Sports Wagering in the Commonwealth	For the reasons described above, the Commission unanimously agreed that EBH has sufficient background in sports wagering and has been fully vetted by the Commission and by nine other states.
Description of EBH’s proposed Sports Wagering operation	The Commission expressed concerns with what it felt was an unclear corporate structure. Specifically, the Commission inquired into the role that WRH (parent company) and Wynn Interactive (applicant for a tethered Category 3 Sports Wagering license in Massachusetts), the latter of which is the immediate corporate owner of WynnBet, EBH’s potential tethered Category 3 license holder, would have in EBH’s governance, marketing, and other business operations.

³ As of March 2024, Wynn only offers sports betting in Arizona and Michigan and is exiting Massachusetts and New York.

	<p>EBH assured the Commission that although the WRH corporate brand would continue to provide credibility and name recognition for its operations, WRH would not control EBH's operations. To the extent Wynn Interactive (parent to WynnBet) would provide price setting for WynnBet, this is not and will not be considered part of operational control. This addressed the Commissioners' concerns about EBH's organizational autonomy.</p> <p>The variety of sports wagering locations and machines allows EBH to provide an adaptive and accessible sports wagering experience, with designated areas and machines for new and seasoned bettors. The sports wagering kiosks in the garage, and the "bring your own device" program will allow bettors to enjoy the EBH sports wagering experience without having to fully enter the EBH footprint.</p>
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B. Economic Impact

The Commission recognized the employment opportunities that would accompany EBH's sports wagering operation. According to EBH, an additional 100 jobs will be created at the site, and EBH has an ongoing commitment to the Supplier Diversity & Local Commitments Plan to ensure equitable growth, job creation, and other opportunities. EBH offers a full range of employment benefits, including health insurance (medical, dental, and vision), life and pet insurance, a 401k match,⁴ scholarships, and free leadership training. In addition, EBH has committed 26,000 volunteer hours to the community.

EBH expects that its \$20 million investment in its physical and digital wagering footprint will coincide with a decrease in retail traffic over time as customers adapt to online and mobile wagering. If that happens, EBH plans to redeploy some of its new assets to reflect customer demand.

RSM explained that EBH's sports wagering square footage is "generally larger" than retail locations in other US jurisdictions: New Jersey, Pennsylvania, and Michigan. The Commission sought to ensure that EBH's size would not present problems if the demand for retail sports wagering declines over time. However, RSM assured the Commission that EBH's performance is expected to be comparable to its retail locations in other jurisdictions because of its proximity to Boston.

EBH provided a detailed description of the anticipated economic impact to the Commonwealth of receiving a sports wagering license. Overall, EBH's proposal in the economic impact category is highly satisfactory and met expectations.

⁴ EBH stated that it matched \$7.3 million in contributions in 2021.

SUMMARY OF EVALUATION BY CRITERIA	
Criteria	Finding
Employment opportunities within the Commonwealth	<p>In addition to the physical and spatial developments, EBH plans to add 100 trained, full-benefit employees at various levels, including management, service, security, and hospitality.</p> <p>The Commission commended EBH for its workforce development program and its overall submission as to Section B.</p>
Projected revenue	<p>The Commission heard a presentation by RSM, the firm hired to conduct financial investigations into sports wagering license applicants.</p> <p>RSM informed the Commission that EBH’s projections as to its retail sports wagering market share were conservative and that its sports wagering throughput could in fact be “quite a bit more” – exceeding stated estimated by up to 10-15%. RSM also found that WRH, as EBH’s parent company, is suitable, in that it maintains adequate capital to support EBH if doing so becomes necessary due to EBH’s performance falling short of its projections.</p> <p>RSM also explained that EBH is likely to capture business from the surrounding areas and neighboring states like New Hampshire and Rhode Island.</p> <p>EBH discussed its projected revenue on pages 154-164 of its Application and the Commission found it satisfactory.</p>
Community engagement	<p>EBH’s presentation included data on its past civic engagement and its future plans. In 2021, EBH employees contributed over 26,000 volunteer hours. EBH told the Commission that it prides itself in helping to keep its community and parks clean.</p> <p>The Commission discussed the importance of EBH’s engagement with the Massachusetts Lottery, EBH has assured the Commission that it has and will continue to foster a relationship with the Lottery and will continue to offer Lottery Products on EBH kiosks throughout the building.</p>

C. Responsible Gaming

EBH presented on the function of Responsible Gaming (“RG”) in retail sports wagering, and explained developments in EBH’s RG review process. The Commission was satisfied with EBH’s RG policies and practices and found that EBH’s proposal in the RG category met expectations.

EBH’s presentation highlighted its “measured approach” to marketing – explaining that emphasizing RG at the beginning of a potential customer’s experience with EBH made EBH’s RG efforts more efficient, comprehensive, and effective. Additionally, EBH discussed the relationship between its RG Committee and GameSense, the RG platform adopted by the MGC.⁵ EBH’s comprehensive RG plan also includes significant employee training and age and KYC verification tools to ensure that underage and self-excluded persons do not have access to EBH’s retail wagering spaces.

Because GameSense is a third-party RG service provider, the Commission inquired whether the relationship between the EBH RG committee and GameSense was two-way. Because EBH’s RG methods and training are controlled in-house, the Commission asked whether EBH would be sharing its information and insights with GameSense, or just receiving GameSense’s reports without sharing anything in return. EBH assured the Commission that it was sharing with GameSense, and that GameSense would be part of EBH’s quarterly RG meetings. The Commission also expressed concerns as to whether EBH would be promoting its platform on college campuses. EBH responded by committing not to promote gaming on college campuses “in any sense.” When marketing to the public, EBH’s measured approach includes avoiding promotional material that would directly or indirectly influence persons under 21. Finally, EBH explained that although it uses third-party affiliates for marketing, EBH retains control over final products, and over 90% of promotional material is created in house.

SUMMARY OF EVALUATION BY CRITERIA	
Criteria	Finding
Responsible Gaming Policies	<p>In order to maximize the acceptance of the program by the public and to provide a unified responsible gaming message throughout the Commonwealth, EBH partnered its responsible gaming committee with the GameSense platform.</p> <p>EBH employees receive extensive RG training, and EBH’s RG Committee members include its highest echelon of leadership.</p> <p>EBH has an established RG Committee, which meets quarterly, monitors compliance, continuously evaluates the RG program’s effectiveness, and authorizes changes to the program as necessary.</p>
Advertising and Promotional Plans	<p>EBH’s advertisements and promotional material will contain a responsible gaming message and will comply with federal and state standards. These ads will not appeal to minors or feature those who are under the age of 21, make claims that gambling will guarantee success, be placed in front of an audience where most are expected to be under 21, encourage people to play</p>

⁵ More information about GameSense can be found at <https://gamesensema.com/about/>.

	beyond their means, exaggerate chances of winning, or encourage irresponsible play.
History of Dedicated Commitment to Responsible Gaming	See Responsible Gaming Policies, above.

D. Diversity, Equity, and Inclusion

The Commission included Diversity, Equity, and Inclusion as a stand-alone consideration to demonstrate the value it places on this category of an applicant’s application. EBH’s application demonstrated an ongoing commitment to DEI. The proposal in the DEI category was highly satisfactory, and the Commission found that it met expectations.

Wynn Resorts, EBH’s parent company, uses three pillars to address and emphasize the need for equitable practices. Those pillars are the workforce, the marketplace, and the community. As part of this diversity equity and inclusion (“DEI”) campaign, Wynn and EBH have partnered with the following local DEI-focused entities:

- Embrace Boston – an organization focused on rehabilitating racial inequities through the arts, culture, community, research and policy;
- The Partnership, Inc. – a professional and educational leadership organization focused on attracting, retaining, and developing professionals of color; and
- The Urban League of Eastern Massachusetts – the local chapter of the National Urban League, which engages all levels of the community to promote skills training and spur economic prosperity.⁶

EBH’s plan for utilizing a diverse vendor network is a comprehensive process that begins with identifying and qualifying diverse firms through community outreach and engagement, solicitation of the identified firms through its Request for Proposal process, and the award of contracts to the entities which have had proposals selected.

SUMMARY OF EVALUATION BY CRITERIA	
Criteria	Finding
Workforce	EBH’s workforce has the following demographics as of September 30, 2022: 55% ethnic minority, 46% women, and 2% veteran.

⁶ More information about all three of these organizations can be found at: <https://www.embraceboston.org/> (Embrace), <https://www.thepartnershipinc.org/> (The Partnership), and <https://www.ulem.org/> (Urban League of Eastern Massachusetts).

	<p>EBH provides multifaceted training for its employees, with curricula in DEI, leadership, regulatory compliance, and responsible gaming. Wynn’s Vice President of DEI, Glenda Swain, will be a resource for EBH’s continued efforts to conduct diverse hiring measures at all levels of EBH’s workforce. These efforts include a diversity talent management program, a leadership pipeline program, Historically Black College/University recruiting, and a \$3 million commitment to any other measure that EBH may employ. As discussed in a previous section, EBH plans to add roughly 100 jobs at its Massachusetts facility. As of December 2021, EBH has exceeded its goals for hiring veterans and members of historically underrepresented communities and is approaching its goals for hiring women.</p> <p>In addition to its hiring initiatives aimed at communities that have been historically underrepresented or underserved, EBH is committed to local hiring preferences to ensure that its host and surrounding communities receives most of the economic benefit of the added jobs. EBH plans to prioritize hiring employees from Everett, Malden, and Medford.</p>
Supplier spend	<p>Before EBH opened its Gaming Establishment, it adopted the Supplier Diversity & Local Commitments plan – a program designed to emphasize an equitable relationship between EBH and its surrounding communities. EBH’s shares of discretionary spending are as follows: 14% women, 8% ethnic minorities, and 3% veterans.</p>
Corporate structure	<p>EBH’s stated goals for DEI hiring are 50% women, 40% minorities, and 3% veterans. EBH will endeavor to hire candidates from its host and surrounding communities and counties: Essex, Middlesex, Suffolk, Norfolk, Plymouth, and Bristol.</p>

E. Technology

Overall, the Commission was satisfied with the technological portion of EBH’s application and found that it met expectations.

EBH’s technological and security measures include loss, theft, and unauthorized use protection, as well as customer-facing policies and warnings that add transparency to EBH’s role in its customers’ transactions. To further secure financial transactions, EBH does not allow for Wynn Rewards members to add money to their Wynn wallet or account prior to wagering.

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SUMMARY OF EVALUATION BY CRITERIA	
Criteria	Finding
Geofencing	N/A
Know your customer	Please refer to Section F.2 of WynnBet, LLC Category 3 – Tethered Application for further details.
Technological expertise and reliability	Please refer to section F.3 of WynnBet, LLC, Category 3 – Tethered Application for further details.

F. Suitability of EBH and Its Qualifiers

The Commission is generally satisfied with EBH’s suitability, but had questions about its organizational and operational integrity, given the insular nature of its corporate structure and regulatory footprint in Massachusetts. The Commission’s primary concern was, as addressed above, the influence that Wynn Resorts or the ultimate ownership of the Wynn brand – who are not qualifiers for the EBH Category 1 Sports Wagering license – would have on EBH. The Commission’s related concern was the influence of Wynn Interactive – sister entity to EBH and parent entity of WynnBet, the Category 3 Sports Wagering license applicant tethered to EBH – would have on EBH. WynnBet is an EBH qualifier, but Wynn Interactive is not, and the Commission had similar questions as to Wynn Interactive that it had about WRH.

Based on EBH and its qualifiers’ certifications, the IEB’s investigative report, information obtained through previous investigations into EBH and its qualifiers as described above, and despite the comments related to WynnBet and Wynn Interactive, the Commission determined that EBH and its qualifiers met the clear and convincing standard to be deemed durably suitable to hold a Sports Wagering license. *See* 205 CMR 215.01(1).

SUMMARY OF EVALUATION BY CRITERIA	
Criteria	Finding
Corporate integrity	EBH is suitable to hold a Sports Wagering license.
Individual qualifier integrity	The IEB’s investigative report prepared for the purposes of this license decision has not revealed any disqualifying information concerning EBH or its qualifiers’ integrity, honesty, good character, or reputation.
Financial stability, integrity, and background	EBH benefits from the corporate relationship it has with Wynn Resorts, a known entity and premier player in the retail casino and sports wagering space, with a high degree of stability and liquidity. Capital funding, where necessary, comes from Wynn Resorts.

	<p>The Commission has not been made aware of any disqualifying information concerning EBH’s business practices.</p> <p>As described in Experience and Expertise Related to Sports Wagering, above, EBH has the business ability to establish and maintain a successful sports wagering operation.</p>
<p>Compliance</p>	<p>Wynn Resorts Holdings, LLC, the ultimate parent company of EBH, is currently licensed, or has subsidiaries that are licensed, in Arizona, Colorado, Indiana, Louisiana, Massachusetts, Michigan, Nevada, New Jersey, New York, Tennessee, and Virginia.</p> <p>EBH and the Commission discussed some of Wynn’s historical compliance issues, each of which Wynn self-reported. The two most significant were (1) an error with a previously used self-exclusion platform that acted as an intermediary between the state and Wynn; and (2) another exclusion-related fine Wynn received in New Jersey. The Commission and the IEB commended EBH for self-reporting these issues.</p> <p>The Commission also asked EBH about two compliance-related issues: (1) allegations of money laundering in Turkey, and (2) another New Jersey case concerning a hostile working environment. The defendant in the Turkish money laundering allegations spoke to the Commission and explained that the allegations were politically motivated and have since been dropped. EBH and the Commission moved into executive session to discuss the ongoing litigation in New Jersey, in which a former employee alleged that a second former employee used racial slurs against the first. Although the case was ongoing, the Commission was satisfied with EBH’s commitment to keep the Commission updated as to the case’s status and outcome.</p>

IV. Award

THE COMMISSION FINDS THAT THERE IS SUBSTANTIAL EVIDENCE IN THE RECORD THAT EBH’S APPLICATION MEETS EXPECTATIONS IN ALL CATEGORIES AND APPROVES EBH’S REQUEST FOR A CATEGORY 1 SPORTS WAGERING LICENSE

On December 8, 2022, the Commission approved EBH’s (the “Licensee’s”) request for a Category 1 Sports Wagering Operator License (“License”) pursuant to the terms and conditions of this Agreement (“Agreement”). On November 21, 2022, the Commission received EBH’s request for such license, and a licensing fee of \$5,000,000 payable to the Commission. *See* 205

CMR 219.02(1). On December 8, 2022, the Commission voted to issue the requested license. *See* 205 CMR 219.02(3).

This License is subject to the following conditions:

1. Compliance with all the requirements of G.L. c. 23N, as now in effect and as hereafter amended and 205 CMR, as now in effect and as hereafter amended.
2. Compliance with all applicable federal, state and local laws, rules and regulations, now in effect or as hereafter amended or promulgated.
3. Compliance with all terms and conditions of the Gaming License for the Gaming Establishment at EBH dated September 17, 2014.
4. Compliance with the license conditions required to be inserted into all Sports Wagering licenses by 205 CMR 220, namely:
 - a. That the Licensee obtain an Operations Certificate before conducting any Sports Wagering in the Commonwealth.
 - b. That the Licensee comply with all terms and conditions of its license and Operation Certificate;
 - c. That the Licensee comply with G.L. c. 23N and all rules and regulations of the Commission;
 - d. That the Licensee make all required payments to the Commission in a timely manner;
 - e. That the Licensee maintain its suitability to hold a Sports Wagering license;
 - f. That the Licensee conduct Sports Wagering in accordance with its approved system of internal controls, and in accordance with its approved house rules, in accordance with G.L. c. 23N, § 10(a) and with 205 CMR; and
 - g. That the License, in the form prescribed by the Commission, shall be posted in a location continuously conspicuous to the public within the Sports Wagering Facility at all times.
5. Payment of assessments made pursuant 205 CMR 221.00 in accordance with that regulation.
6. Compliance with any requirements to obtain federal, state and local permits and approvals required to construct and operate the Sports Wagering facility, and any conditions or requirements set forth therein.
7. The Sports Wagering Operation shall substantially conform to the information included in the application filed by the Licensee.

8. Compliance with any free play standards set by the Commission.
9. Other specific conditions:
 - a. Fully cooperate with IEB in any suitability investigation, including, without limitation, the IEB's investigation into Wynn Interactive and its relationship with Licensee.
 - b. Obtain prior approval of any Sports Wagering equipment in the EBH garage.
10. The term of the license awarded to Licensee commences upon December 8, 2022, and shall be subject to renewal as set out in G.L. c. 23N, § 6(f).

SO ORDERED

MASSACHUSETTS GAMING COMMISSION

Cathy Judd-Stein, Chair

Eileen M. O'Brien, Commissioner

Bradford R. Hill, Commissioner

Nakisha L. Skinner, Commissioner

Jordan M. Maynard, Commissioner

**COMMONWEALTH OF MASSACHUSETTS
MASSACHUSETTS GAMING COMMISSION**

In the Matter of)
)
)
Application of Wynn Interactive, d/b/a)
WynnBet, for a)
Category 3 Tethered Sports Wagering Operator License)
)

**DECISION DEEMING WYNN INTERACTIVE, LTD. D/B/A WYNNBET
ELIGIBLE TO REQUEST A TEMPORARY CATEGORY 3
TETHERED SPORTS WAGERING OPERATOR LICENSE¹**

I. Introduction

Wynn Sports Interactive, Ltd. (d/b/a WynnBet) (“WynnBet”), applied to the Massachusetts Gaming Commission (“MGC” or “Commission”) for a Category 3 Tethered Sports Wagering License. WynnBet’s license would be tethered to the Category 1 Sports Wagering license granted to Encore Boston Harbor (“EBH”) on December 8, 2022. Under G.L. c. 23N, the Commission may issue a Category 3 Sports Wagering License (“License”) to any entity that offers sports wagering through a mobile or other digital platform that meets the requirements of c. 23N and the rules and regulations of the Commission and requests such a temporary license. For the following reasons, the Commission hereby deems WynnBet eligible to request a License.

II. Procedural History

On November 21, 2022, the Commission received WynnBet’s application (the “Application”), including the \$200,000 application fee. *See* G.L. c. 23N, § 7(A) and 205 CMR 214.01. The MGC Division of Licensing reviewed the Sports Wagering License Application for administrative sufficiency and determined that the application was sufficient. *See* 205 CMR 218.03.

On December 5, 2022, the Commission held a virtual public meeting in order to hear public comment on all Category 3 sports wagering applications. *See* 205 CMR 218.05 and 205 CMR 218.06.

On December 14, 2022, the Commission held a virtual public meeting in order to hear an informal presentation from WynnBet explaining its Application and receive comments from consultants hired by the Commission to review various elements of the Application. *See* 205 CMR 218.04(1)(a-b), 218.05(1)(b), 218.06(1). At that same meeting, the Commission deliberated on the license application, and as a result of the Commission’s findings at and after the meeting, the Commission found WynnBet durably suitable and deemed WynnBet eligible to request a License. *See* 205 CMR 215.01(2)(c)-(d), 205 CMR 218.06(4)-(5), 218.07(1)(a).

¹ All facts referenced in this decision were current as of the date of the respective eligibility hearing for this applicant.

III. Findings and Evaluation

In evaluating whether to issue the Category 3 Tethered Sports Wagering License to WynnBet, the Commission considered: all information in the application submitted by WynnBet; the public comments made on December 5, 2022; the presentations made by WynnBet and the Commission's external consultants on December 14, 2022; and a written report prepared by the Investigations and Enforcement Bureau ("IEB") in accordance with 205 CMR 215.01(2)(b).

In accordance with 205 CMR 218.06(5), in determining whether to deem WynnBet eligible to request a Sports Wagering License, the Commission evaluated all materials and information in the record to determine whether a license award would benefit the Commonwealth, and considered the following factors:

- a) WynnBet's experience and expertise related to Sports Wagering, including:
 1. WynnBet's ability to offer Sports Wagering in the Commonwealth;
 2. A description of WynnBet's proposed Sports Wagering operation;
- b) The economic impact and other benefits to the Commonwealth if WynnBet is awarded a License, including:
 1. Employment opportunities within the Commonwealth;
 2. The projected revenue from wagering operations, and tax revenue to the Commonwealth;
 3. WynnBet's proposed plans for construction and capital investments associated with the License award;
 4. Community engagement;
- c) WynnBet's proposed measures related to responsible gaming, including:
 1. WynnBet's responsible gaming policies;
 2. WynnBet's advertising and promotional plans;
 3. WynnBet's history of demonstrated commitment to responsible gaming;
- d) A description of WynnBet's willingness to foster racial, ethnic, and gender diversity, equity, and inclusion, including:
 1. Within WynnBet's workforce;
 2. Through WynnBet's supplier spend;
 3. In WynnBet's corporate structure;
- e) The technology that WynnBet intends to use in its operation, including:
 1. Geofencing;
 2. Know-your-customer ("KYC") measures;
 3. Technological expertise and reliability;
- f) The suitability of WynnBet and its qualifiers, including:

1. WynnBet’s corporate integrity;
2. The integrity of WynnBet’s individual qualifiers;
3. WynnBet’s financial stability, integrity, and background;
4. WynnBet’s history of compliance with gaming or sports wagering licensing requirements in other jurisdictions; and

g) Any other appropriate factor, in the Commission’s discretion.

Further, the Commission decided whether each section of WynnBet’s Application failed to meet, met, or exceeded expectations. Ultimately, the Commission is satisfied that WynnBet’s proposed sports wagering operation meets the requirements set forth in G.L. c. 23N and 205 CMR 218.

The Commission adopts the following specific findings of fact and conclusions of law for WynnBet.

A. Experience and Expertise Related to Sports Wagering

WynnBet has demonstrated that it has the experience and expertise required to develop, operate, and maintain a successful digital Sports Wagering operation. Overall, WynnBet’s proposal in the experience and expertise category is satisfactory, and has therefore met expectations.

Wynn Resorts Holdings, LLC (“WRH”), EBH’s and WynnBet’s parent company, is an established entity in the casino industry that has earned recognition for its performance and track record from Forbes and other industry evaluators. As of December 2021, WRH was operating sports wagering in nine other states² and had generated over \$460 million in revenue from all its operations in 2021, with nearly \$3 billion in total liquidity.

WynnBet has digital sports wagering operations in nine states, with licenses and approvals pending in others. WynnBet’s product demonstration showed that it has a robust and adaptive platform that can be modified as the Commission deems necessary either by future unique license conditions or through the promulgation of additional regulations. In addition to EBH, WynnBet’s retail gambling partners (analogous to Category 3 tethered operations in Massachusetts) include Caesars in New Jersey and Louisiana, Full House Resorts in Colorado, the Sault State Tribe of Chippewa Indians in Michigan, and the San Carlos Apache Tribe in Arizona. WynnBet also has untethered-equivalent sports wagering operations in New York, Virginia, Indiana, and Tennessee. The WynnBet platform accepts all major conventional payment methods, but can limit the allowable methods if required by the Commission.

SUMMARY OF EVALUATION BY CRITERIA	
Criteria	Finding

² As of September 2023, WRH is no longer operating in any states except Nevada and Massachusetts, exiting Arizona, Colorado, Indiana, Louisiana, New Jersey, Tennessee, Virginia, and West Virginia

WynnBet’s ability to offer Sports Wagering in the Commonwealth	For the reasons described above, the Commission unanimously agreed that WynnBet has sufficient background in sports wagering and experience in licensure in other jurisdictions with sports wagering and has been fully vetted in that regard.
Description of WynnBet’s proposed Sports Wagering Operation	<p>At launch in Massachusetts, the WynnBet digital sports book will be available for use on both Apple iOS and Android, as well as web and personal desktop computer applications. The platform will be managed in part by GAN, a major technology platform, with a dedicated customer support and fraud protection service.</p> <p>New users will have to go through a series of personal verification prompts – any of which can be eliminated or changed based on Commission regulations or conditions – designed to ensure that WynnBet’s customers are all eligible.</p> <p>Once users have begun placing wagers, WynnBet’s platform will monitor general data about users to make sure that their responsible gaming risk remains low. These measures include ensuring that if a user places a bet and loses, leaving them with a negative balance in their account, the bet will be disallowed.</p> <p>The Commission was satisfied with how responsive and adaptive the WynnBet digital sports wagering platform could be. For example, the Commission asked how many credit cards a user could use to register or to fund their wagering, and were satisfied when WynnBet responded that it can tailor the number and variety of cards and other payment platforms (e.g., PayPal) depending on the rules and regulations of the jurisdiction.</p>

B. Economic Impact

WynnBet provided the Commission with a highly detailed look at its opportunities for a positive economic impact on the Commonwealth. The Commission found that their plans and potential for a more robust economic footprint in the Commonwealth made for a satisfactory showing under Section C of the application, and that the application has met expectations.

The Commission was particularly pleased with WynnBet’s plans for “field marketing with local and minority businesses.”

SUMMARY OF EVALUATION BY CRITERIA	
Criteria	Finding

Employment opportunities within the Commonwealth	WynnBet stated that it planned to hire full-time employees to work in their “field marketing” division. WynnBet defined field marketing as essentially a community and patron engagement team targeting venues and activities for people over the age of twenty-one. WynnBet mentioned the caveat that it would only do this “if permitted” by the Commission, considering it is in at least one jurisdiction that does not allow that kind of marketing.
Projected revenue	<p>The Commission heard a presentation by RSM, the firm hired to conduct financial investigations into sports wagering license applicants.</p> <p>RSM informed the Commission that the primary effect of WynnBet’s operation in the Commonwealth is that neighboring states will see a decrease in wagering because of the sportsbook, so WynnBet’s aggressive projections are not overly optimistic. RSM also explained to the Commission that digital sports wagering is a long-term growth market, where economies of scale are going to be important. The fact that WynnBet shares a corporate structure with WRH will be a major benefit to the former</p>
Construction plans	At this time, WynnBet has not stated an interest in building any Sports Wagering retail space outside of the areas designated in EBH’s construction plan for the sports bar area.
Community engagement	<p>WynnBet expects that field marketing will be a boon to local business, although the degree thereof will depend on the individual agreements and partnerships. WynnBet mentioned that it is conducting a study on Minority-Owned Business Entities to help target their outreach for a field marketing program.</p> <p>WynnBet mentioned that in other jurisdictions, their community engagement experience includes working with vendors and even local professional and amateur teams.</p>

C. Responsible Gaming

While reviewing Section E, of WynnBet’s application, the Commission focused on WynnBet’s marketing strategy and control; avoiding minors and children; and previous adverse disciplinary action based on self-exclusion. Much of the discussion under this section was conducted in Executive Session under the exception to the public meeting requirement in G.L. c. 23N § 6(i). Ultimately, after returning from Executive Session, the Commission found that Section E of the application, Responsible Gaming, met expectations.

SUMMARY OF EVALUATION BY CRITERIA	
Criteria	Finding
Responsible Gaming Policies	<p>During their product demonstration, WynnBet demonstrated how users will be “protected” from individuals and entities unaffiliated with WynnBet, including a 24-hour customer service help desk.</p> <p>Some of WynnBet’s specific RG tools are player limits (time- and money-based), self-exclusion, recorded history of RG actions on the account, cool-down period, and additional information and disclaimers pushed to the user through banners, pictures, and the RG logos on the interface.</p>
Advertising and Promotional Plans	<p>The Commission’s primary focus in this section was on WynnBet’s control over third-party output – meaning the ability for non-WynnBet or non-qualifier entities to use the WynnBet platform. WynnBet has a dedicated team tasked with monitoring, auditing, and reviewing all content published by third parties. Additionally, WynnBet requires all third-party marketing partners to sign contracts that include brand representation clauses.</p> <p>The Commission found that WynnBet retains sufficient control over its media, marketing, and third-party media and marketing affiliates to instill confidence in the Commission that marketing to individuals under the age of twenty-one will not occur.</p>
History of Dedicated Commitment to Responsible Gaming	<p>The Commission moved into Executive Session in order to discuss confidential details of a prior incident involving state- and third-party-controlled self-exclusion lists and databases.</p>

D. Diversity, Equity, and Inclusion

The Commission included Diversity, Equity, and Inclusion (“DEI”) as a stand-alone consideration to demonstrate the value it places on this category of an applicant’s application. WynnBet’s application demonstrated an increasing focus on DEI, although the Commission noted that there was still progress to be made. The proposal in the diversity and inclusion category was satisfactory, and although one Commissioner expressed some concern about

WynnBet’s DEI picture, and admonished WynnBet to focus on creating “true partnerships,” the Commission ultimately found that it met expectations.

WRH uses three pillars to address and emphasize the need for equitable practices. Those pillars are: the workforce, the marketplace, and the community. As part of this DEI campaign, WynnBet will be a part of WRH’s and EBH’s partnerships with the following local DEI-focused entities:

- Embrace Boston – an organization focused on rehabilitating racial inequities through the arts, culture, community, research and policy;
- The Partnership, Inc. – a professional and educational leadership organization focused on attracting, retaining, and developing professionals of color; and
- The Urban League of Eastern Massachusetts – the local chapter of the National Urban League, which engages all levels of the community to promote skills training and spur economic prosperity.³

SUMMARY OF EVALUATION BY CRITERIA	
Criteria	Finding
Workforce	WynnBet’s DEI efforts, like those of WRH and EBH, are spearheaded by WRH VP Glenda Swain. WynnBet’s current focus is on creating pathways for underrepresented employees to benefit from a pipeline from hiring to corporate leadership. The Commission acknowledged WynnBet’s recent success with these efforts.
Supplier Spend	When it comes to dealing with local and Minority Business Enterprises (“MBE”) vendors, WynnBet explained that although it does not have mandatory disclosures for when it seeks vendor contracts, it does make a concerted effort to identify vendors that would provide the most benefit to the local community and WRH’s DEI initiatives. WynnBet reiterated that it would be working closely with VP Swain on this issue. The Commission commented that WynnBet does not appear to have many vendors in general, but assumed that it was due to the nature of a digital or online sports wagering platform that does not require as many tangible goods or human capital.
DEI in corporate structure	The Commission commended WynnBet for its veteran hiring numbers, but also remarked that the numbers for hiring people of

³ More information about all three of these organizations can be found at: <https://www.embraceboston.org/> (Embrace), <https://www.thepartnershipinc.org/> (The Partnership), and <https://www.ulem.org/> (Urban League of Eastern Massachusetts).

	color were lower than desired, especially at the senior corporate level. WynnBet responded by referring back to its talent and management incubator program, and stated that it planned to lean on that to help create a more equitable hiring process for senior leadership.
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E. Technology

Overall, the Commission was satisfied with the technological portion of WynnBet’s application, and after discussing most of the section in Executive Session, found that it met expectations.

WynnBet’s technological and security measures include loss, theft, and unauthorized use protection, as well as customer-facing policies and warnings that add transparency to WynnBet’s role in its customers’ transactions.

SUMMARY OF EVALUATION BY CRITERIA	
Criteria	Finding
Geofencing	Please refer to Section F.1.a and F.1.b of the WynnBet, LLC Category 3 – Tethered Application for further details.
Know your customer measures	Please refer to Section F.2 of WynnBet, LLC Category 3 – Tethered Application for further details.
Technological expertise and reliability	Please refer to Section F.3 of WynnBet, LLC, Category 3 – Tethered Application for further details.

F. Suitability of WynnBet and Its Qualifiers

While reviewing Section G of WynnBet’s application, the Commission included in its evaluation the same adverse disciplinary action arising out of the compliance issue, as discussed in Executive Session. MGC General Counsel Todd Grossman outlined the topics for Executive Session, including: (1) a prior compliance-related incident with voluntary self-exclusion and geolocation; (2) one of WynnBet’s former employees; (3) active litigation in New Jersey. The Commission found that all three of these topics fell within the specific exception in c. 23N, § 6(i) for competitively sensitive information.

Upon returning from Executive Session, the Commission found that WynnBet’s application met expectations.

SUMMARY OF EVALUATION BY CRITERIA	
Criteria	Finding
Corporate Integrity	WynnBet is suitable to hold a Sports Wagering License.

Individual Qualifier Integrity	The IEB’s investigative report prepared for the purposes of this temporary license decision has not revealed any disqualifying information concerning WynnBet or its qualifiers’ integrity, honesty, good character, or reputation.
Financial stability, integrity, and background	WynnBet benefits from the corporate relationship it has with WRH and EBH, known entities and premier players in the retail casino and sports wagering space, with a high degree of stability and liquidity. Capital funding, where necessary, comes from WRH. As with EBH’s Category 1 Sports Wagering License, the Commission sought assurances that WynnBet would not be unduly influenced by any entity within the WRH corporate tree that were not listed as qualifiers.
Compliance	<p>At this time, the Commission has not been made aware of any disqualifying information concerning EBH’s business practices.</p> <p>As described in Experience and Expertise Related to Sports Wagering, above, EBH has the business ability to establish and maintain a successful sports wagering operation.</p> <p>As referenced above, WynnBet self-reported one compliance incident from another jurisdiction, and entered Executive Session in order to answer the Commission’s questions.</p>

IV. Award

THE COMMISSION FINDS THAT THERE IS SUBSTANTIAL EVIDENCE IN THE RECORD THAT WYNNBET’S APPLICATION MEETS THE EXPECTATIONS IN ALL CATEGORIES AND THAT WYNNBET IS ELIGIBLE FOR A CATEGORY 3 TETHERED SPORTS WAGERING LICENSE

On December 14, 2022, the Commission deemed WynnBet (“Licensee”) eligible to request a Temporary Category 3 Tethered Sports Wagering Operator License (“License”) pursuant to the terms and conditions of this Agreement (“Agreement”). On November 21, 2022, the Commission received WynnBet’s request for a temporary license, and an initial licensing fee of \$1,000,000 payable to the Commission. *See* 205 CMR 219.02(1). On December 14, 2022, the Commission voted to issue the requested License. *See* 205 CMR 219.02(3).

This License is subject to the following conditions:

1. Compliance with all the requirements of G.L. c. 23N, as now in effect and as hereafter amended and 205 CMR, as now in effect and as hereafter amended.
2. Compliance with all applicable federal, state and local laws, rules and regulations, now in effect or as hereafter amended or promulgated.

3. Compliance with all terms and conditions of the Gaming License for the digital Sports Wagering Platform run by WynnBet dated February 23, 2023.
4. Compliance with the license conditions required to be inserted into all sports wagering licenses by 205 CMR 220, namely:
 - a. That the Licensee obtain an Operations Certificate before conducting any sports wagering in the Commonwealth.
 - b. That the Licensee comply with all terms and conditions of its license and Operation Certificate;
 - c. That the Licensee comply with G.L. c. 23N and all rules and regulations of the Commission;
 - d. That the Licensee make all required payments to the Commission in a timely manner;
 - e. That the Licensee maintain its suitability to hold a sports wagering license;
 - f. That the Licensee conduct sports wagering in accordance with its approved system of internal controls, and in accordance with its approved house rules, in accordance with G.L. c. 23N, § 10(a) and with 205 CMR; and
 - g. That that the License, in the form prescribed by the Commission, shall be posted in a location continuously conspicuous to the public within the Sports Wagering Facility or on the Sports Wagering platform at all times.
5. Payment of assessments made pursuant 205 CMR 221.00 in accordance with that regulation.
6. Compliance with any requirements to obtain federal, state and local permits and approvals required to construct and operate the sports wagering platform, and any conditions or requirements set forth therein.
7. The Sports Wagering Operation shall substantially conform to the information included in the application filed by the Licensee.
8. Compliance with any free play standards set by the Commission.
9. Other specific conditions:
 - a. WynnBet is required to identify their diversity expenditure goals – by *percentage* – and what their approach will be to solicit business from MBE vendors.⁴

⁴ WynnBet is already required to provide a list, but the Commission would like to see percentages as well. WynnBet will also be expected to identify Women-owned Business Entities and Veteran-owned Business Entities.

10. The term of the temporary license awarded to Licensee commences upon February 23, 2023, and shall expire as set out in 205 CMR 219.03.

SO ORDERED

MASSACHUSETTS GAMING COMMISSION

Cathy Judd-Stein, Chair

Eileen M. O'Brien, Commissioner

Bradford R. Hill, Commissioner

Nakisha L. Skinner, Commissioner

Jordan M. Maynard, Commissioner