



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:

Tuesday | May 23, 2023 | 12:00 p.m.

VIA REMOTE ACCESS: 1-646-741-5292

MEETING ID/ PARTICIPANT CODE: 111 007 3445

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 - #455

1. Call to Order – Cathy Judd-Stein, Chair
2. Meeting Minutes
 - a. December 5, 2022 **VOTE**
3. Research and Responsible Gaming – Mark Vander Linden, Director of Research and Responsible Gaming
 - a. Responsible Gaming Considerations in Promo Play Taxation
4. RSM US LLP Presentation: US Online Sports Betting – Promotional Play and Financial Performance Overview – Connor Loughlin – Director, Financial Consulting (RSM), Theresa Merlino – Consulting Principal (RSM)
 - a. Executive Session **VOTE**

The Commission anticipates that it may meet in executive session in accordance with G.L. c. 30A, § 21(a)(7) and G.L. c. 23N, § 6(i), in order to review financial projections, including revenue and handle, provided by category 1 and category 3 sports wagering licensees as part of the respective applications for an operator license, as analyzed by RSM US LLP in the context of the taxation of promotional play, as such information is competitively-sensitive and if disclosed publicly would place the respective applicant, now temporary licensee, at a



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competitive disadvantage. The open session of the Commission meeting will reconvene at the conclusion of the executive session.

5. Sports Wagering – Bruce Band, Director of Sports Wagering; Carrie Torrissi, Deputy General Counsel
 - a. **Requests for Temporary Waiver from Provisions of 205 CMR 255: Play Management**
 - I. BetMGM Request for Waiver **VOTE**
 - II. Betr Request for Waiver **VOTE**
 - III. DraftKings Request for Waiver **VOTE**
 - IV. Fanatics Request for Waiver **VOTE**
 - V. FanDuel Request for Waiver **VOTE**
 - VI. Penn Sports Interactive Request for Waiver **VOTE****
 - VII. WynnBET Request for Waiver **VOTE**
6. 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: May 19, 2023 | 12:00 p.m. EST | Reposted: May 19, 2023 4:00 p.m.

May 19, 2023

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

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Meeting Minutes

Date/Time: December 5, 2022, 10:00 a.m.
Place: Massachusetts Gaming Commission

VIA CONFERENCE CALL NUMBER: 1-646-741-5292
PARTICIPANT CODE: 111 869 7373

The Commission conducted this public meeting remotely utilizing collaboration technology. The use of this technology was intended to ensure an adequate, alternative means of public access to the Commission's deliberations for any interested member of the public.

Commissioners Present:

Chair Cathy Judd-Stein
Commissioner Eileen O'Brien
Commissioner Bradford Hill
Commissioner Nakisha Skinner
Commissioner Jordan Maynard

1. [Call to Order](#) (00:00)

Chair Judd-Stein called to order the Public Meeting and Public Hearing of the Massachusetts Gaming Commission ("Commission"). Roll call attendance was conducted, and all five commissioners were present for the meeting.

2. [Public Comment on Category 1 Sports Wagering Applications](#) (00:39)

Chair Judd-Stein explained that three applicants had applied for a category one sports wagering operator's license, Blue Tarp reDevelopment LLC dba MGM Springfield, Wynn MA LLC dba Encore Boston Harbor, and Plainville Gaming Redevelopment LLC dba Plainridge Park Casino ("PPC"). She stated that an entity that holds a gaming license issued under casino law was eligible to apply for a category one sports wagering operator's license, which would allow them to operate in-person sports wagering and mobile sports-wagering through separate platforms. She noted that each of the applicants mentioned holds a casino license and was eligible for a category one sports wagering license under General Law Chapter 23N.

Chair Judd-Stein stated that the Commission would individually evaluate each application that had been submitted, and in preparation for the evaluation, the Commission was interested in any comments the public had to submit regarding these applicants.

Chair Judd-Stein stated that some commenters had pre-registered to speak, and that they would be called upon to comment. She stated that after the pre-registered speakers had provided comments, any individual who wished to provide comments could ask to speak. She stated that once a commentator was called on to speak, they were to unmute, state their name, where they are from, and who they are affiliated with. She noted that individual comments were limited to three minutes, and a fifteen second warning would be issued, if necessary. She stated that this hearing was not an opportunity for the public to ask questions of applicants, but that questions could be addressed to the Commission. Chair Judd-Stein stated that the Commission would review and consider each written comment, and that written comments would continue to be accepted on a rolling basis.

Chair Judd-Stein invited Jeff Johnson, the Vice-Chair of the Plainville Select Board, to provide his comments. Mr. Johnson thanked the Commission and stated that he was glad that patrons would have options within Massachusetts to participate in sports wagering. He stated that the town of Plainville recommended the application of Plainville Gaming Redevelopment, LLC, d/b/a Plainridge Park Casino, (“PPC”)

Mr. Johnson stated that PPC had demonstrated the ability to work with the community and the state quickly, safely, and effectively on new regulations and new business opportunities through dynamic times. He stated that PPC had timely and effective responses to challenges and opportunities, and that PPC had managed every potential concern Plainville had as a community. He stated that PPC brought Plainville a business partner of economic benefit without being impacted by some of the concerns residents in the community feared, and that PPC’s success would continue to grow with sports wagering.

Mr. Johnson stated that there was importance of a partner with the ability to learn, adapt, and work with the town of Plainville and the Commonwealth. He stated that PPC was a good neighbor and shared that PPC had offered freezer space to the Plainville foodbank. He stated that PPC’s success was not limited to Plainville, and that it was a cornerstone in the tri-town destination partnership between Plainville, Foxborough, and Wrentham. He stated that a sports wagering license would increase the value of the partnership and was key for future economic growth. He stated that PPC was a wonderful member of the community, a caring partner, and an effective economic engine for the area. He urged the Commission to look favorably upon PPC’s application.

The Commissioners had no questions. Chair Judd-Stein stated that a written copy of the comment could be submitted as a written comment. She stated that a second commenter that pre-registered did not seem to be present and suggested that he could submit a written comment. Chair Judd-Stein asked if any other participant wanted to submit a public comment and received

no response. Hearing no other comments, Chair Judd-Stein stated that the hearing would remain open for comment until 1:00 pm.

Chief Administrative Officer to the Chair and Special Projects Manager Crystal Beauchemin requested the screensaver used in the meeting include a link to her email to submit comments if a member of the public wished to speak. Digital Communications Coordinator, David Souza, confirmed he would update the screensaver, accordingly.

Transcriber's Note: A screensaver was shared, and the meeting was held open for additional commentators.

At 1:00 pm, Chair Judd-Stein asked if any additional parties wished to offer to comment. Ms. Beauchemin stated that she had not received any further communications via email. Hearing no further business, Chair Judd-Stein asked a motion to adjourn.

Commissioner Hill moved to adjourn. The motion was seconded by Commissioner Maynard.

Roll call vote:

Commissioner O'Brien: Aye.

Commissioner Hill: Aye.

Commissioner Skinner: Aye.

Commissioner Maynard: Aye.

Chair Judd-Stein: Aye.

The motion passed unanimously, 5-0.

List of Documents and Other Items Used

1. [Notice of Meeting and Agenda](#) dated, November 30, 2022



TO: Chair Judd Stein, Commissioners O'Brien, Hill, Skinner, Maynard

FROM: Mark Vander Linden, Director of Research and Responsible Gaming,
Dr. Bonnie Andrews, Research Manager

CC: Karen Wells, Executive Director

DATE: May 23, 2023

RE: Responsible Gaming Considerations in sports wagering promotional taxation

The purpose of this memo is to provide information to commissioners regarding responsible gaming considerations as they weigh action on taxation of sports wagering promotional play. Where possible, we draw upon research done in Massachusetts, but we also lean heavily upon the experience of other U.S. jurisdictions. For this memo we consulted with Brianne Doura-Schawohl, founder and CEO of Doura-Schawohl Consulting, LLC.

Definition:

Promotional gaming credits as defined by the 'Act to Regulate Sports Wagering' (House Bill No. 5164), are "sports wagering credits or other items issued by an operator to a patron to enable the placement of a sports wager". These promotional credits are commonly utilized to enable sports betting operators to compete for market share and as a mechanism for customer acquisition.

Sports betting and problem gambling:

In a report prepared for the Massachusetts Gaming Commission prior to the legalization of sports wagering in Massachusetts, *Legalized Betting in the United States and Potential Impacts in Massachusetts*, Dr. Rachel Volberg and team state that at-risk and problem gambling are higher among sports bettors, including in Massachusetts (primarily because sports bettors are often involved in a wide range of gambling activities in addition to sports betting). The report noted that, prior to the legalization of sports betting in the state, "coincident with the national increase in sports betting participation, there is evidence of some increase in national as well as Massachusetts-specific levels of gambling-related harm." They also note that legalizing sports betting has the potential to increase rates of gambling-related harm among Massachusetts sports bettors as well as overall rates of problem gambling in the population, though the magnitude of these impacts is expected to be modest.ⁱ This report cited concern about "potential for gambling-related harm in Massachusetts for risk groups not previously involved in sports betting, such as adolescents, young adults, women, immigrants, individuals in recovery from gambling problems, and college athletes." The National Council on Problem Gambling in their NGAGE surveyⁱⁱ found that sports betting carries a rate of risky play 2-3 times greater in comparison to other types of gambling.



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Wagering inducements and behavior:

A study from Australia on the effect of wagering inducements, which includes but is not limited to promotional play, on betting behavior concluded that wagering inducements are “likely to encourage more frequent and higher betting expenditure, even though some consumers may perceive them to lower the risks of betting.”

Promo play and “big win”:

Research has shown that a predictor of developing a gambling problem is having a big gambling win early in your gambling career.ⁱⁱⁱ Promotional credits, especially for younger gamblers or persons with lower incomes, can essentially be seen as a “big win” at a lower level of financial risk. According to Dr. Rachel Volberg, “the marketing push is really pulling people in and grabbing market share by offering people what's essentially a big win for a very small stake.”

Increased problem gambling helpline calls:

State helplines are noting significant upticks in calls for help after the legalization and launch of sports betting. Ohio most recently noted calls to their problem gambling helpline increased 227% from January 2022 to January 2023, they launched sports betting January 1, 2023^{iv}. Colorado recently reported a 45 % increase in their helpline calls since the launch of sports betting. In Virginia, gambling expansion is cited for the cause of a 77% increase in helpline calls. Data since the launch of sports wagering from the Massachusetts Problem Gambling Helpline is not publicly available at this time, but the Department of Public Health is monitoring trends. An FY23 report is anticipated in September. However, for the period of February 1, 2023, to March 31, 2023, 872 calls, chats and texts have been received from Massachusetts to the national problem gambling helpline 1-800-Gambler, an increase of 730% increase from the same period last year.

Impact on funding for problem gambling and responsible gaming:

In Massachusetts, the elimination or depreciation in tax revenue if promo play deduction is allowed would likely reduce the amount of revenues deposited into the Public Health Trust Fund. House Bill 5164 allocates 9 percent of the revenue generated from tax dollars to be allocated for the Public Health Trust Fund (PHTF). M.G.L Chapter 23k section 58 established the PHTF to provide funding to programs and services to prevent and mitigate problem gambling and carry out an annual gaming research agenda.

Massachusetts isn't the only state grappling with this issue. As highlighted in the following paragraphs, there are slightly more mature markets which may provide insights for Massachusetts regulators.

A study released in 2021 and updated in 2022 by the Tax Foundation^{v vi}, an independent tax policy non-profit organization, found that states address promotional deductions differently. For example, Arizona, Colorado, Connecticut, Michigan, Pennsylvania, Virginia, and Maryland allow operators to exclude certain expenses from adjusted gaming revenue. The study goes on to note “states that do levy a tax with deductions should consider some cap if the tax is supposed to raise revenue for dedicated



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spending...without a cap, sports betting operators could theoretically eliminate their tax liability completely.”

Virginia is an example of a state that previously struggled to successfully fund problem and responsible gambling programs. This inability to appropriately fund these services can be tied in part due to their allowance of promotional deductions. Initially, Virginia allowed for unrestricted deductions, which has since been rescinded and limited to the first twelve months of operation only. Like Massachusetts, Virginia has a statutorily required percentage, 2.5%, of taxable revenues dedicated to problem gambling. “[The Richmond Times-Dispatch found](#) that sports betting companies in Virginia offered just under \$170 million in bonuses and promotions since sports wagering was launched in the state, and while Virginia has collected \$26.7 million in tax revenue since launching, it’s missing out on potentially much more. The *Times-Dispatch* also reported that only five of the 12 active operators have paid taxes since launching in Virginia. Clearly, promotional tax deductions are keeping Virginia from receiving millions of dollars in additional revenue.”^{vii} At the same time, the Virginia Council on Problem Gambling was reporting an increase of 77% in the number of incoming calls for help, “The increase in the number of calls made to the Virginia Problem Gambling Helpline corresponds with the expansion of gambling availability within the Commonwealth,” explains Dr. Carolyn Hawley, President of the Council. “The jump in call volume signifies a need for funding to grow a network of treatment professionals who can be available to treat this rising need.”^{viii}

Once promotional deductions were sunset for licensees “Virginia’s tax revenues from sports betting jumped 63% between June and July after state lawmakers ended what some described as a loophole that let betting apps deduct free-bet promos from their profits.”

According to [Virginia Lottery reports](#), sports betting revenues rose from \$1.87 million in June to \$3.06 million in July, the first month the new tax policy was in effect.^{ix} That’s a month over month gain of almost \$30,000 designated for problem gambling. Money that could now be purposed to scale up and train the workforce that Dr. Hawley decried was missing from the state infrastructure. If Massachusetts reverses its decision and allows for promotional tax deductions it could be facing a significant decrease in funding for problem gambling services.

During the policy debate in Virginia Bea Gonzalez, a lobbyist for the Virginia Sports Betting Alliance, criticized the change for being passed and stated that “Operators won’t offer as many promos as they have in the past, and the ultimate size of the legal market will be smaller than it otherwise would be. The change doesn’t prevent the platforms from doing free bet promos, but it makes it more costly for the companies to offer them.”^x Conversely, allowing for promotions to be deducted will likely increase the number of promotions and advertisements within the market.

Colorado, like Virginia, also rescinded their tax policy that once allowed for unlimited tax deductions on free play. Within the same piece of legislation that reformed the promotional deductions, the state furthermore created a first of its kind problem and responsible gambling grant program, clarified and required additional and enhanced advertising guidelines to protect consumers, and other consumer centric policies.



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The Maryland online sports wagering market launched on November 23, 2022 with unlimited deduction of promotional play for operators. Gross revenue from operators was \$25.9 million in the first nine days of online sports wagering operation, but statewide taxable revenue from online operations from that time period was -\$38.3 million. The unlimited deduction of promotional play is in effect for one fiscal year; after that, it is capped at 20% of its taxable win for the prior year^{xi}.

ⁱ [Legalized Sports Betting in the United States and Potential Impacts in Massachusetts](#)

ⁱⁱ [NGAGE National Gambling Attitudes & Gambling Experiences Survey 1.0 - National Council on Problem Gambling](#)[National Council on Problem Gambling \(ncpgambling.org\)](#)

ⁱⁱⁱ Turner, N. E., Jain, U., Spence, W., & Zangeneh, M. (2008). Pathways to pathological gambling: Component analysis of variables related to pathological gambling. *International Gambling Studies*, 8(3), 281-298.

^{iv} [ORG-State-of-Problem-Gambling-Report-FINAL_2023.pdf \(beforeyoubetorg.s3.us-east-2.amazonaws.com\)](#)

^v [Sports Betting Tax Treatment: Sports Betting Operators | Tax Foundation](#)

^{vi} [Sports Betting Tax Treatment: Sports Betting Operators | Tax Foundation](#)

^{vii} [Virginia Loses Out On Potential Tax Revenue Due To Promotional Credits \(sportshandle.com\)](#)

^{viii} [Virginia Problem Gambling Helpline Sees Spike in 2021 Call Volume Amid Industry's Expansion \(einpresswire.com\)](#)

^{ix} [After tax change, Virginia sees 63% bump in revenue from sports betting - Virginia Mercury](#)

^x [After tax change, Virginia sees 63% bump in revenue from sports betting - Virginia Mercury](#)

^{xi} [Low Maryland Tax Revenue Only Temporary For Online Sports Betting \(playmaryland.com\)](#)



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RSM PUBLIC SESSION PRESENTATION PREPARED FOR MGC

MASSACHUSETTS GAMING COMMISSION

U.S. Online Sports Betting: Promotional Play and Financial Performance Overview

May 23, 2023



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GENERAL OVERVIEW

Overview

As requested by the Massachusetts Gaming Commission (the “MGC”), RSM has prepared an overview of the financial projections for the following Applicants that have been granted a temporary sports betting license to operate in the Commonwealth of Massachusetts (collectively, the “Temporary Applicants”):

1. Bally’s
2. Betfair (FanDuel)
3. Betr
4. Crown MA (DraftKings)
5. Digital Gaming Corp
6. PointsBet MA
7. AWI (Caesars)
8. BetMGM
9. FBG (Fanatics)
10. PSI (PENN)
11. WSI (Wynn)

**RSM will present confidential
applicant information in
Executive Session**

For presentation purposes herein, RSM has presented the “Base Case” financial projection scenario for all temporary applicants

Please note that PointsBet MA was excluded from the review and analysis of this presentation by RSM for independence purposes

Summary

As requested by the Massachusetts Gaming Commission (the “MGC”), RSM has prepared an overview of Promotional Play, including the implications of Promotional Play as it relates to responsible gaming and the impact of Promotional Play on the Online Sports Betting (“OSB”) industry.

RSM has prepared a scenario analysis to estimate the projected tax revenue for the Commonwealth of Massachusetts using different tax regimes related to Promotional Play.

RSM has analyzed the preliminary financial performance of the OSB market in the Commonwealth of Massachusetts, including an actual versus projected financial performance variance analysis by operator and an update of the total addressable market (“TAM”).

Additionally, RSM has prepared financial performance analyses of the following select comparable states (collectively, the “Comparable States”):

1. **Colorado**
2. **Connecticut**
3. **Maryland**
4. **New Jersey**
5. **Ohio**
6. **Commonwealth of Virginia**
7. **West Virginia**

Lastly, RSM has prepared analyses related to the financial performance outlook of FanDuel Inc. (“FanDuel”) and DraftKings Inc. (“DraftKings”).

For presentation purposes herein, RSM has presented the “Base Case” financial projection scenario for all Temporary Applicants

Please note that PointsBet MA was excluded from the review and analysis of this presentation by RSM for independence purposes

Summary, continued

The following presentation will provide an overview of financial metrics. The following key terms and metrics will be used throughout the presentation and are defined as follows:

- **Adjusted GGR** – Gross Gaming Revenue less bonuses and promotions
- **Comparable States** – Seven states were chosen to compare OSB figures and statistics with Massachusetts Specifically, “Recently Launched States” of Maryland and Ohio and “Established States” of Colorado, Connecticut, New Jersey, Virginia, West Virginia
- **Compound Annual Growth Rate (“CAGR”)** - The measure of an investment's annual growth rate over time, with the effect of compounding considered. It is often used to measure and compare the past performance of investments or to project their expected future returns
- **Established States** – Comparable states that legalized OSB over one year ago (Colorado, Connecticut, New Jersey, Virginia, West Virginia)
- **Gross Gaming Revenue (“GGR”)** – Total amount bet by players less winning payouts to players. For the purposes of this presentation, GGR relates to Online Sports Betting only (excluding retail) and does not subtract bonuses and promotions
- **Handle** – Total amount of betting wagers accepted inclusive of Promotional Play
- **Hold Rate** – The share of total bets kept by the sportsbook after winnings have been paid out
- **OSB** – Online Sports Betting
- **Promotional Play** – Promotional activity or award that requires game play as a condition of eligibility
- **Recently Launched States** – Comparable States that legalized OSB less than one year ago (Maryland, Ohio)
- **Temporary Applicant** – An Applicant that has been granted a temporary Sports Betting License in the State of Massachusetts

Please refer to the “Definitions” section of the Appendix for a full listing of definitions of key terms.

Summary: Key Observations

- **Comparable States utilize a variety of tax regimes when considering Promotional Play.**
 - 2 out of 7 Comparable States (WV and NJ) do not allow any promotions to be excluded from the tax basis.
 - 4 out of 7 Comparable States (CT, VA, CO, and MD) currently allow or have allowed a portion of promotions to be deducted. 3 states are reducing or eliminating this deduction.
 - Ohio does not currently allow any Promotional Play deductions but will at a later date, beginning in 2027.
- **6 of the 10 OSB operators that were granted temporary licenses in the Commonwealth of Massachusetts have begun operations:**
 - DraftKings, FanDuel, BetMGM, Barstool Sportsbook, WynnBet, and Caesars Sportsbook are fully operational
 - Betway, Betr, Fanatics and Bally's have not begun operations and will need to compete against the active sportsbooks upon entering the market.
- **The majority of active OSB operators in the Commonwealth of Massachusetts exceeded their respective projections in the month of March based on the following metrics:**
 - OSB Handle (4 out of 6 operators)
 - Hold Rate (4 out of 6 operators)
 - OSB GGR (5 out of 6 operators)
 - State Taxes Generated (5 out of 6 operators)

Summary: Key Observations, continued

- **Recently Launched States, Ohio and Maryland, have seen a surge of OSB activity in the first month of operations.**
 - Handle, GGR and Hold Rate were very high during the first full month of operations but declined to be more in line with the Established States shortly after.
 - Promotional Play was also significant during the first full month of operations, comparable to or exceeding overall GGR, but have scaled back since their respective launch dates.
 - FanDuel and DraftKings are dominant players in both Recently Launched States.
- **Established States experience seasonality in sports wagering but have generally seen rising volume over time.**
 - Handle and GGR has grown over time in Established States, both in absolute terms and on a standardized per adult basis.
 - Tax revenues for Established States have similarly grown in line with the increase in GGR.
 - Hold Rate varies quarter-to-quarter and between states; no sustained upward or downward trend is apparent.
 - Handle and GGR display seasonality, typically peaking in the fourth quarter each year.
- **The market leaders in the OSB industry, FanDuel and DraftKings, each demonstrate an optimistic outlook as evidenced by:**
 - Positive revenue growth
 - EBITDA margin improvement
 - Adequate liquidity

Comparable States

RSM has reviewed the launch dates and associated tax regulations associated with each of the Comparable States:

State	Launch Date	Tax Regime
Ohio	January 1, 2023	10% on OSB GGR. Ohio currently taxes Promotional Play but will allow operators to write off up to 10% of gross revenue in promotional credits starting in 2027 and up to 20% in 2031.
Maryland	November 23, 2022	15% tax on OSB GGR. Promotional Play is not taxed
Connecticut	Soft Launch October 12, 2021	13.75% tax on OSB GGR. Can deduct promotional credits GGR provided the deduction does not exceed 25 percent of monthly sales in the first year, eventually declining to 15 percent by the third year.
Virginia	January 1, 2021	15% on OSB GGR. Allowed Promotional write-offs until July 1, 2022
Colorado	May 1, 2020	10% tax on OSB GGR. Originally, all promotions could be written off. In 2023 Promotional deductions slowly phase out, reaching 1.75% of handle in 2026
West Virginia	December 27, 2018	10% on OSB GGR
New Jersey	August 6, 2018	13% on OSB GGR

Key Observations

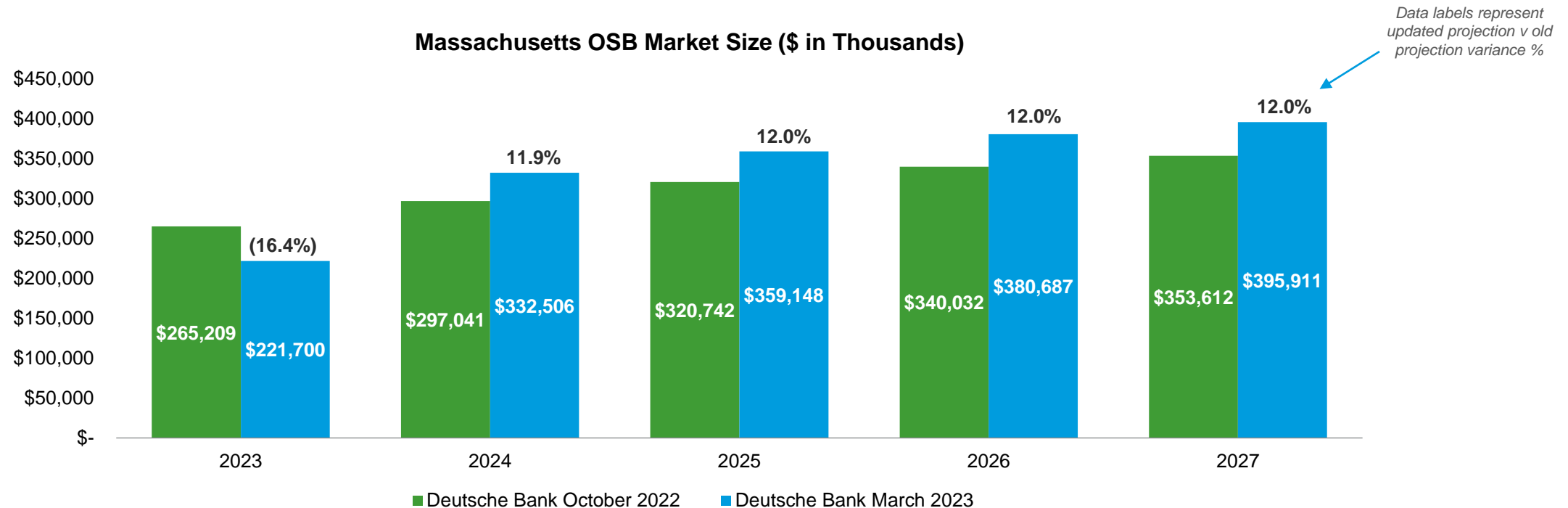
The Comparable States list includes both Recently Launched States and Established States. Each of the states from both categories have differing policies regarding the taxation of Promotional Play.

- Recently Launched States include Ohio and Maryland:
 - Maryland currently does not tax Promotional Play.
 - Ohio currently taxes Promotional Play but will allow deductions in the future.
- Established States include Connecticut, Colorado, New Jersey, Virginia, and West Virginia:
 - Connecticut allows for deductions of a portion of Promotional Play.
 - Colorado allows Promotional Play deductions but is shrinking the deductions from 2023 through 2026.
 - Virginia originally allowed Promotional Play write-offs but phased it out in 2022.

Commonwealth of MA – Forecast OSB GGR Total Addressable Market

RSM has compared the most current MA Deutsche Bank OSB GGR Total Addressable Market (“TAM”) forecast (published in March 2023) versus Deutsche Bank’s original forecast (published in October 2022) for the annual periods 2023 through 2027.

Key Observation: Although the prior Deutsche Bank estimates provided a slightly favorable OSB market size in 2023, their latest projections are more favorable for the Commonwealth of Massachusetts in terms of OSB market size for the years 2024 through 2027. This suggests positive sentiment towards OSB revenue for the Commonwealth.



Notes: Deutsche Bank published a revised TAM forecast since the legalization of OSB in the Commonwealth of Massachusetts. Please note that the OSB GGR TAM forecasts presented on this slide represent the midpoint estimate for each projected year in the third-party equity research reports and are based on an average percentage of OSB sports betting attributable to GGR from online and retail TAM.



PROMOTIONAL PLAY OVERVIEW

Understanding Promotional Play

Definition: *Promotional play is a type of marketing strategy used by operators to gain a competitive advantage by increasing wager¹ activity.*

– Why do Operators Offer Promotional Play?



¹ Wager is defined as a sum of money or representative of value² that is risked on an occurrence for which the outcome is uncertain.

² Representative of value means any instrumentality used by a patron in a game whether or not the instrumentality may be redeemed for cash.

Promotional Play Types Operators Offer

“Bet Credits” or “Bonus Bets”

Enhanced “Boosted” Odds

Loyalty Programs

Referral “Bonus”

Note: The term “free bets” or “risk free” has caused concern over if term is factual. While sportsbook operators refund the initial bet (win or lose), it’s done so in the form of credits that can be applied to future bets. If bettors lose these credits, the initial stake is also lost. Some examples include this language within the presentation, as this is how they are / were presented on-line.

American Gaming Association’s **“Responsible Marketing Code for Sports Wagering”** states that no message should suggest engaging in sports wagering is without risk or utilize “risk free” language.

Reader Note: Customers are ineligible to “cash out” funds received directly as promotional play. Any promotional play received must be used in a form of a wager to become eligible for “cash out” option when outcome is determined.

Promotional Play Offering Types

“Bet Credits” or “Bonus Bets”

OSB Operators offer player accounts a certain amount of “credit” or “bonus” bets for:

1. New account sign up
2. Specific wager on game

Examples:

1. New account sign up: Patron deposits \$25 (minimum set \$ amount) and must wager at least \$5. Patron will receive \$150 in “Bonus Bets” upon wager placement.
2. Specific wager on game: Patron places \$25 on a same game 4+ leg parlay (minimum set + leg) and receives \$50 in bonus bet regardless if wager wins or loses.

Enhanced “Boosted” Odds

Provides patrons with increased odds-on certain wagers, which increases the potential payout.

Examples:

1. Operator creates a set parlay (two or more bets placed on one wager), and patron receives 4/1 odds, “boosted” from 2/1 odds.
2. Enhanced odds on tennis, such as “Get 50/1 on Novak Djokovic to win Wimbledon (was 2/1)”

Promotional Play Offering Types

Loyalty Programs

Operator offers rewards or bonuses to customers who consistently use platform through:

- 1. Point-based loyalty programs*
- 2. VIP loyalty programs*

Examples:

- 1. Points-based loyalty program: This type of program rewards customers with points for every bet they place. These points can be redeemed for rewards such as free bets, merchandise, or cash back.*
- 2. VIP loyalty programs: This type of program is aimed at high-rollers and big spenders. Customers are invited to join program by sportsbook and receive rewards such as personalized support, luxury gifts, and exclusive access to events*

Referral “Bonus”

Provides patrons with a “credit” or “bonus” for referring new accounts to operators’ platform.

Examples:

- 1. Receive \$50 in bonus bets for every new account you refer (typically through sign-up link or referral code)*
- 2. Two risk free bets worth up to \$1000 each for every new account you refer.*

Understanding Handle, Payouts, GGR, Hold % and Taxable Revenue

The total amount of money or representative of value wagered. Handle includes promotional play wagers offered by the operator.

The amount received from operators.

States set their own tax rate on gross gaming revenue (GGR) and some permit operators to deduct the cost of promotional expenses (i.e., bonus bets, etc.) from GGR.

In general, offering promotional play can lead to a reduction in tax revenues for sportsbooks operators, as the value of free bets, cash bonuses, and other promotional offers are sometimes deducted from the gross gaming revenue that is subject to taxation. However, this depends on the specific tax laws and regulations in the place of business.

Basic Win Calculation

Handle (A)	Payouts (B)	GGR (A) – (B) = C	Hold % (C / A)	Taxable Revenue C * Tax Rate
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The money paid as a result of winning wagers.

Gross Gaming Revenue (GGR) is equivalent to an operator's "revenue" but is not "profit".

The ratio operators keep compared to total handle.

How Promotional Play Impacts Taxable Revenue

The table below displays Maryland and Ohio's taxes paid for January – March 2023.

Both states went "live" with mobile sports betting around similar time.

Maryland allowed for promotional play deductions, while Ohio has not yet allowed for promotional play deductions.

	Month	Handle	Payouts	Promotions	Promo % of Total Handle	Gross Gaming Revenue	Hold %	Taxes Paid
Maryland	January 23'	\$422,657,954	\$364,618,587	\$21,798,149	5.2%	\$58,039,366	13.7%	\$1,888,017
	February 23'	\$325,078,708	\$285,409,534	\$15,810,783	4.9%	\$39,669,174	12.2%	\$2,698,767
	March 23'	\$370,290,622	\$323,916,148	\$11,382,730	3.1%	\$46,374,474	12.5%	\$5,111,105
Ohio	January 23'	\$1,090,265,212	\$864,188,104	\$319,983,071	29.9%	\$205,694,761	18.8%	\$20,569,476
	February 23'	\$617,865,149	\$535,950,222	\$59,147,334	9.6%	\$81,914,927	13.2%	\$8,191,492
	March 23'	TBD	TBD	TBD	TBD	TBD	TBD	TBD

Promotional % of Total Handle shows a high player acquisition and retention cost incurred by operators.

High promotional play inflates Handle, Payouts, **GGR**, and **Hold %** and could reduce **Taxable Revenue**.

Overall, promotional play creates volatility to the overall taxable revenue amount, month over month.

Louisiana Tax Revenue

Louisiana allows operators to deduct promotions and offset losses incurred when computing taxable revenue

Month / Year	Handle	Payouts	Promotions	Promo % of Total Handle	Gross Gaming Revenue ¹	Hold %	Taxes Paid ²
22-Jan	\$40,459,715	\$37,799,768	\$11,695,887	28.9%	(\$9,035,940)	-22.3%	\$ -
22-Feb	211,015,085	184,341,329	10,021,728	4.7%	16,652,028	7.9%	2,281,300.00
22-Mar	205,745,956	176,525,433	802,245	0.4%	28,418,278	13.8%	3,185,974.00
22-Apr	186,044,928	182,239,042	533,415	0.3%	3,272,471	1.8%	2,370,932.00
22-May	142,641,507	119,642,816	364,295	0.3%	22,634,396	15.9%	2,456,929.00
22-Jun	113,730,731	102,988,714	196,982	0.2%	10,545,035	9.3%	1,357,621.00
22-Jul	103,342,337	84,005,427	131,611	0.1%	19,205,299	18.6%	2,312,929.00
22-Aug	112,051,469	104,622,886	122,343	0.1%	7,306,240	6.5%	1,562,443.00
22-Sep	175,979,484	148,534,517	368,436	0.2%	27,076,531	15.4%	3,421,263.00
22-Oct	219,040,606	192,618,099	450,440	0.2%	25,972,067	11.9%	3,894,853.00
22-Nov	233,703,879	261,012,684	299,205	0.1%	(27,608,010)	-11.8%	4,019,295.00
22-Dec	218,701,200	187,899,823	262,036	0.1%	30,539,341	14.0%	3,747,968.00
23-Jan	245,235,035	215,540,842	7,724,838	3.1%	21,969,355	9.0%	2,715,822.00
23-Feb	175,738,465	153,933,010	4,050,531	2.3%	17,754,924	10.1%	2,354,483.00
23-Mar	223,120,918	194,335,817	2,552,060	1.1%	26,233,041	11.8%	3,281,387.00
Total	\$2,606,551,315	\$2,346,040,207	\$39,576,052	1.5%	\$220,935,056	8.5%	\$38,963,199

¹ Louisiana allows promotions to be deducted when calculating Gross Gaming Revenue (i.e., $GGR = \text{Handle} - \text{Payouts} - \text{Promotions}$)

² Due to state law allowing losses incurred by operators to offset future net proceeds, the actual tax payments received may not calculate to the 15% tax rate

Responsible Gaming – Knowing the Statistics

Frequency Betting on Online Sports by Age

Age Range	Every Day	Weekly	Monthly	> Once a Month
21-34	7%	12%	9%	8%
35-44	8%	15%	8%	8%
45-64	2%	4%	4%	7%
65+	1%	2%	2%	4%

Average Online Wager Amount by Age

Denomination	21-24	25-34	35-54	55+
> \$10	23%	40%	22%	15%
\$10 to \$25	20%	46%	24%	10%
\$25 to \$50	22%	38%	27%	13%
\$50 +	14%	34%	37%	15%

7% of sports bettors aged 21-34 place an average bet of \$50+ every day. Research indicates this group as having the highest likelihood to develop problem gambling.

- Two in every three men bet on sports and 83% of bettors are White.
- Sports bettors are at least **three times more likely** to exhibit risky behavior when compared to gamblers not betting on sports.
- Those who bet more than once a week are **at least five times more likely** to report behavior indicating problem gambling.

What are the Implications of Offering Promotional Play?

AGA's Responsible Marketing Code for Sports Wagering suggests the following standards:



Respecting the Legal Age for Sports Wagering

No sports betting message should be designed to appeal primarily to those under 21 years old (the prevailing legal age for sports wagering).



Limiting College and University Advertising

Sports wagering should not be promoted or advertised in college or university owned news assets (e.g., school newspapers, radio or television broadcasts, etc.) or advertised on college or university campuses.



Controlling Digital Media and Website Content

Operator controlled messages placed in digital media, including third party internet and mobile sites, affiliate platforms, commercial marketing emails or text messages, social media sites and downloadable content.

What are possible negative implications of offering Promotional Play?

DraftKings and Barstool Sports Face Fines for Violating Ohio's Standards for Responsible Gambling

DraftKings fined \$500,000 for:

- Sending more than 2,500 promotional mailers to individuals under 21.
- Violating state gaming guidelines which prohibit the disingenuous use of terminology such as “free” or “risk-free” in promotional ads.

Barstool Sports fined \$250,000 for:

- Violating state regulations, which prohibit marketing sportsbooks to people under the age of 21 (minimum age to wager in Ohio).



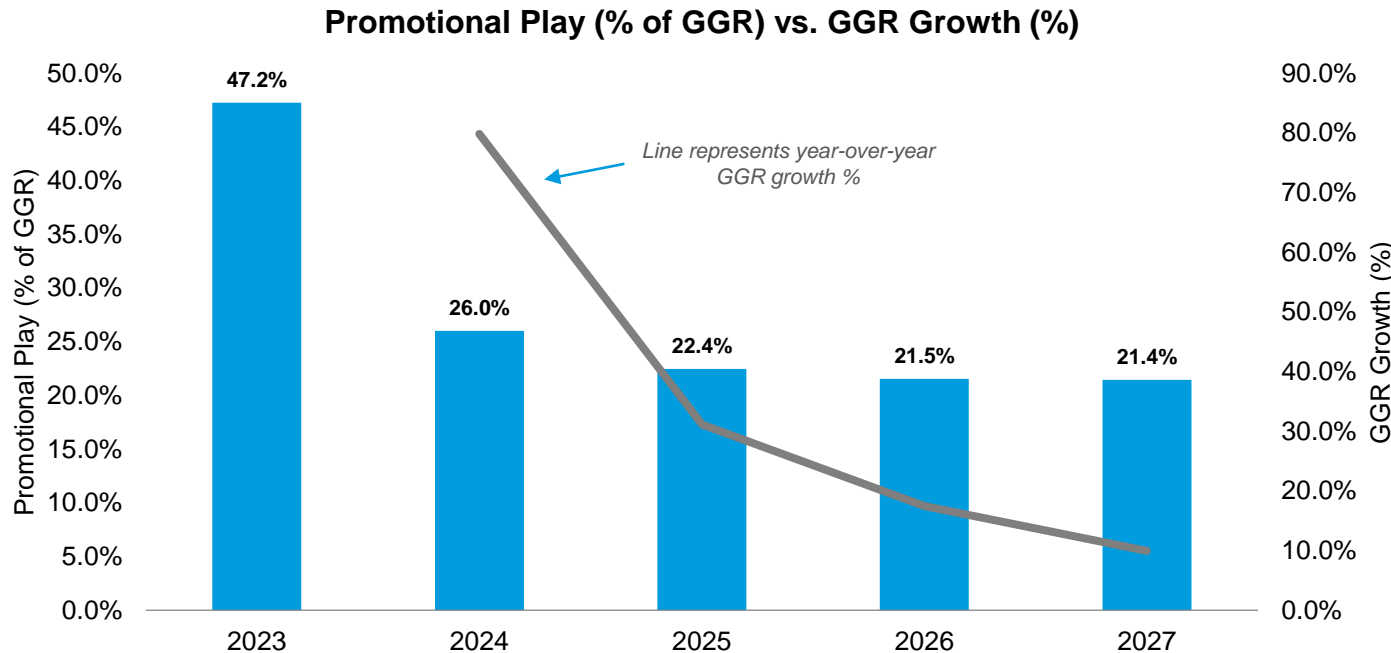
IMPACT OF PROMOTIONAL PLAY ON ONLINE SPORTS BETTING

Promotional Play Projections of MA Temporary Applicants

RSM analyzed the correlation between projected Promotional Play (as a % of GGR) and GGR annual growth rates of the Temporary Applicants in the Commonwealth. The chart below illustrates the **consolidated** projected financial information by the Temporary Applicants that submitted Promotional Play projections.

Key Observations

Based on the four Temporary Applicants that provided projected Promotional Play data, there is a positive correlation between projected Promotional Play (as a % of GGR) and projected GGR growth rates in the Commonwealth.



- Of the four Temporary Applicants that provided projected Promotional Play data, all forecasted the highest Promotional Play (as a % of GGR) in 2023, followed by significantly less Promotional Play through the remaining projection period.
 - In terms of Promotional Play in dollars, the total Promotional Play of the four Temporary Applicants increases over time, but relatively lower on a % of GGR basis.
 - Higher GGR growth rates in the initial years may be partially due to other factors, including the initial surge of OSB play immediately following the legalization of OSB in the Commonwealth.
- Please note that one Temporary Applicant provided GGR growth data that would be considered an outlier and projected an increase in OSB GGR from 2023 to 2024 in excess of 135%.

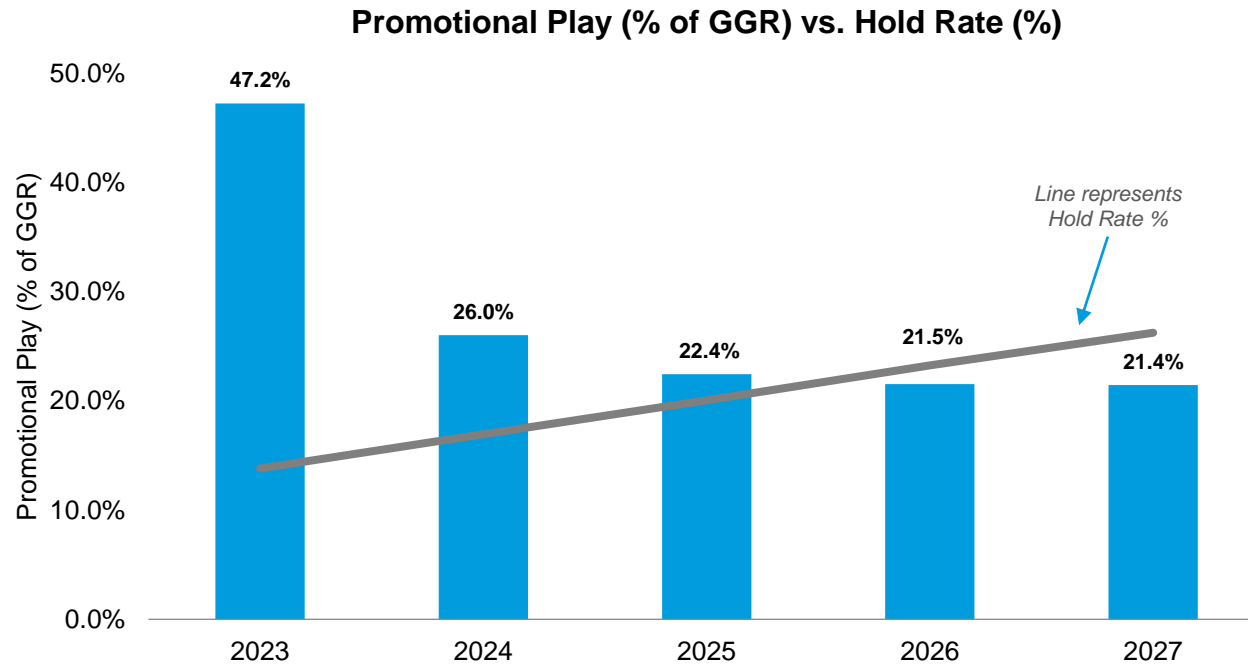
Notes: 4 out of 10 Temporary Applicants submitted explicit Promotional Play projections in their General Applications.

Promotional Play Projections of MA Temporary Applicants, continued

RSM analyzed the correlation between projected Promotional Play (as a % of GGR) and Hold Rate % of the Temporary Applicants in the Commonwealth. The chart below illustrates the **consolidated** projected financial information by the Temporary Applicants that submitted Promotional Play projections:

Key Observations

Directionally, based on the **consolidated** projected financial information, there is an inverse correlation between projected Promotional Play (as a % of GGR) and Hold Rate %. However, there was a mix among the Temporary Applicants regarding projected Hold Rate %.



12.0%

11.0%

10.0%

9.0%

8.0%

7.0%

- 2 out of 4 Temporary Applicants that provided projected Promotional Play assumed that Hold Rate % would **increase** over the projected period, indicating that these Temporary Applicants may assume an inverse correlation between projected Promotional Play activity and projected Hold Rate % performance.
- 2 out of 4 Temporary Applicants that provided projected Promotional Play assumed that Hold Rate % would remain relatively **constant** over the projected period, indicating that these Temporary Applicants do not assume a strong correlation between projected Promotional Play activity and projected Hold Rate % performance.
- Additionally, the higher projected Hold Rate % in the later years assumed by certain Temporary Applicants may be due to other factors. These factors may include the evolution of Promotional Play offered to players over time, including, but not limited to, increased emphasis towards parlay wagering and lower odds offered to players.

Notes: 4 out of 10 Temporary Applicants submitted explicit Promotional Play projections in their General Applications.

Hold Rate: The share of total bets kept by the sportsbook after winnings have been paid out.

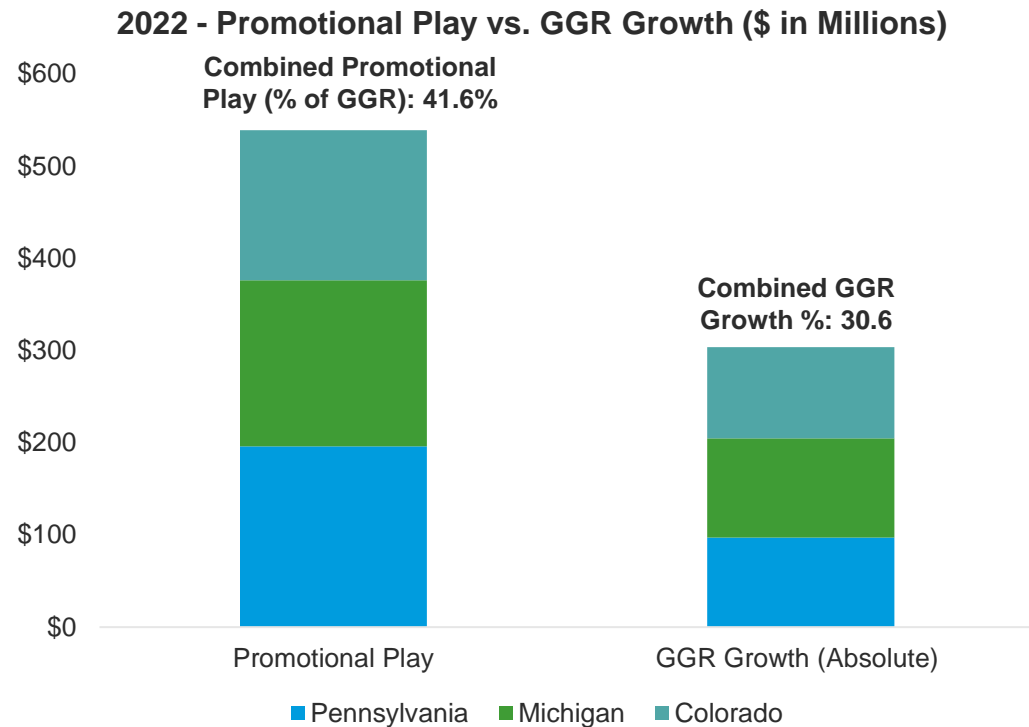
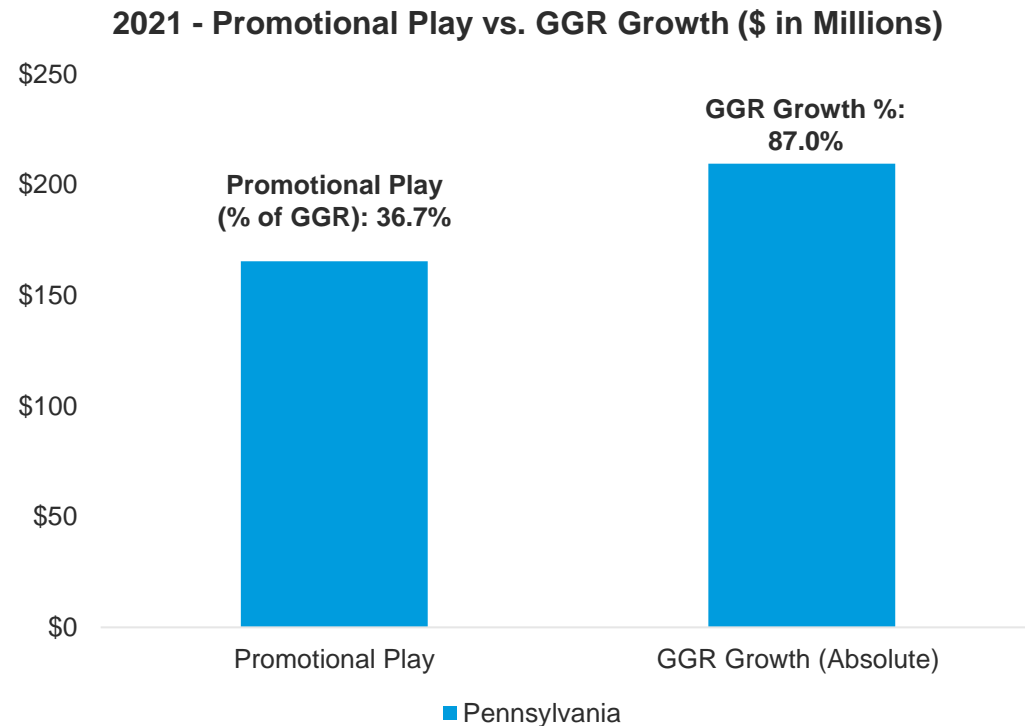
Promotional Play Spend and GGR Growth Rates (Select Legalized States)



RSM analyzed the correlation between Promotional Play (as % of OSB GGR) and OSB GGR growth rates for the following selected states; Pennsylvania, Michigan and Colorado.

Key Observations: Currently, insufficient publicly available data exists to determine a correlation between Promotional Play (as a % of OSB GGR) and OSB GGR growth rates for the selected states presented below.

For purposes of RSM's analysis – RSM selected Pennsylvania, Michigan and Colorado based on the availability of reported Promotional Play data among states that have legalized OSB.



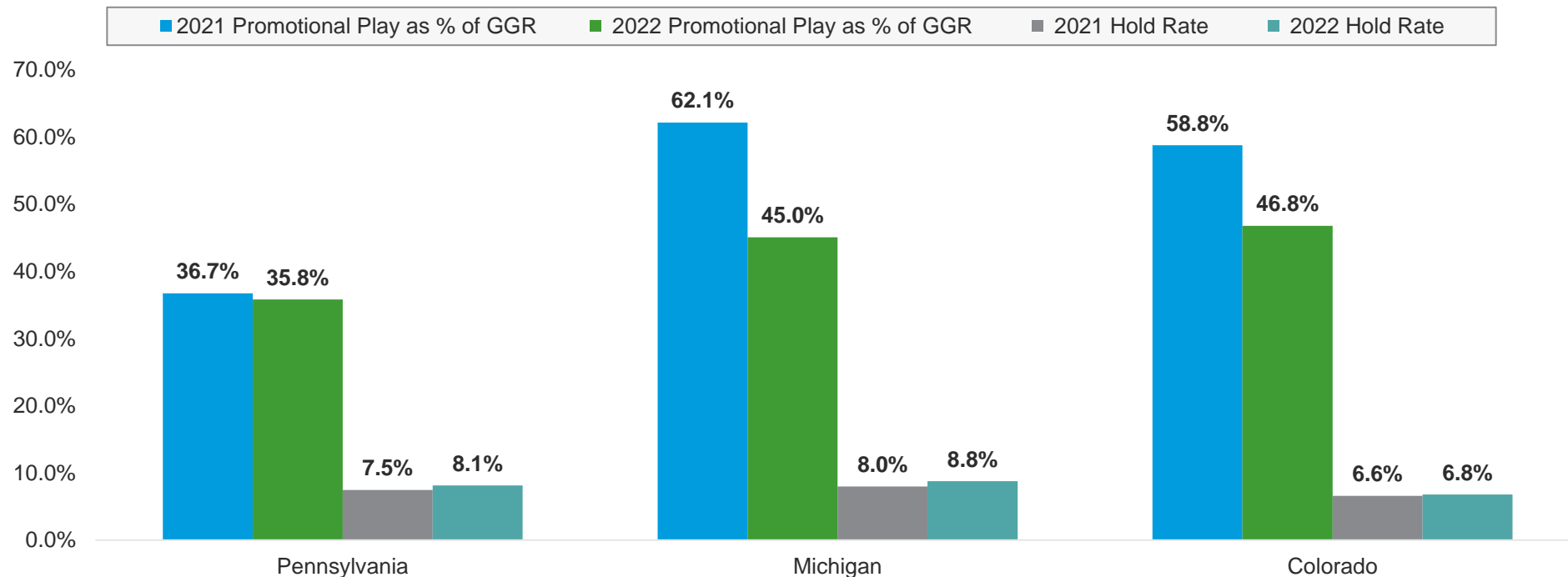
Notes: As of March 2023, 29 states have legalized OSB. Additionally, **10 out of the 29** states report Promotional Play data. States that legalized OSB since January 1, 2021 were excluded from the analysis due to limited reporting data. Although Virginia legalized online sports betting in January 2021, information regarding OSB GGR and Promotional Play has been made available since January 2023. As such, Virginia was excluded from the analysis above. Colorado launched OSB in May 2020 and therefore did not have a full year of data needed to calculate the growth in GGR between 2020 and 2021. Similarly, OSB in Michigan launched in January 2021 and calculating 2021 growth is not possible.

Promotional Play Spend and Hold Rates (Select Legalized States)

RSM analyzed the correlation between Promotional Play (as % of OSB GGR) and Hold Rate % for the following selected states; Pennsylvania, Michigan, and Colorado.

Key Observations: There is an inverse correlation between Promotional Play (as a % of OSB GGR) and Hold Rate %. Pennsylvania, Michigan, and Colorado all demonstrated a higher proportion of Promotional Play in 2021 as compared to 2022. Meanwhile, their respective Hold Rate % increased over the same time period. However, higher Hold Rate % in the later years may suggest or be partially due to other factors including favorable odds Promotional Play offerings which may have enticed new and legacy users into parlay wagers or favorable odds offerings.

Promotional Play (% of GGR) vs. Hold Rate (%)



Notes: As of March 2023, 29 states have legalized OSB. Additionally, **10 out of the 29** states report promotional play data. States that legalized OSB since January 1, 2021 were excluded from the analysis due to limited reporting data. Although Virginia legalized online sports betting in January 2021, information regarding OSB GGR and Promotional Play has been made available since January 2023. As such, Virginia was excluded from the analysis above.

Tax Regimes of selected states: Each state currently allows deductions related to Promotional Play. However, starting in 2023, Colorado will gradually reduce the allowance of deductions related to Promotional Play through 2026.

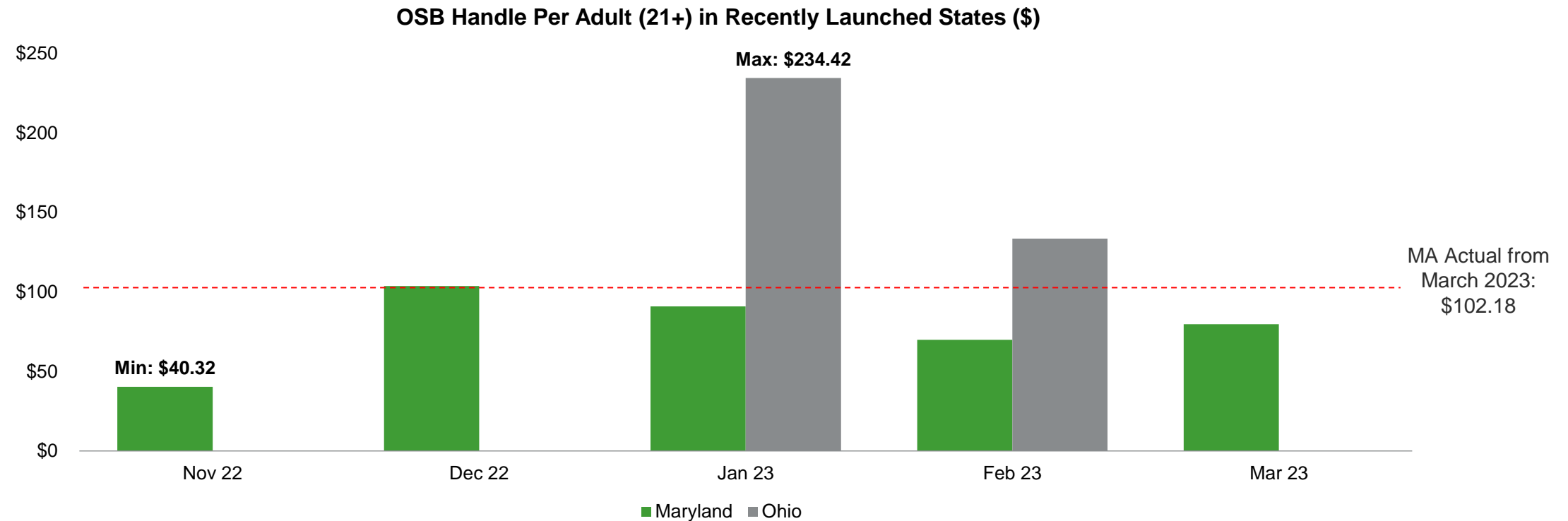


FINANCIAL PERFORMANCE BY STATE

OSB Handle – Recently Launched States

RSM reviewed the OSB Handle as it relates to the population in OSB Recently Launched States:

Key Observations: Maryland performance had relatively slow growth since launch in terms of OSB Handle per adult. When Ohio legalized OSB on January 1, 2023, there was a very positive response in the OSB community which drove OSB Handle to \$234.42 per adult. The Ohio market then cooled in the second month of operation, but users were still betting at a relatively high level of \$133.55 per adult.

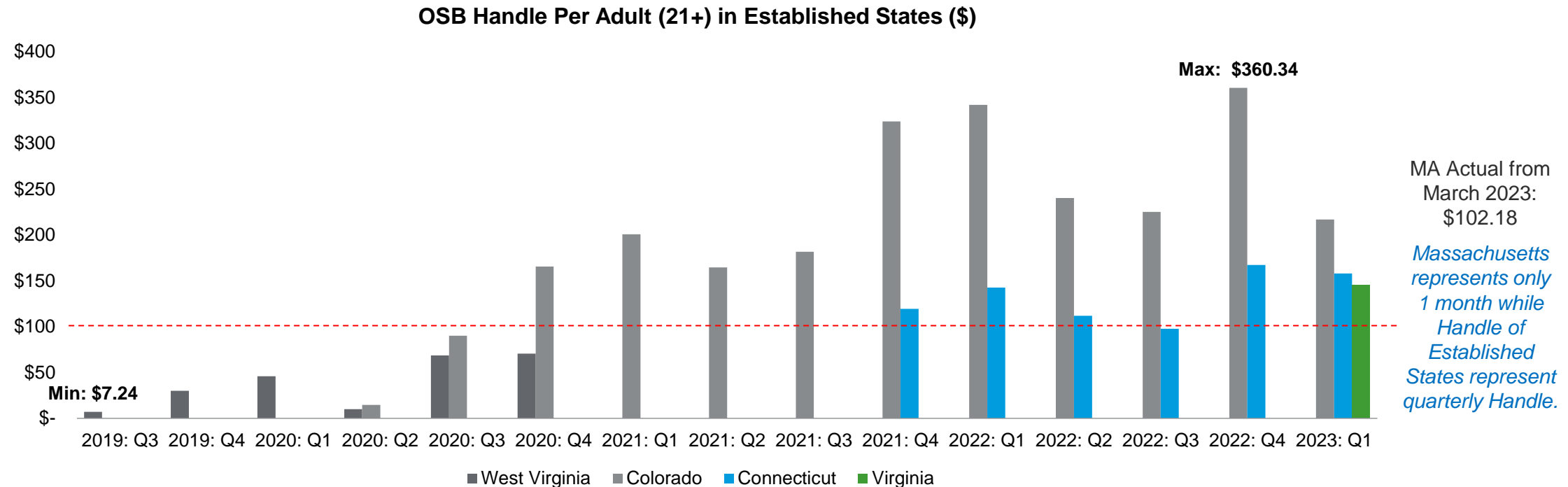


Notes: OSB launched on November 23, 2022 in the state of Maryland. As such, Maryland's November 2022 period is comprised of only eight operating days. OSB in the state of Ohio launched on January 1, 2023. Ohio has not reported March 2023 actuals as of April 27, 2023. The adult population of each state was found using census estimates. When census data was unavailable, an average growth rate based on previous years was assumed.

OSB Handle – Established States

RSM reviewed the OSB Handle as it relates to population in OSB Established States:

Key Observations: Colorado's historical OSB Handle has increased since its initial reporting period of \$14.78 per adult in Q2 2020. Colorado most recently reported per adult Handle of \$216.80 and reached a high point in Q4 2022 of \$360.34 Handle per adult. Connecticut, which is the only other Established State to provide meaningful and current data for this metric, has not produced the same level of growth as observed in Colorado, but reported a year-over-year per adult Handle increase of \$15.44 as of Q1 2023.

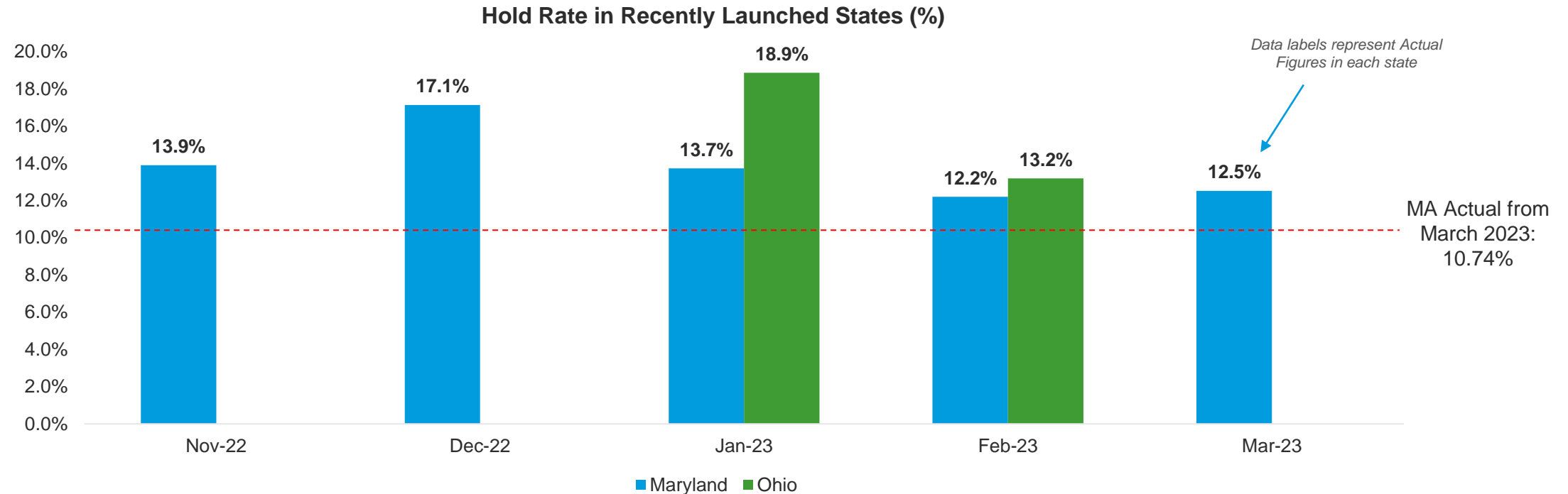


Notes: New Jersey did not report Handle. Virginia began separating OSB and Retail Sports Betting in their reports in 2023. West Virginia separated OSB and Retail Sports Betting in their reports until 2021. The adult population of each state was found using census estimates. When census data was unavailable, an average growth rate based on previous years was assumed. Online sports betting launched in Colorado on May 1, 2020 and in Connecticut on October 19, 2021. As such, Colorado's Q2 2020 and Connecticut's Q4 2021 figures only represent a partial quarter of operating activity.

Hold Rate – Recently Launched States

RSM reviewed Handle and GGR data to determine Hold Rates of the Recently Launched States:

Key Observations: Both Maryland and Ohio had a relatively high Hold Rate in the first full month of operation of 17.1% and 18.9%, respectively. Their Hold Rates then fell in subsequent months to be more in line with established OSB markets.

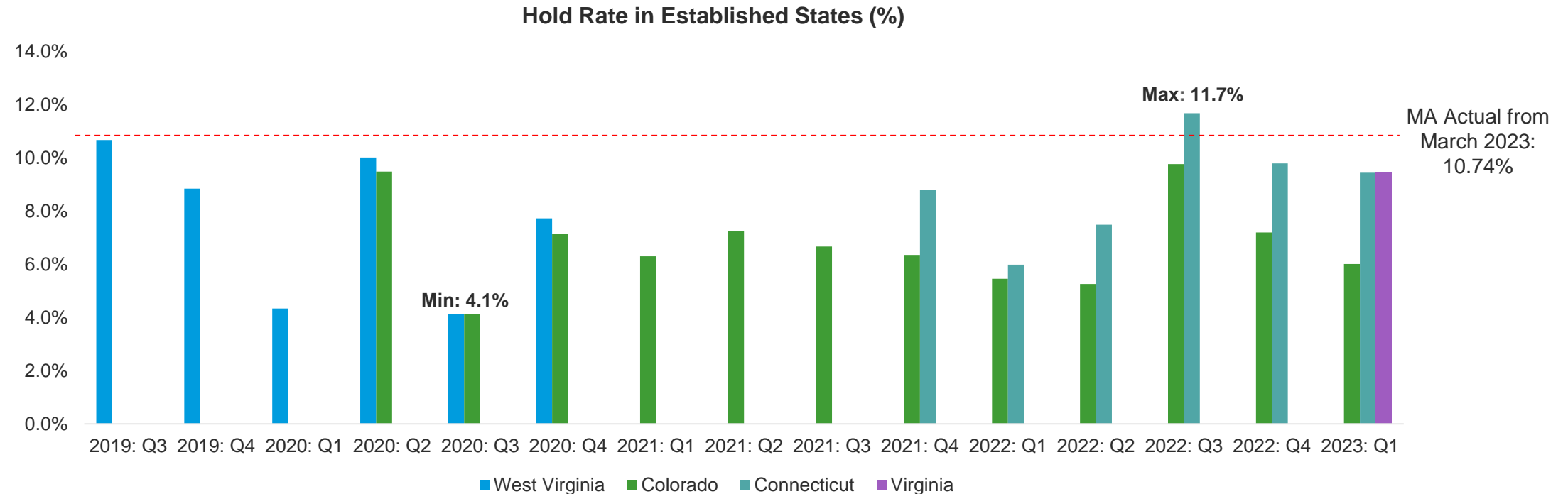


Notes: OSB launched on November 23, 2022 in the state of Maryland. As such, Maryland's November 2022 period is comprised of only eight operating days. OSB in the state of Ohio launched on January 1, 2023. Ohio has not reported March 2023 actuals as of April 27, 2023

Hold Rate – Established States

RSM reviewed Handle and GGR data to determine the Hold Rates of the Established States:

Key Observations: Hold Rates varied substantially quarter to quarter and among states, ranging from 4.1% to 11.7%. There has been no sustained trend upward or downward for the states considered. Hold Rate is affected by the odds set by the sportsbook and the outcomes of the underlying sporting events.

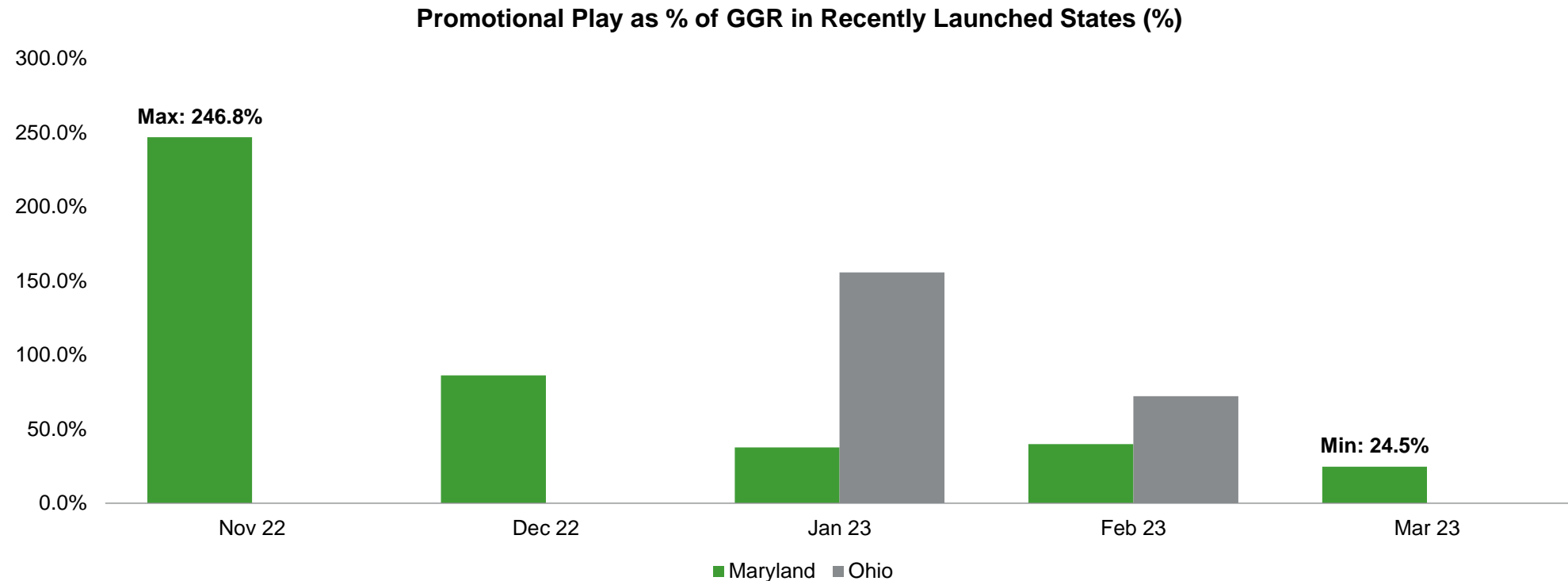


Notes: West Virginia Hold Percentage data for online specific sports wagering was only available before 2021. Online sports betting launched in Colorado on May 1, 2020 and in Connecticut on October 19, 2021. As Such Colorado's Q2 2020 and Connecticut's 2021 Q4 only represent a partial quarter of operating activity.

Promotional Play as Percentage of GGR – Recently Launched States

RSM reviewed the Promotional Play data as it relates to GGR in the OSB Recently Launched States:

Key Observations: Maryland launched with 245.7% of Promotional Play as a percentage of GGR in November 2022, but declined to 24.5% in March 2023. Similarly, Ohio's Promotional Play as a percentage of GGR was 155.6% in the first month of operations, then declined to 72.2% the following month.

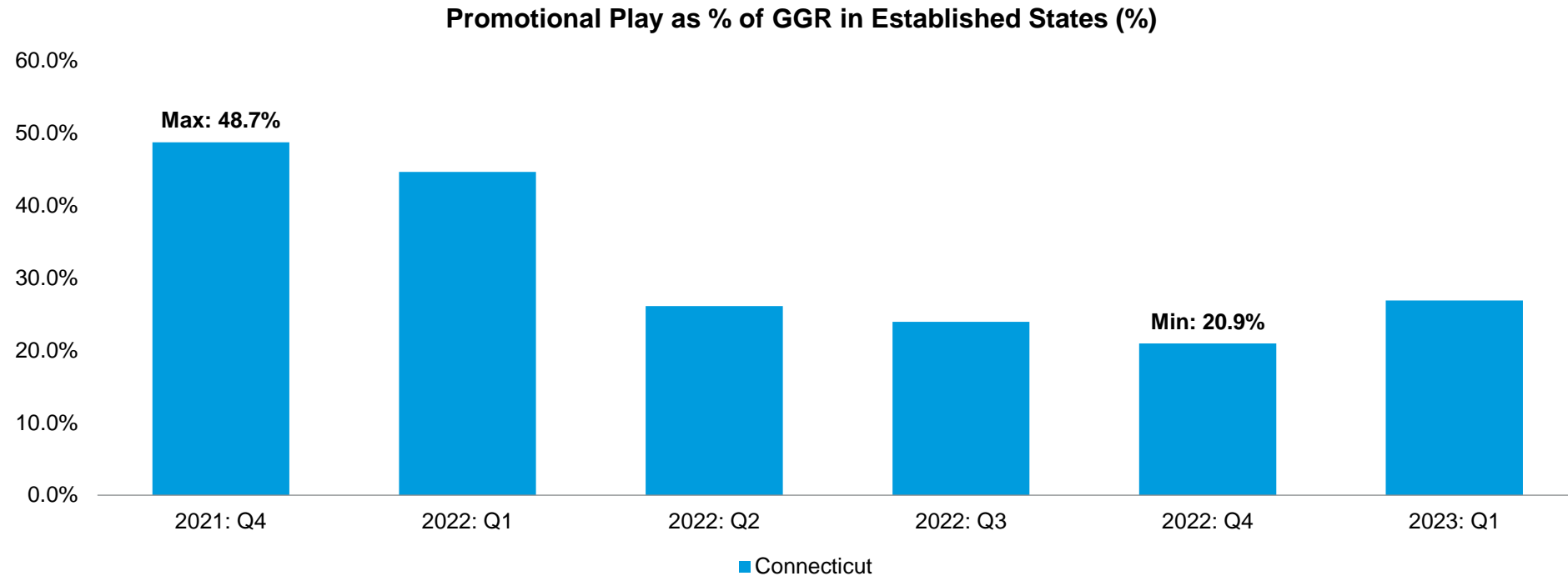


Notes: OSB launched on November 23, 2022 in the state of Maryland. As such, Maryland's November 2022 period is comprised of only eight operating days. OSB in the state of Ohio launched on January 1, 2023. Ohio has not reported March 2023 actuals as of April 27, 2023. Population was calculated using US Census data and a year-over-year average growth rate in each state

Promotional Play as Percentage of GGR – Established States

RSM reviewed the Promotional Play data as it relates to GGR in the OSB Established States:

Key Observations: In Connecticut's first quarter of Online Sports Betting, operators' Promotional Play was 48.7% of GGR. This metric has decreased over time, hitting a low point in Q4 2022 of 20.9% of GGR.

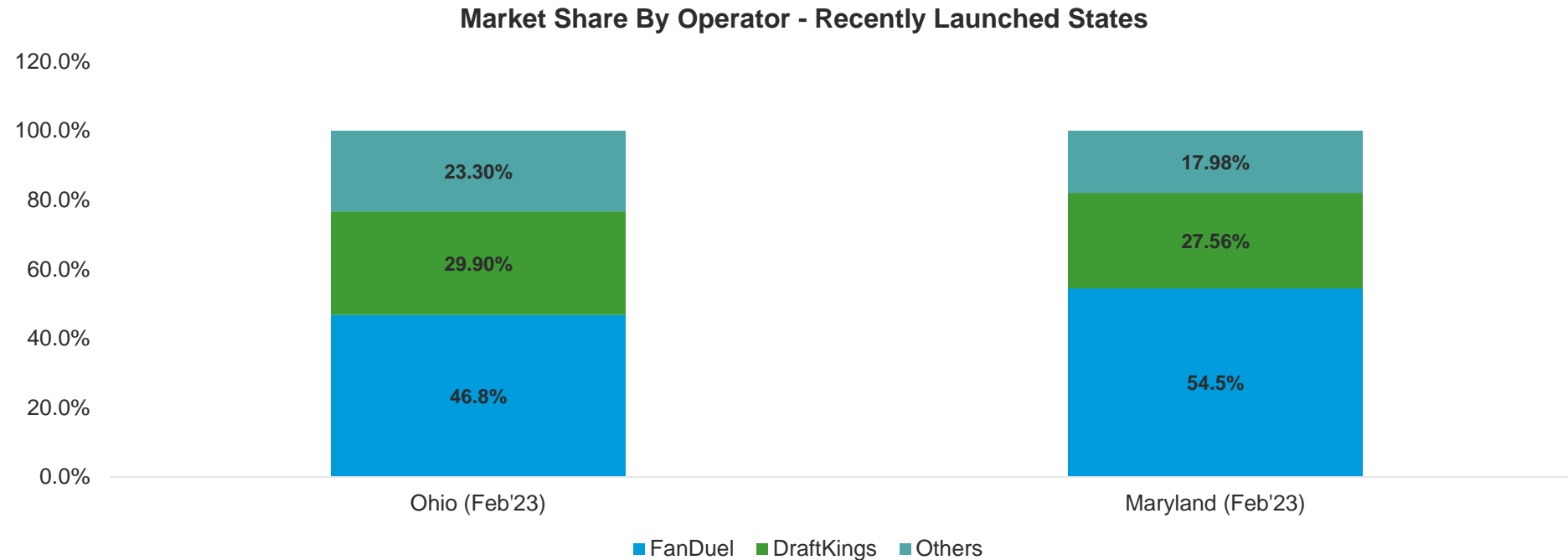


Notes: Connecticut was the only Established State to report both Promotional Play as well as GGR. Population was calculated using US Census data and a year-over-year average growth rate in each state. Online sports betting launched in Connecticut on October 19, 2021. As Such Connecticut's 2021 Q4 only represents a partial quarter of operating activity.

Market Share By Operator - Recently Launched States

RSM has reviewed the OSB GGR of the Recently Launched States of Ohio and Maryland. These states legalized sports betting in January 2023 and November 2022, respectively:

Key Observations: FanDuel dominates the Ohio market with a market share of 46.8%, and DraftKings trails behind with 29.9%. Although FanDuel has the majority share in Maryland, its market share decreased from 58.4% in February 2023 to 54.5% in March 2023.

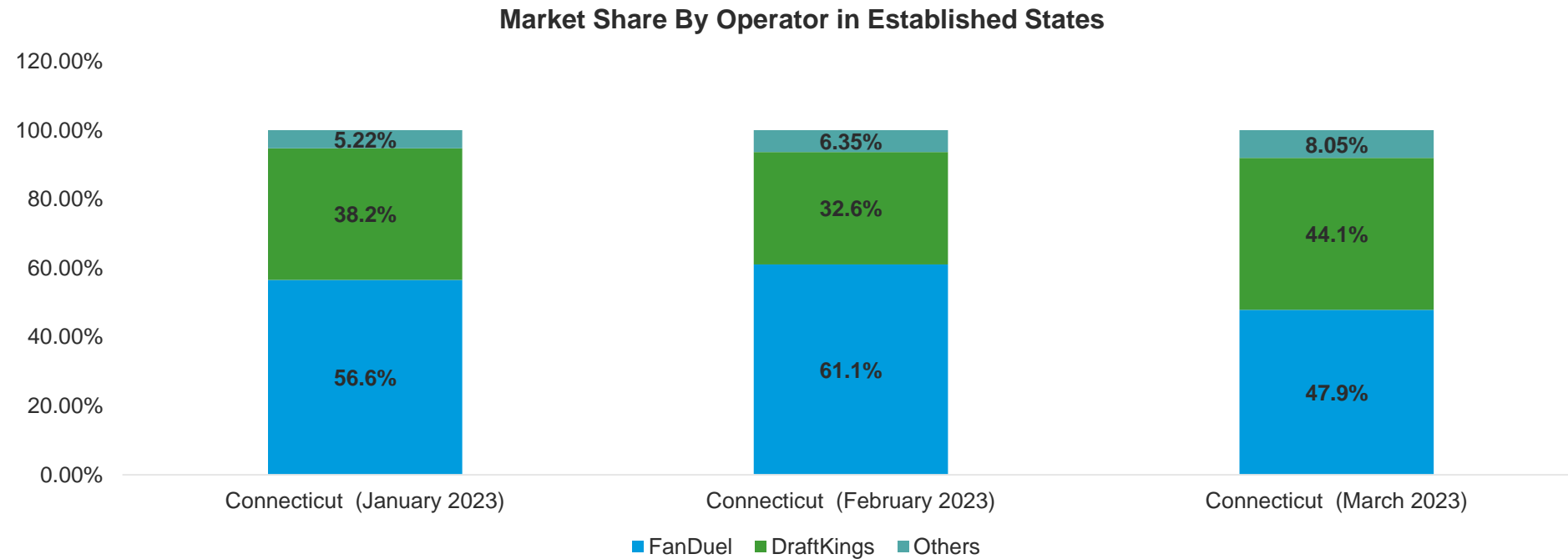


Notes: The State of Ohio has not yet released data for March 2023. Therefore, we have relied on the February 2023 data to gain insight into the current market share situation.

Market Share By Operator - Established States

RSM has reviewed the OSB GGR of the Established States:

Key Observations: Although FanDuel has maintained its position as the leading operator in the Connecticut market, its market share has decreased from 61.1% in February 2023 to 47.9% in March 2023. Meanwhile, DraftKings' market share has risen from 32.6% in February 2023 to 44.1% in March 2023.

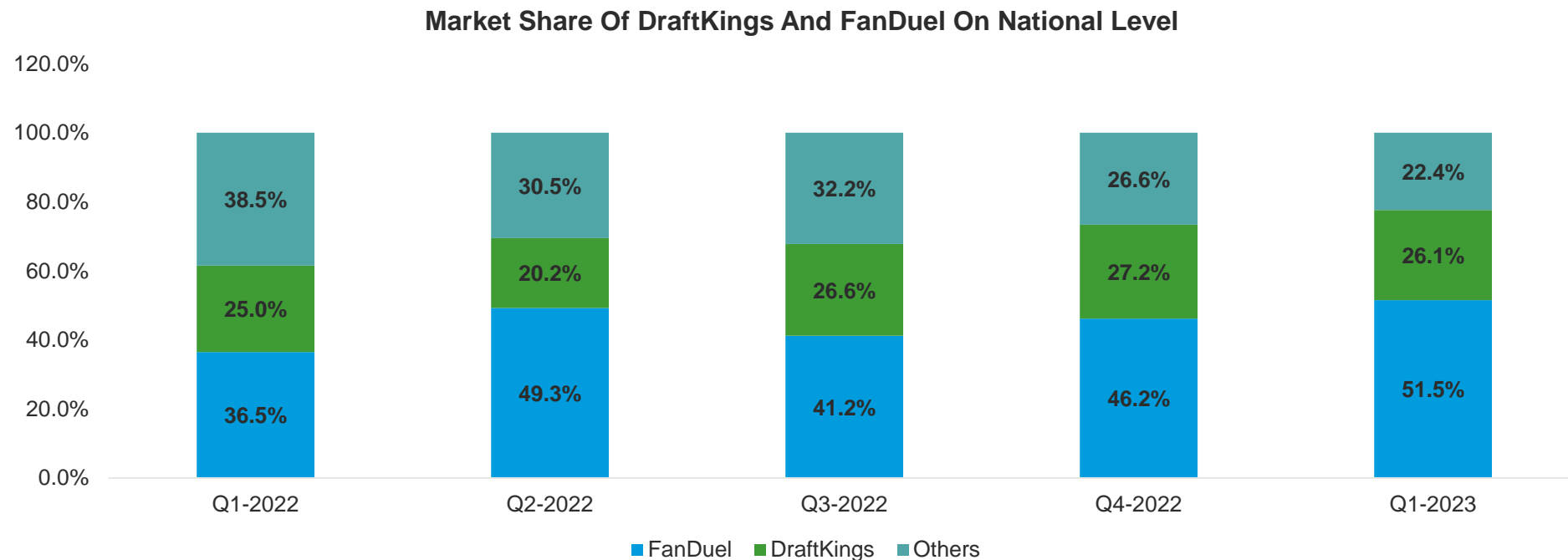


Notes: Connecticut was the only Established State to report OSB GGR at the operator level.

Market Share Of DraftKings And FanDuel On National Level

RSM reviewed the quarterly OSB GGR for years 2022 and 2023 as provided in a recent equity research report published by Deutsche Bank to better understand the market share of FanDuel and DraftKings at the national level:

Key Observations: FanDuel has experienced substantial growth in market presence, with its market share rising from 36.5% in Q1 2022 to 51.5% in Q1 2023. This increase has impacted the market share of the other competitors, which decreased from 38.5% to 22.4% during the same period. However, DraftKings has only seen a slight increase in its market share, from 25.0% to 26.1%.

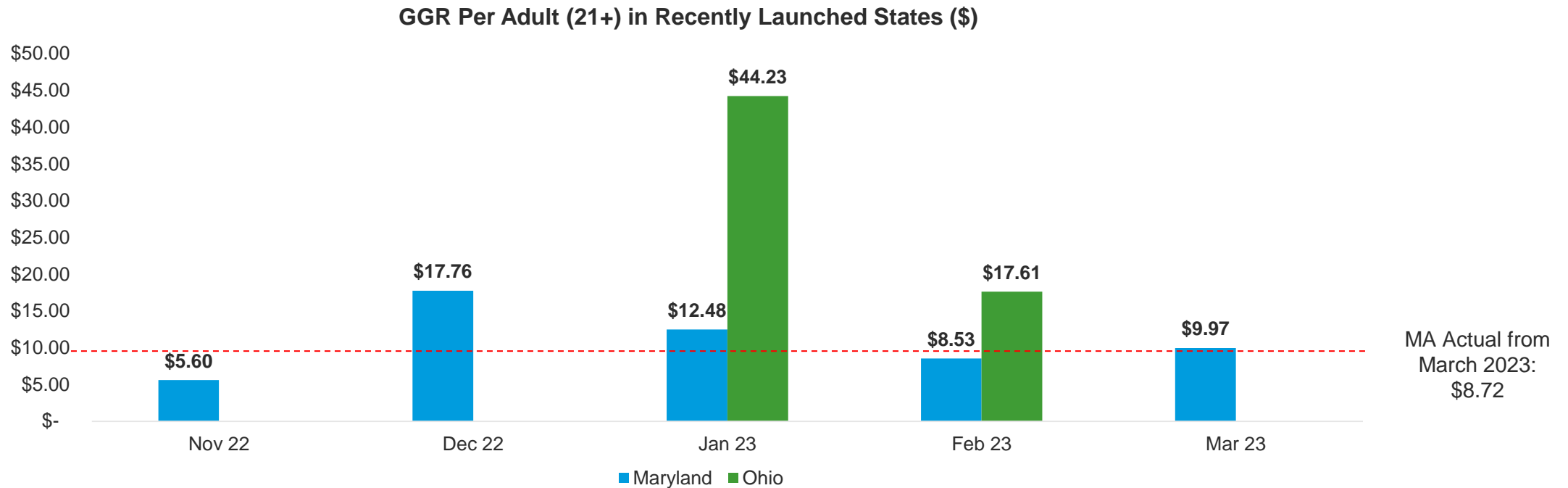


Source: Deutsche Bank Equity Research Report – Gaming Industry, dated March 27, 2023

OSB GGR – Recently Launched States

RSM analyzed the GGR per adult to compare and gain a better understanding of the demographics for the Recently Launched States of Maryland and Ohio:

Key Observations: Maryland maintained a GGR per adult ranging from \$5.60 to \$17.76. Ohio generated a GGR of \$44.23 per adult for the month of January 2023, but then experienced a sharp decline to \$17.61 per adult for the month of February 2023. This could be possibly due to excessive promotional campaigns during the first month of launch.

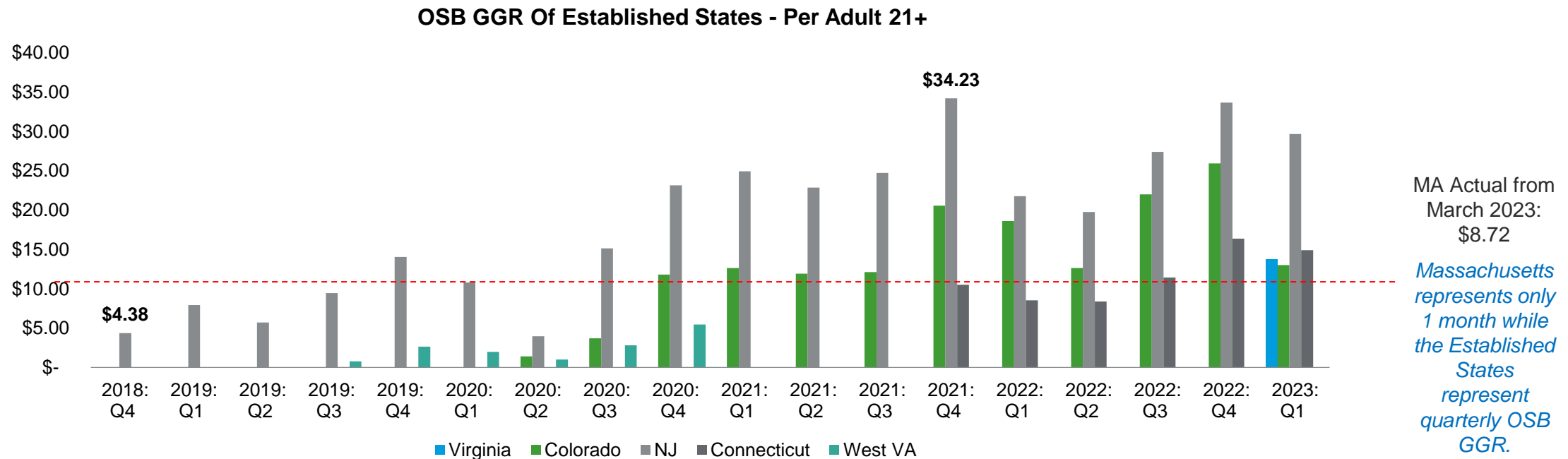


Notes: Maryland went live on November 23, 2022, and Ohio went live on January 1, 2023. The adult population was calculated using US Census data and each state's year-over-year average growth rate. Ohio has not published the data for the month of March 2023.

OSB GGR – Established States

RSM analyzed the GGR per adult for the Established States of Connecticut, Virginia, Colorado, West Virginia and New Jersey:

Key Observations: GGR per adult in New Jersey ranged from \$4.00 at its launch to \$34.00 Q4 2021. This could be due to increased participation rate and favorable regulatory policies in the state of NJ. Connecticut's GGR per adult remains at a considerable level but remains volatile as quarterly performance fluctuates quarter to quarter.

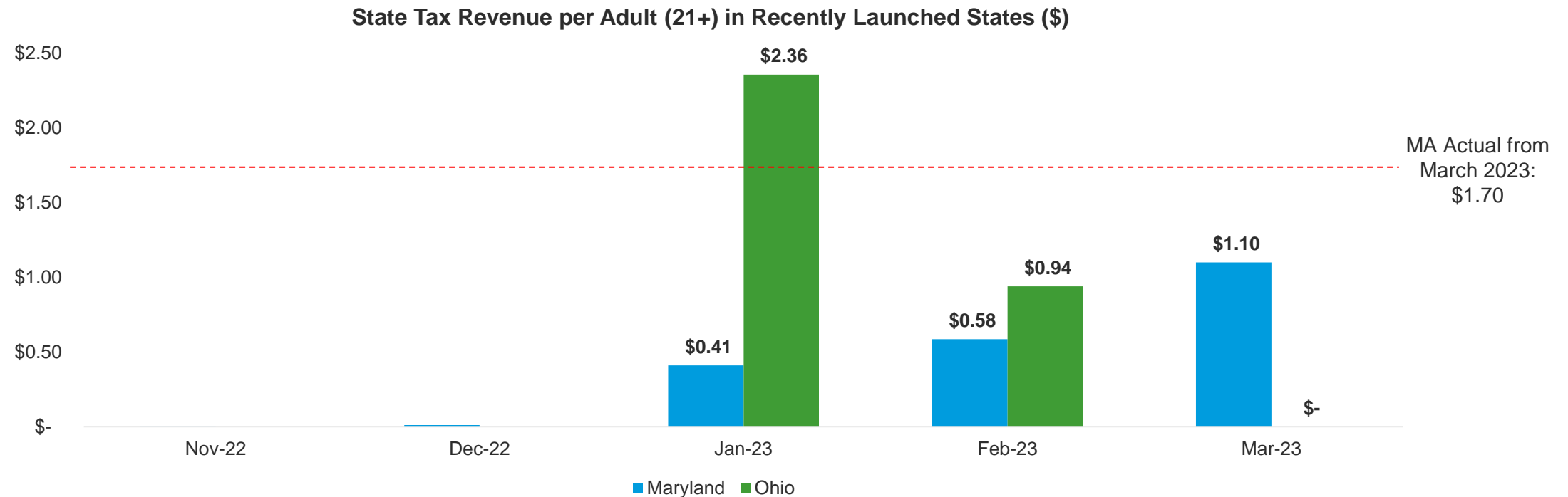


Notes: In 2023, Virginia began separating OSB and Retail Sports Betting in their reporting. West Virginia separated OSB and Retail Sports Betting in their reports until 2021. The population was calculated using US Census data and a year-over-year average growth rate in each state. Online sports betting launched in Colorado on May 1, 2020 and in Connecticut on October 19, 2021. As such, Colorado's Q2 2020 and Connecticut's 2021 Q4 only represent a partial quarter of operating activity.

Tax Revenue – Recently Launched States

RSM reviewed OSB data to compare tax revenue of the Recently Launched States:

Key Observations: In Maryland, tax revenue has increased in each month since their launch date, increasing to \$1.10 per adult in the month of March 2023. Tax revenues in Ohio peaked in the first month at \$2.36 per adult.

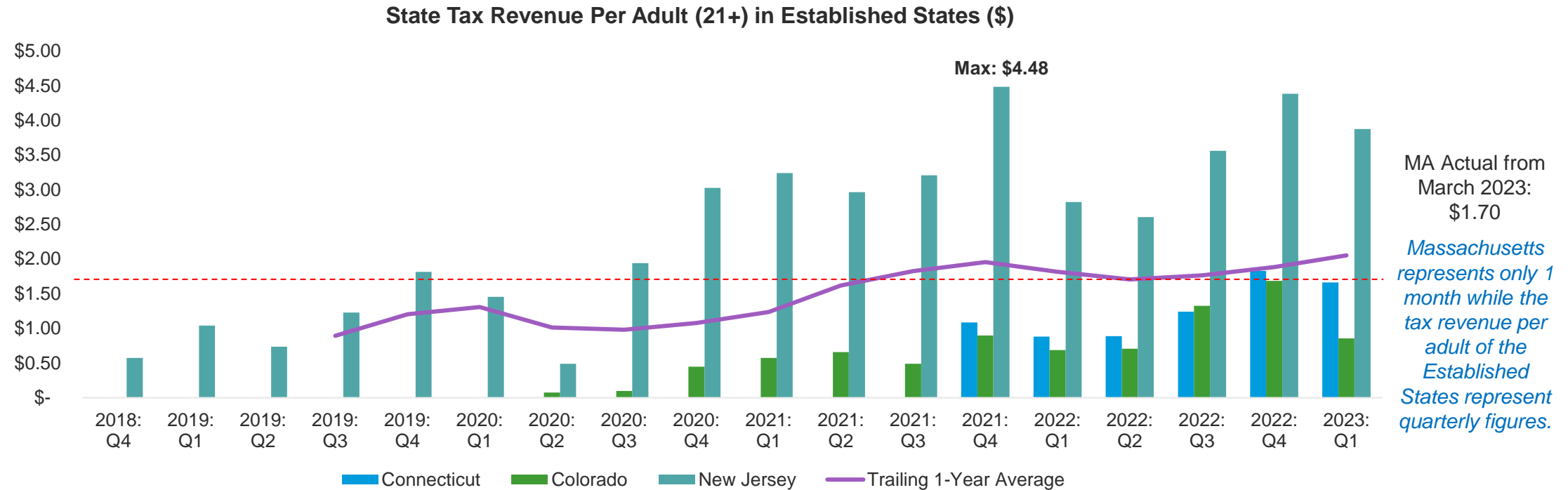


Notes: OSB launched on November 23, 2022 in the state of Maryland. As such, Maryland's November 2022 period is comprised of only eight operating days. OSB in the state of Ohio launched on January 1, 2023. Ohio has not reported March 2023 actuals as of April 27, 2023. Tax revenue in Ohio was calculated by applying a 10% tax rate to the figure Ohio disclosed as "Taxable Revenue." The adult population of each state was found using census estimates. When census data was unavailable, an average growth rate based on previous years was assumed.

Tax Revenue – Established States

RSM reviewed OSB data to compare tax revenue among the Established States:

Key Observations: Tax revenues have fluctuated from quarter-to-quarter, but have generally increased over time as the OSB market has expanded. New Jersey's per adult tax revenue peaked in Q4 2021 of \$4.48 per adult.



Notes: Online sports betting launched in Colorado on May 1, 2020 and in Connecticut on October 19, 2021. As such, Colorado's Q2 2020 and Connecticut's 2021 Q4 only represent a partial quarter of operating activity and resulting tax revenue. The adult population of each state was found using census estimates. When census data was unavailable, an average growth rate based on previous years was assumed.

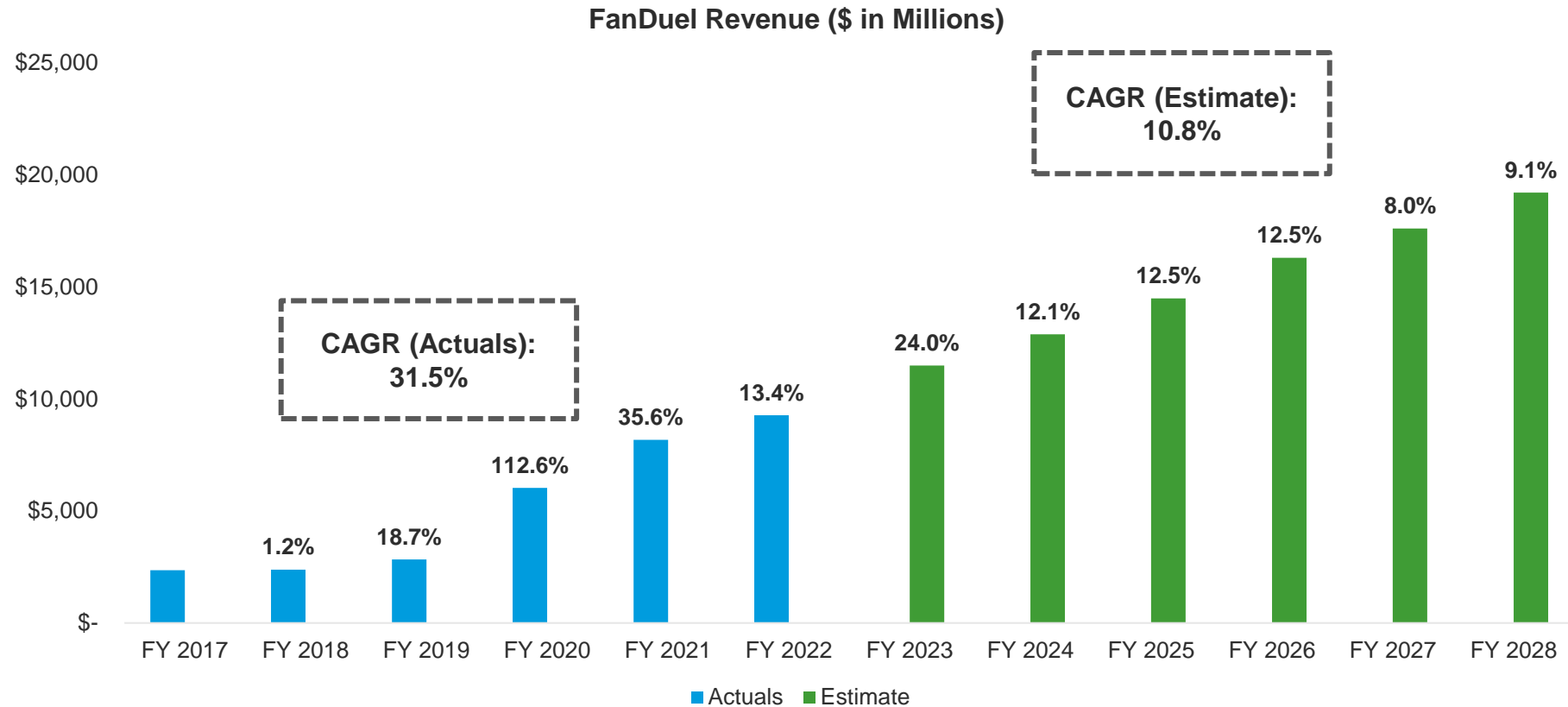


FINANCIAL OUTLOOK BY OPERATOR: DRAFTKINGS & FANDUEL

FanDuel: Company Outlook - Revenue

RSM analyzed the historical and consensus estimates of Flutter Entertainment plc (“FanDuel”) as provided by S&P Capital IQ to highlight FanDuel’s company-wide performance historically and on a forward-looking basis.

Key Observations: FanDuel has annual revenue growth ranging from 1.2% to 112.6% over the past 5 years. Consensus estimates indicate that double-digit revenue growth will continue to persist through 2026 as additional jurisdictions legalize sports betting and existing jurisdictions continue to mature.

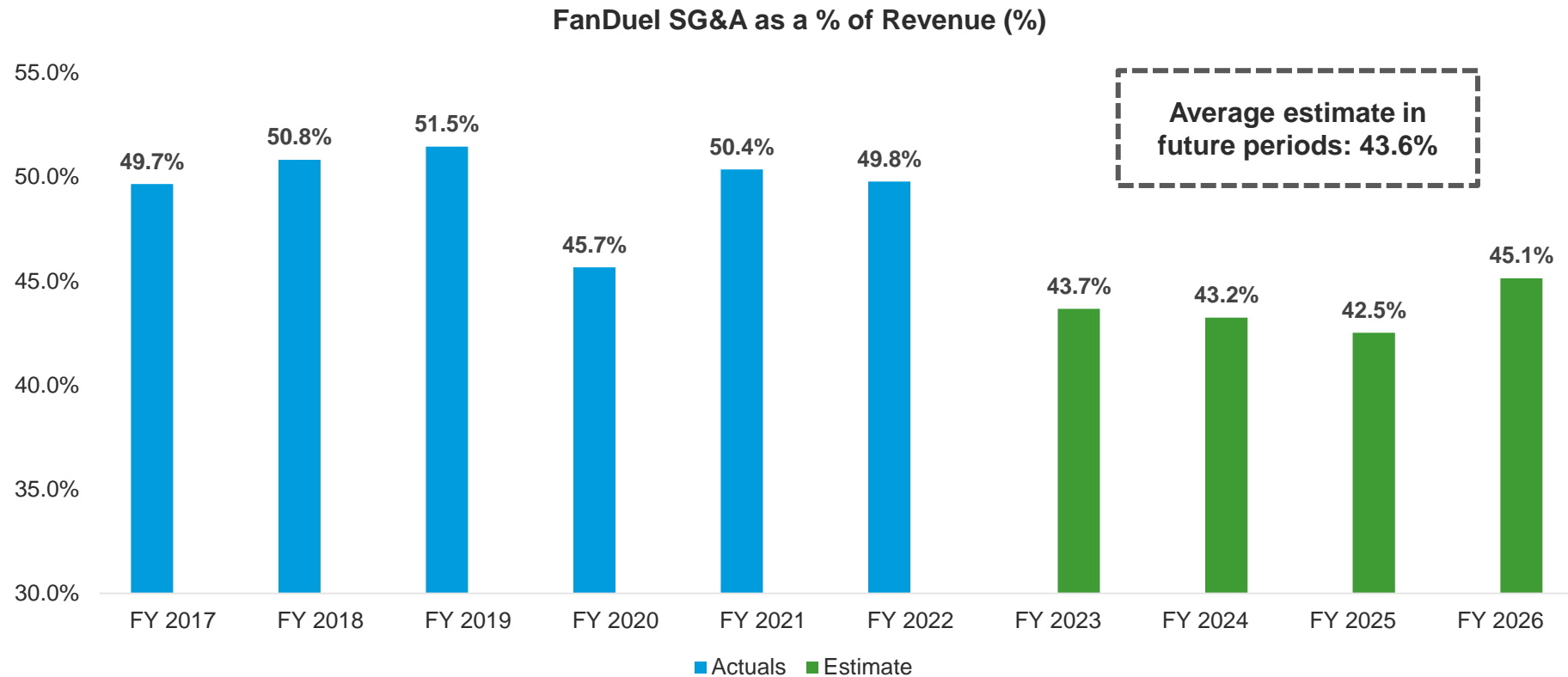


Source: S&P Capital IQ

FanDuel: Company Outlook – SG&A as a % of Revenue

RSM analyzed the historical and consensus estimates of Flutter Entertainment plc (“FanDuel”) as provided by S&P Capital IQ to highlight FanDuel’s company-wide performance historically and on a forward-looking basis.

Key Observations: FanDuel’s historical SG&A (as a % of revenue) has averaged approximately 49.6% annually. Consensus estimates suggest that SG&A levels will trend slightly lower going forward, to an average of approximately 43.6% of revenues. This decline indicates improving profitability margins for FanDuel as the company benefits from economies of scale of their sportsbook platform.

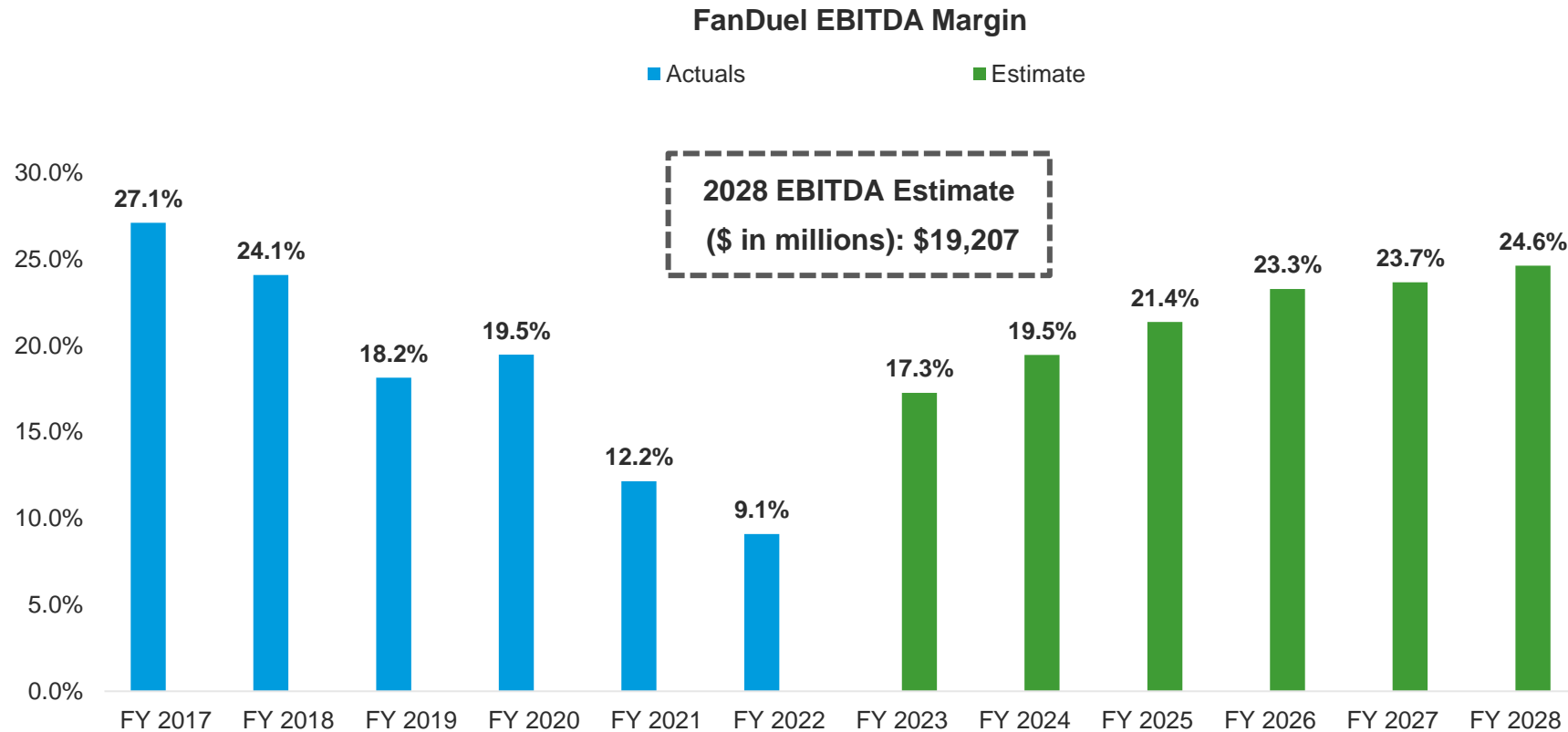


Notes: Data sourced from S&P Capital IQ. Estimated SG&A operating costs were calculated as the difference between gross profit and EBITDA.

FanDuel: Company Outlook - EBITDA

RSM analyzed the historical and consensus estimates of Flutter Entertainment plc (“FanDuel”) as provided by S&P Capital IQ to highlight FanDuel’s company-wide performance historically and on a forward-looking basis.

Key Observations: FanDuel has reported positive EBITDA margins, ranging from 9.1% to 27.1%, over the past 5 years. Additionally, consensus estimates indicate margin expansion through 2028 as the company benefits from economies of scale of their sportsbook platform.

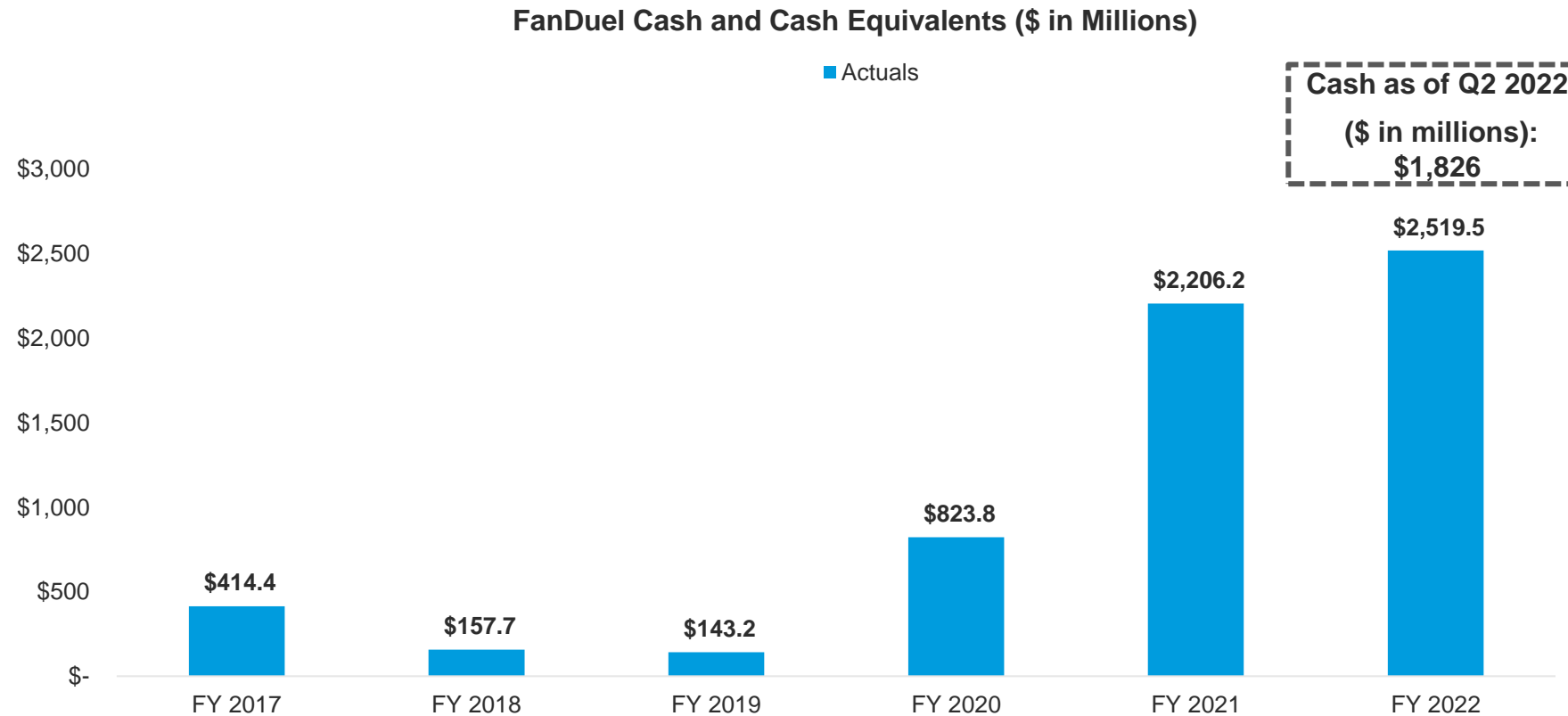


Source: S&P Capital IQ

FanDuel: Company Outlook - Liquidity

RSM analyzed the historical liquidity position of Flutter Entertainment plc (“FanDuel”) as provided by S&P Capital IQ to highlight FanDuel’s liquidity resources at the company’s disposal for ongoing operations:

Key Observations: FanDuel had \$2.5 billion in cash and cash equivalents as of December 31, 2022. Additionally, per the FanDuel annual report dated March 1, 2023, FanDuel has additional liquidity resources of £675 million via undrawn availability under its revolving credit facilities.

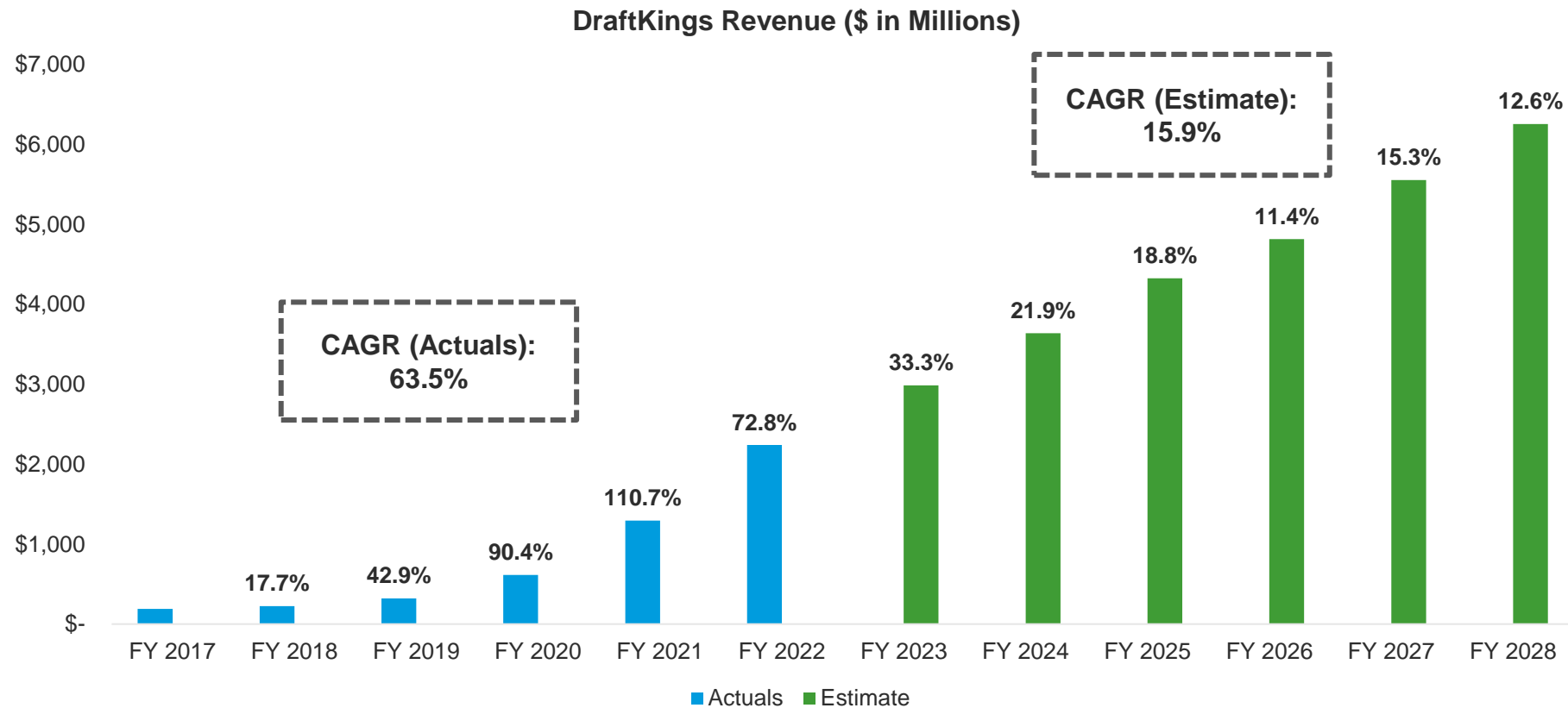


Source: S&P Capital IQ

DraftKings: Company Outlook - Revenue

RSM analyzed the historical and consensus estimates of DraftKings as provided by S&P Capital IQ to highlight DraftKings' company-wide performance historically and on a forward-looking basis:

Key Observations: DraftKings has reported double-digit annual revenue growth over the past 5 years. Consensus estimates indicate that double-digit revenue growth will continue to persist through 2028 as additional jurisdictions legalize sports betting and existing jurisdictions continue to mature.

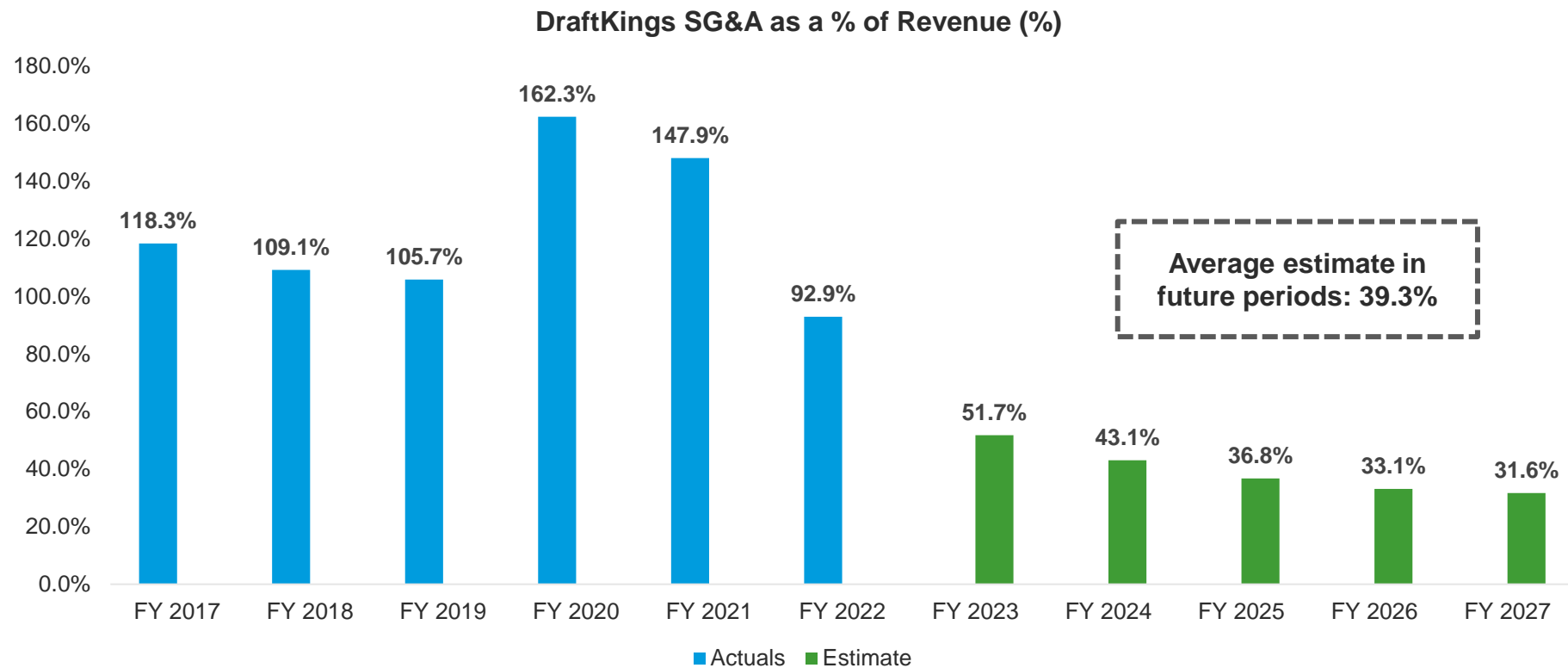


Source: S&P Capital IQ

DraftKings: Company Outlook – SG&A as a % of Revenue

RSM analyzed the historical and consensus estimates of DraftKings as provided by S&P Capital IQ to highlight DraftKings' company-wide performance historically and on a forward-looking basis.

Key Observations: DraftKings' historical SG&A (as a % of revenue) has averaged over 122.7% of revenues annually and peaked in FY 2020 at 162.3% of revenues. However, SG&A levels (as % of revenue) fell significantly in FY 2022 and consensus estimates indicate further reductions as revenues rise going forward. This decline indicates a shift toward profitability as the company benefits from economies of scale of their sportsbook platform.

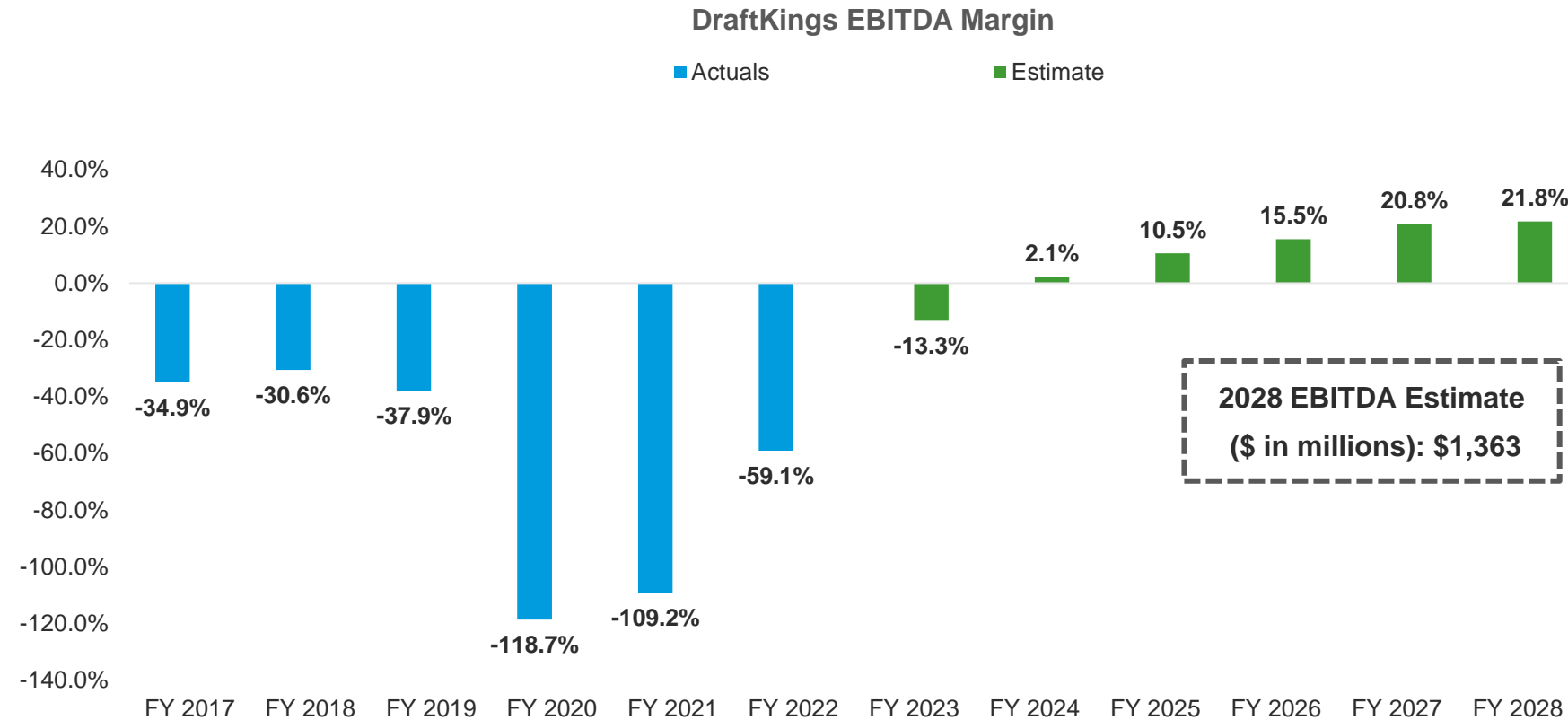


Notes: Data sourced from S&P Capital IQ. Estimated SG&A operating costs were calculated as the difference between gross profit and EBITDA.

DraftKings: Company Outlook - EBITDA

RSM analyzed the historical and consensus estimates of DraftKings as provided by S&P Capital IQ to highlight DraftKings' company-wide performance historically and on a forward-looking basis:

Key Observations: DraftKings has reported EBITDA margin improvement from 2020 to 2022. Additionally, consensus estimates indicate that DraftKings will become profitable by 2024 and margin expansion will continue through 2028 as the company benefits from economies of scale of their sportsbook platform.



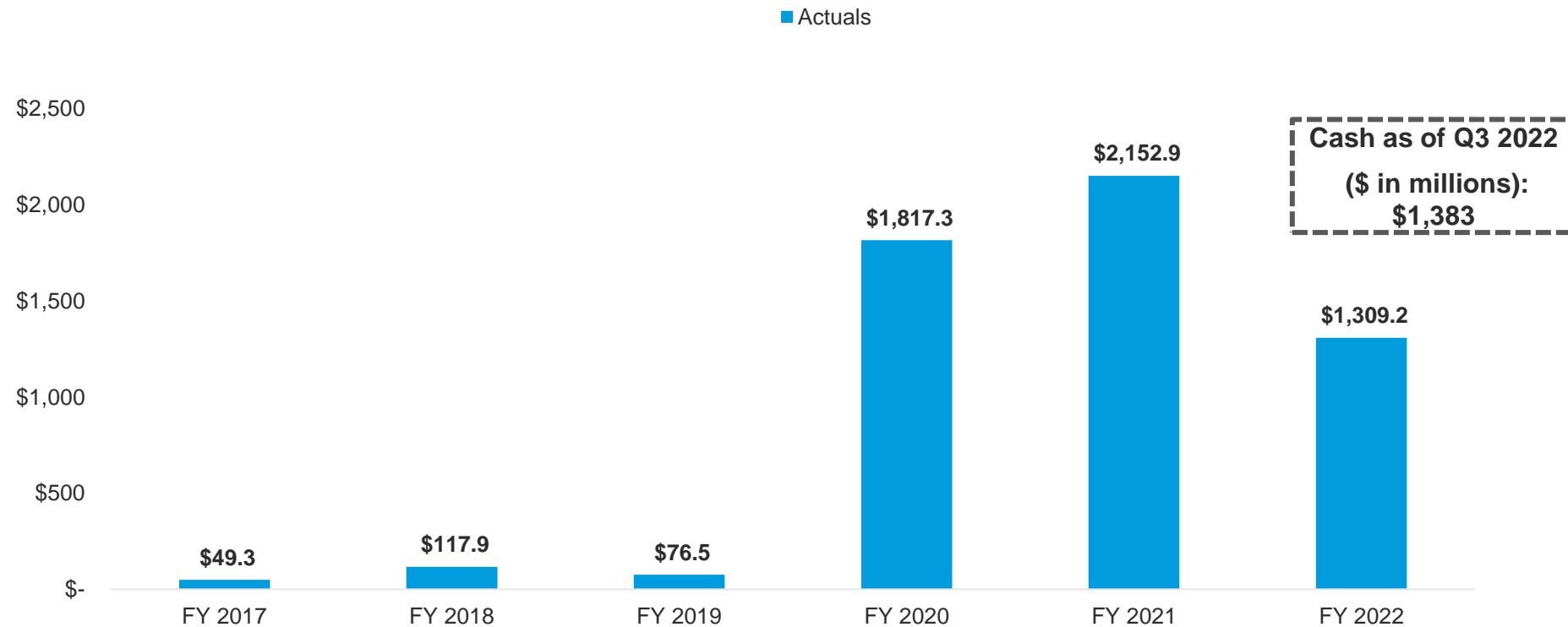
Source: S&P Capital IQ

DraftKings: Company Outlook - Liquidity

RSM analyzed the historical liquidity position of DraftKings as provided by S&P Capital IQ to highlight DraftKings' liquidity resources at the company's disposal for ongoing operations:

Key Observations: DraftKings had \$1.3 billion in cash and cash equivalents as of December 31, 2022. Per the DraftKings 10-K, DraftKings' management believes that the cash balance on hand as of December 31, 2022 is sufficient to meet current working capital and capital expenditure requirements for a period of at least twelve months.

DraftKings Cash and Cash Equivalents (\$ in Millions)



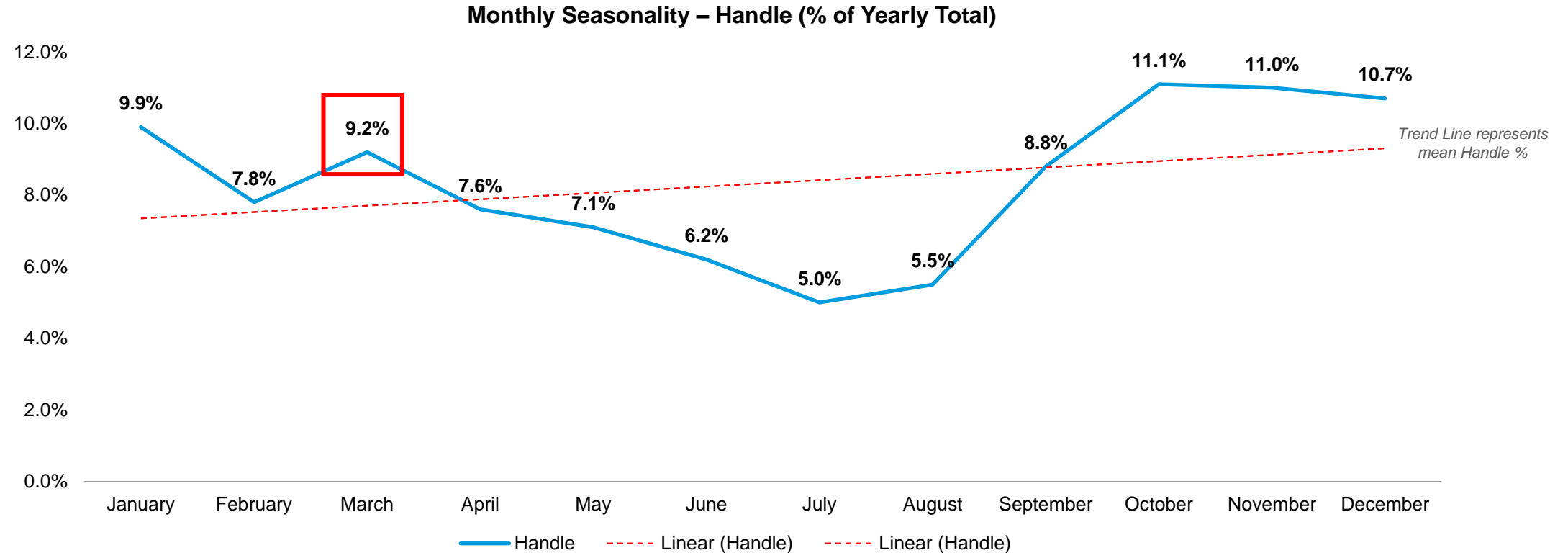
Source: S&P Capital IQ



SEASONALITY ANALYSIS

OSB Seasonality: Monthly Handle

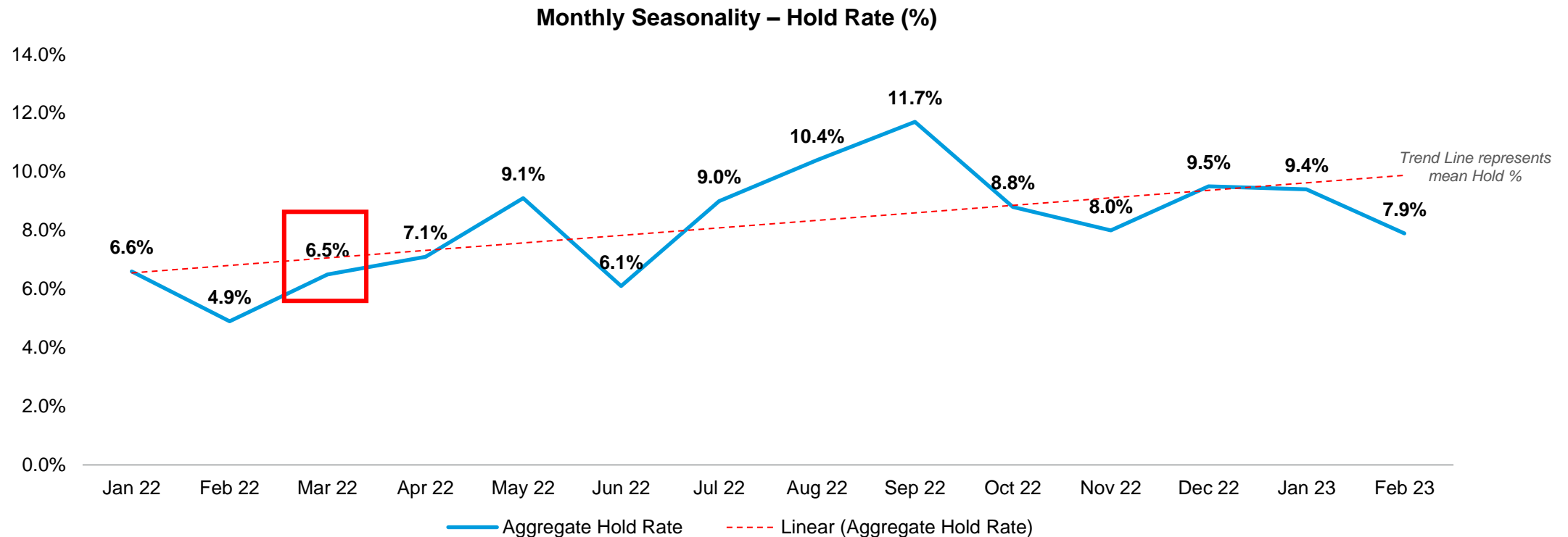
Per research provided by Deutsche Bank, OSB users place approximately 9.2% of annual wagers during the month of March, which is typically the **5th** highest month of each year.



Source: Deutsche Bank Equity Research Report – Gaming Industry, dated March 27, 2023

OSB Seasonality: Monthly Hold Rate

As illustrated in the chart below, Operators' aggregate hold rate was 6.5% in March.



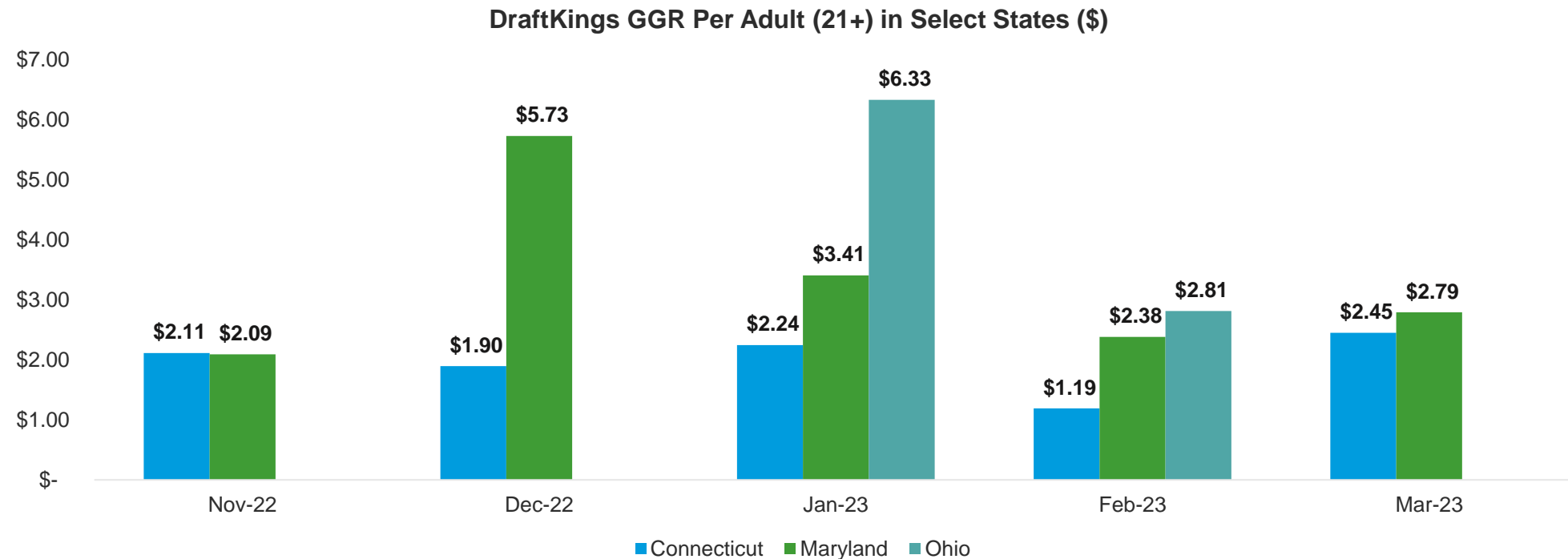
Source: Deutsche Bank Equity Research Report – Gaming Industry, dated March 27, 2023. Data sample size is 29 states

APPENDIX A: SUPPLEMENTAL ANALYSIS: FANDUEL & DRAFTKINGS

DraftKings: OSB GGR Per Adult in Select States

RSM utilized data as reported by Connecticut, Ohio and Maryland to perform a trend analysis of the OSB GGR of DraftKings:

Key Observations: DraftKings experienced an initial surge in OSB GGR in the first full-month of operations in Ohio and Maryland. In Ohio, OSB GGR fell by over 50.0% after this opening month of operations. Activity may have fallen as the preliminary excitement regarding legalization of OSB in the state diminished. Similarly, in Maryland, OSB GGR fell during the two months after launch before rising again in the fourth month.

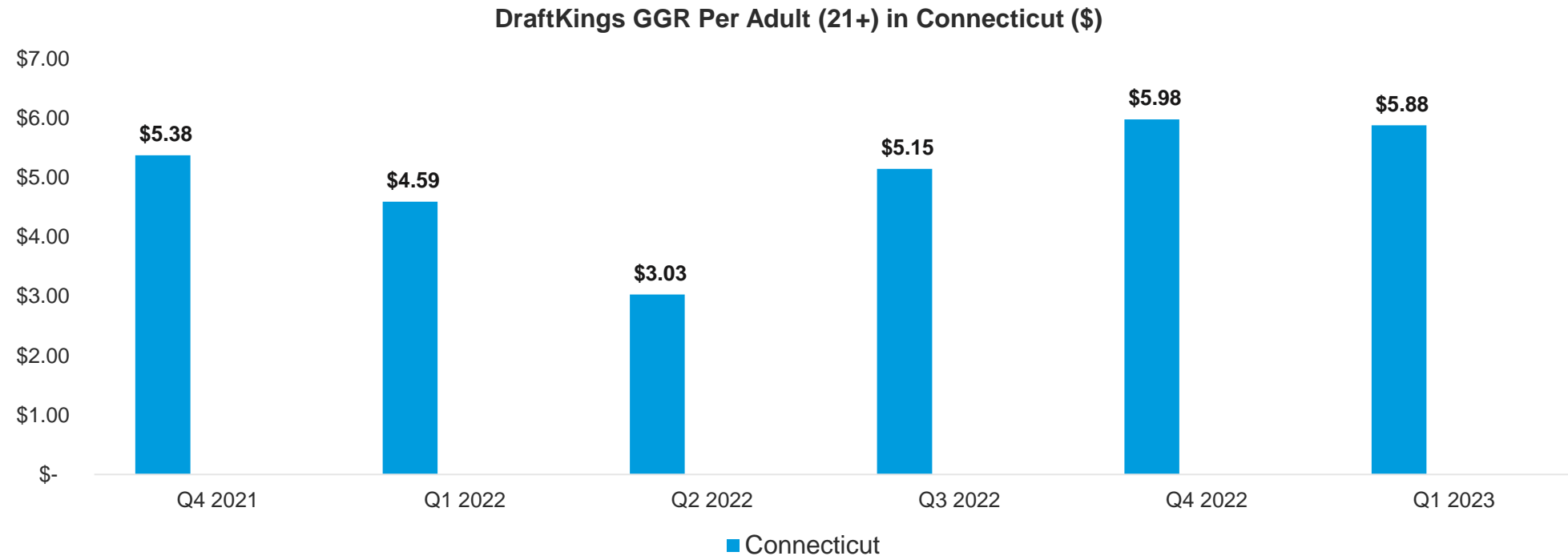


Notes: OSB launched on November 23, 2022 in the state of Maryland and on October 19, 2021 in the state of Connecticut, respectively. As such, Maryland's November 2022 period and Connecticut's October 2021 period are comprised of only eight and thirteen operating days, respectively. OSB in the state of Ohio launched on January 1, 2023. Ohio has not reported March 2023 actuals as of April 25, 2023

DraftKings: OSB GGR Per Adult in Select States

RSM utilized data as reported by Connecticut to perform a trend analysis of the OSB GGR of DraftKings:

Key Observations: DraftKings' OSB GGR fluctuated in Connecticut quarterly, ranging from \$3.03 to \$5.98 per adult since launch. DraftKings revenues demonstrate seasonal variability, falling during the spring and summer as many prominent sports leagues enter the off-season. On a year-over-year basis, DraftKings' Q1 2023 OSB GGR in Connecticut grew by 28.1% as of March 2023.

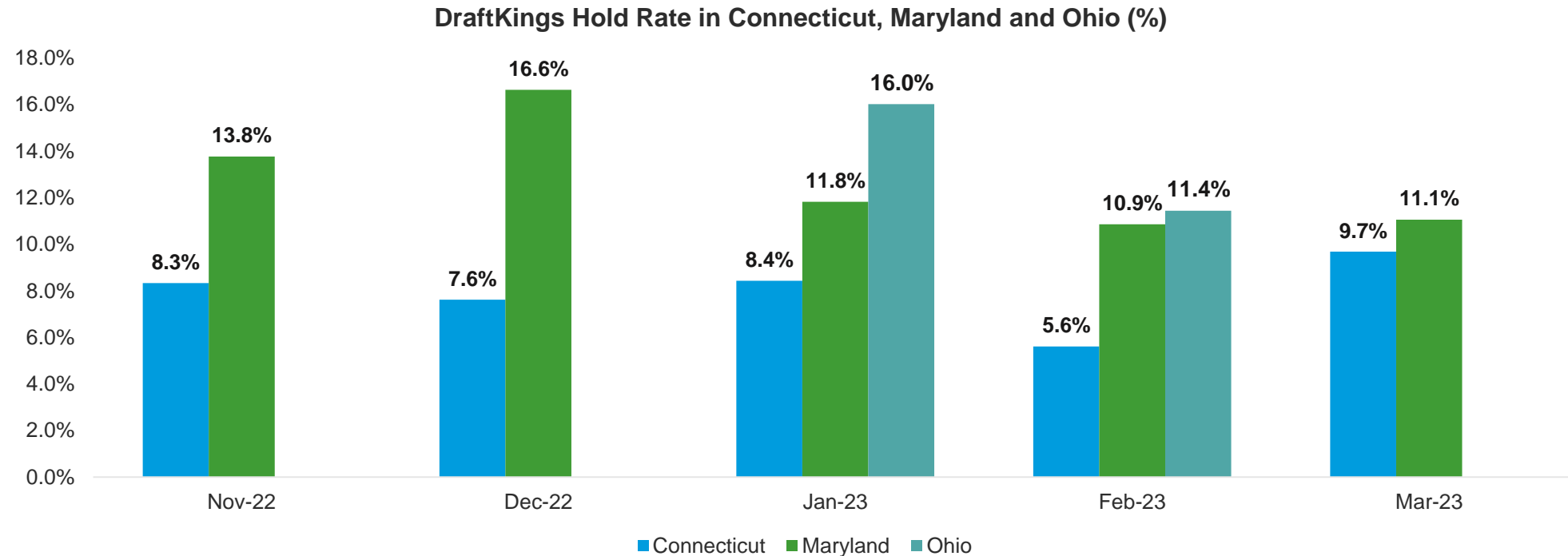


Notes: OSB launched on October 19, 2021 in the state of Connecticut.

DraftKings: Hold Rate in Select States

RSM utilized data as reported by Connecticut, Ohio and Maryland to perform a trend analysis of the Hold Rate of DraftKings:

Key Observations: Both Ohio and Maryland reported relatively high Hold Rates (above 13.0%) for DraftKings in the initial month of operations. This fell in line with Connecticut shortly after launch. In the most recently available data, DraftKings had a Hold Rate of 9.7%, 11.1%, and 11.4% in Connecticut, Maryland, and Ohio, respectively.

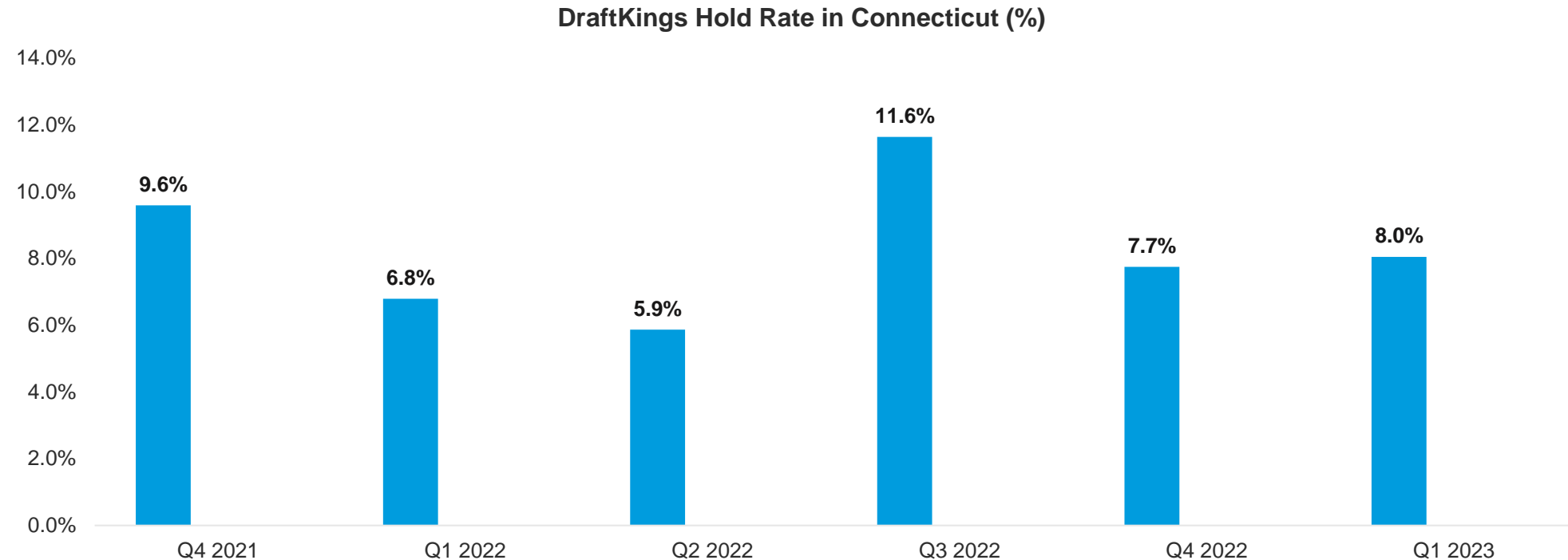


Notes: OSB launched on November 23, 2022 in the state of Maryland and on October 19, 2021 in the state of Connecticut, respectively. As such, Maryland's November 2022 period and Connecticut's October 2021 period are comprised of only eight and thirteen operating days, respectively. OSB in the state of Ohio launched on January 1, 2023. Ohio has not reported March 2023 actuals as of April 25, 2023

DraftKings: OSB Hold Rate in Select States

RSM utilized data as reported by Connecticut to perform a trend analysis of the Hold Rates of DraftKings:

Key Observations: DraftKings' Hold Rates in Connecticut have ranged from 5.9% to 11.6%, and DraftKings has not sustained a consistent upward or downward trend, which illustrates the seasonality of sports betting. Hold Rate is affected by the odds set by the sportsbook and the outcomes of the underlying sporting events.

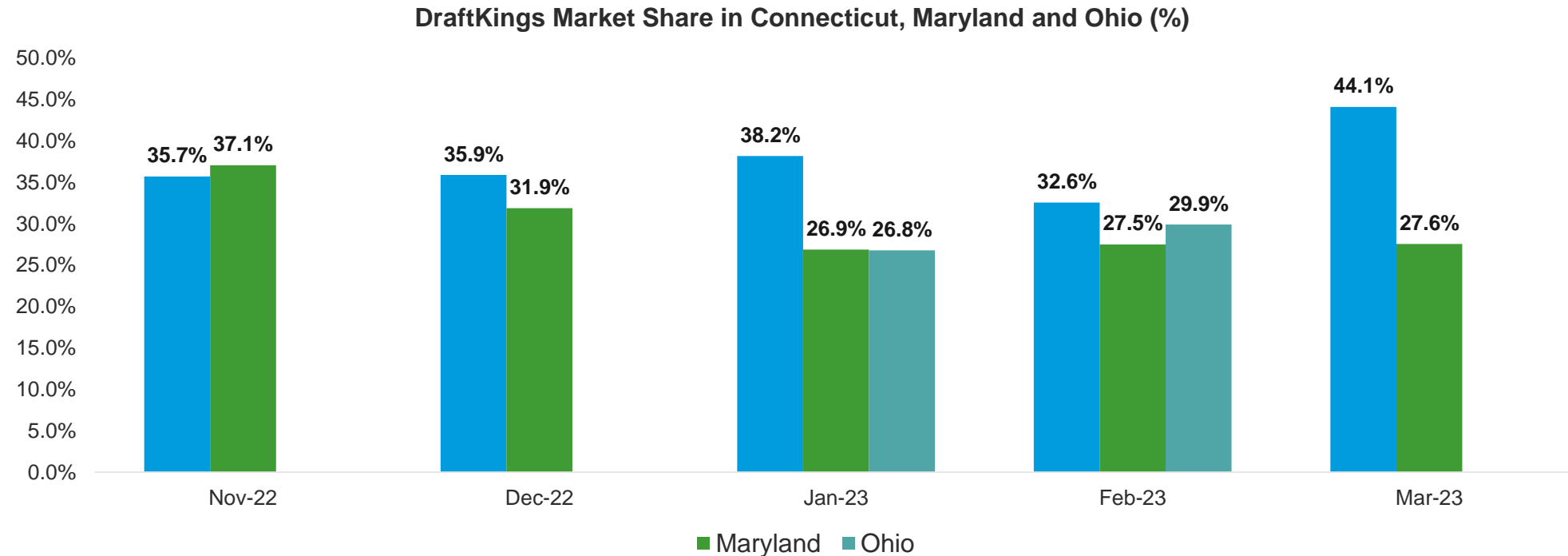


Notes: OSB launched on October 19, 2021 in the state of Connecticut.

DraftKings: Market Share in Select States

RSM utilized data as reported by Connecticut, Ohio and Maryland to perform a trend analysis of DraftKings' Market Share:

Key Observations: DraftKings has garnered a strong market share in the states it has entered. In Maryland and Ohio, DraftKings consistently ranks 2nd in market share behind FanDuel with an OSB GGR market share ranging from 26.7% and 37.1%.

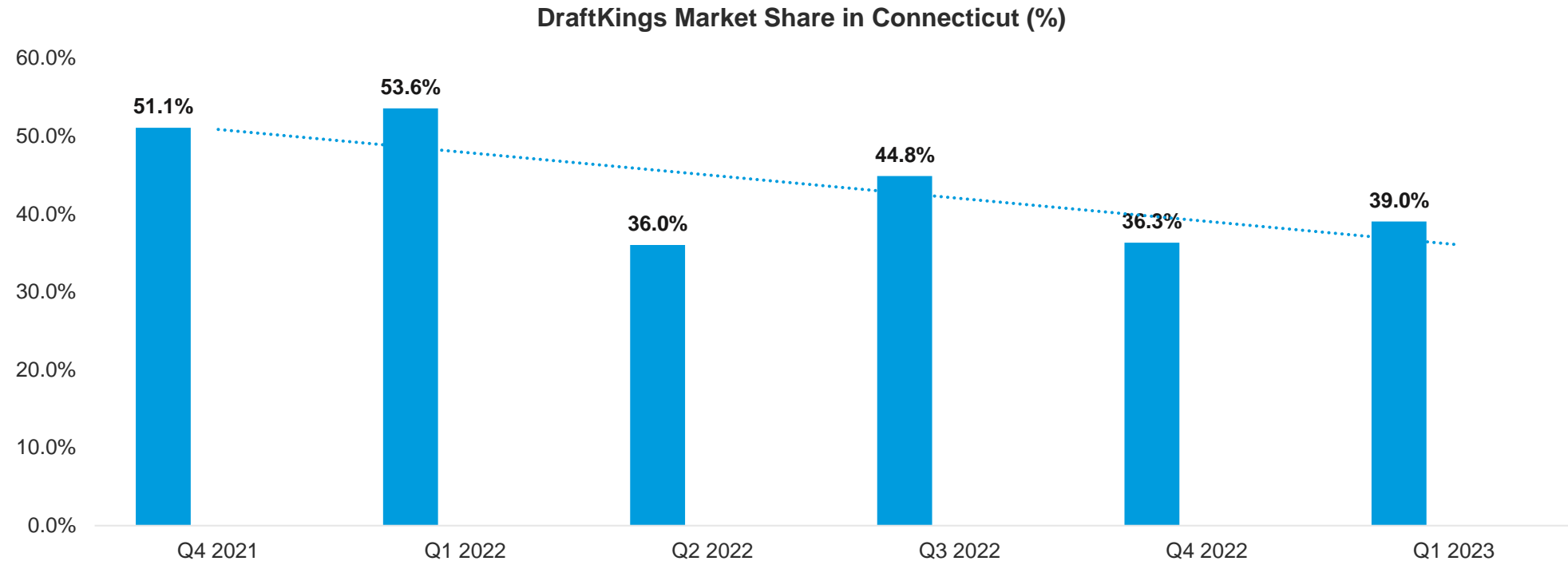


Notes: OSB launched on November 23, 2022 in the state of Maryland and on October 19, 2021 in the state of Connecticut, respectively. As such, Maryland's November 2022 period and Connecticut's October 2021 period are comprised of only eight and thirteen operating days, respectively. OSB in the state of Ohio launched on January 1, 2023. Ohio has not reported March 2023 actuals as of April 25, 2023

DraftKings: Market Share in Select States

RSM utilized data as reported by Connecticut to perform a trend analysis of DraftKings' Market Share:

Key Observations: DraftKings was the largest sportsbook in Connecticut at launch. They have since given up market share to FanDuel, but still rank well above SugarHouse, the only other operator in the state. During the month of March 2023, DraftKings held a market share of 44%, slightly behind FanDuel. On a quarterly basis, their most recent market share was slightly lower at 39.0%.

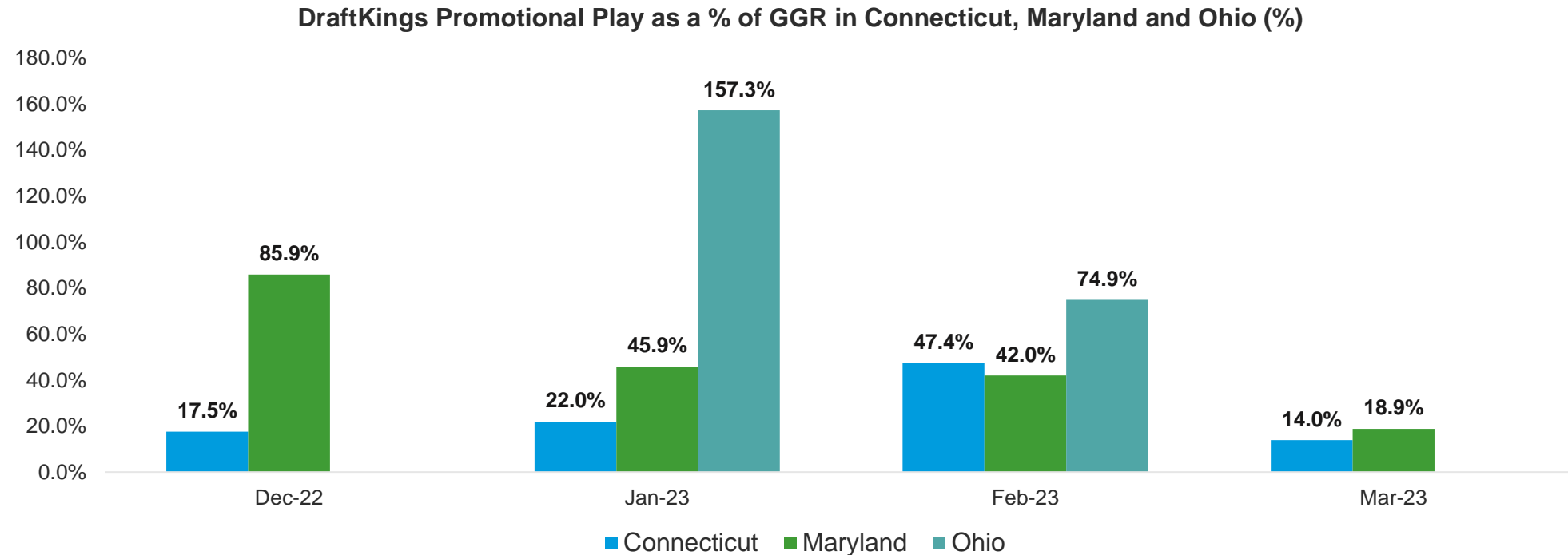


Notes: OSB on October 19, 2021 in the state of Connecticut.

DraftKings: Promotional Play as a Percent of GGR in Select States

RSM utilized data as reported by Connecticut, Ohio and Maryland to perform a trend analysis of the DraftKings' Promotional Play:

Key Observations: At launch in a new state, DraftKings bonuses have been substantial and as a percentage of GGR have exceeded 50%. In subsequent months, this ratio has trended downward as the sportsbook gains market share. DraftKings provided more bonuses in January in Ohio than they earned in GGR over the same period. Bonuses were \$86.7 million while GGR was only \$55.1 million. The trend was similar in Maryland. In both states, the ratio declined after launch indicating improved profitability for the sportsbook.

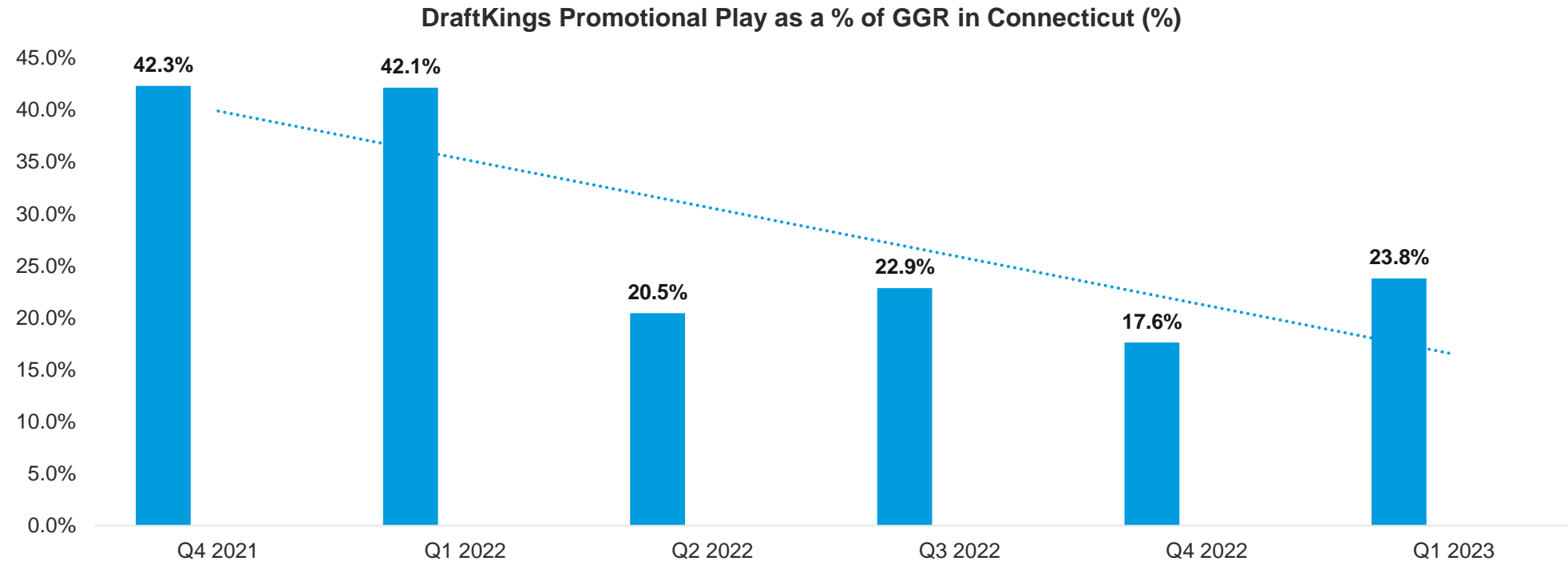


Notes: OSB launched on November 23, 2022 in the state of Maryland and October 19, 2021 in the state of Connecticut, respectively. Many bets made in this partial month may not have been settled as GGR until the following month. As a result, the ratio of bonuses to GGR may not be representative of a normal operations. In Maryland, an outlier of 276.6% from November 2022 has been excluded from the chart. OSB in the state of Ohio launched on January 1, 2023. Ohio has not reported March 2023 actuals as of April 25, 2023.

DraftKings: Promotional Play as a Percent of GGR in Select States

RSM utilized data as reported by Connecticut to perform a trend analysis of the DraftKings' promotional play:

Key Observations: DraftKings bonuses and promotions have declined by over 50% in Connecticut since launch indicating improved profitability for the sportsbook and a shift out of the preliminary customer acquisition phase.

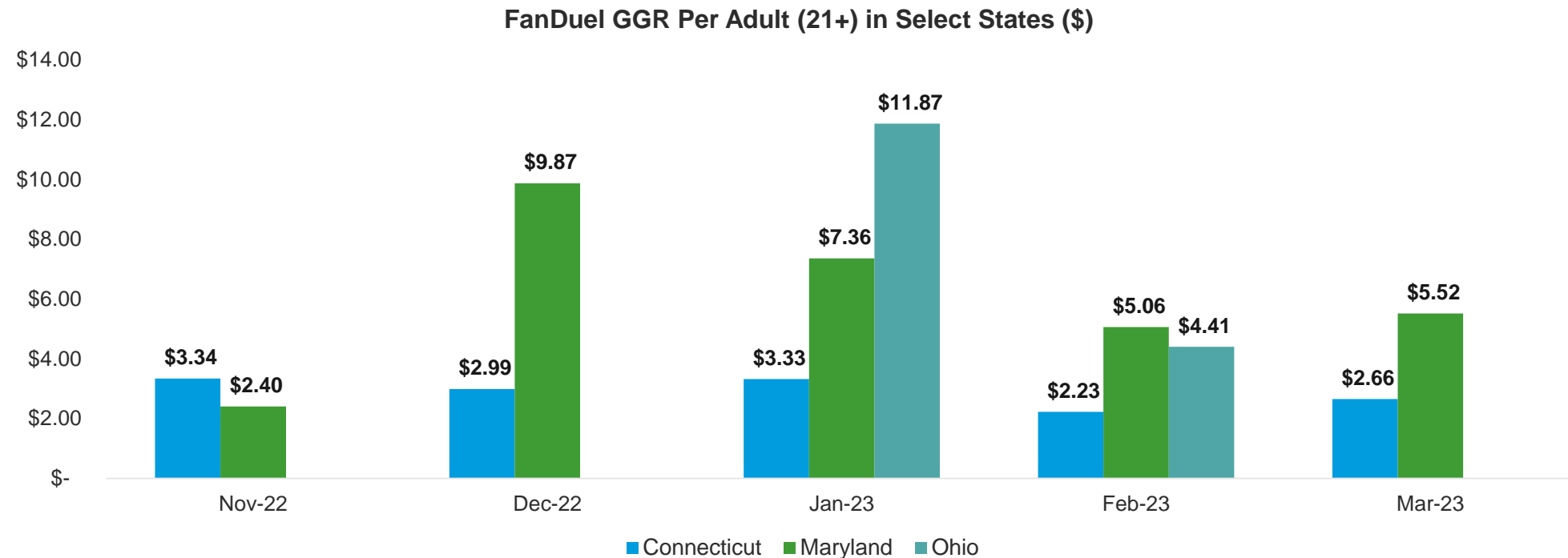


Notes: OSB launched on October 19, 2021 in the state of Connecticut.

FanDuel: OSB GGR Per Adult in Select States

RSM utilized data as reported by Connecticut, Ohio and Maryland to perform a trend analysis of the OSB GGR of FanDuel:

Key Observations: Similar to DraftKings, FanDuel experienced an initial surge in OSB GGR in the first full-month of operations in Ohio and Maryland. In Ohio, OSB GGR fell by 62.8% after this opening month of operations. FanDuel brought in more GGR than DraftKings in both states.

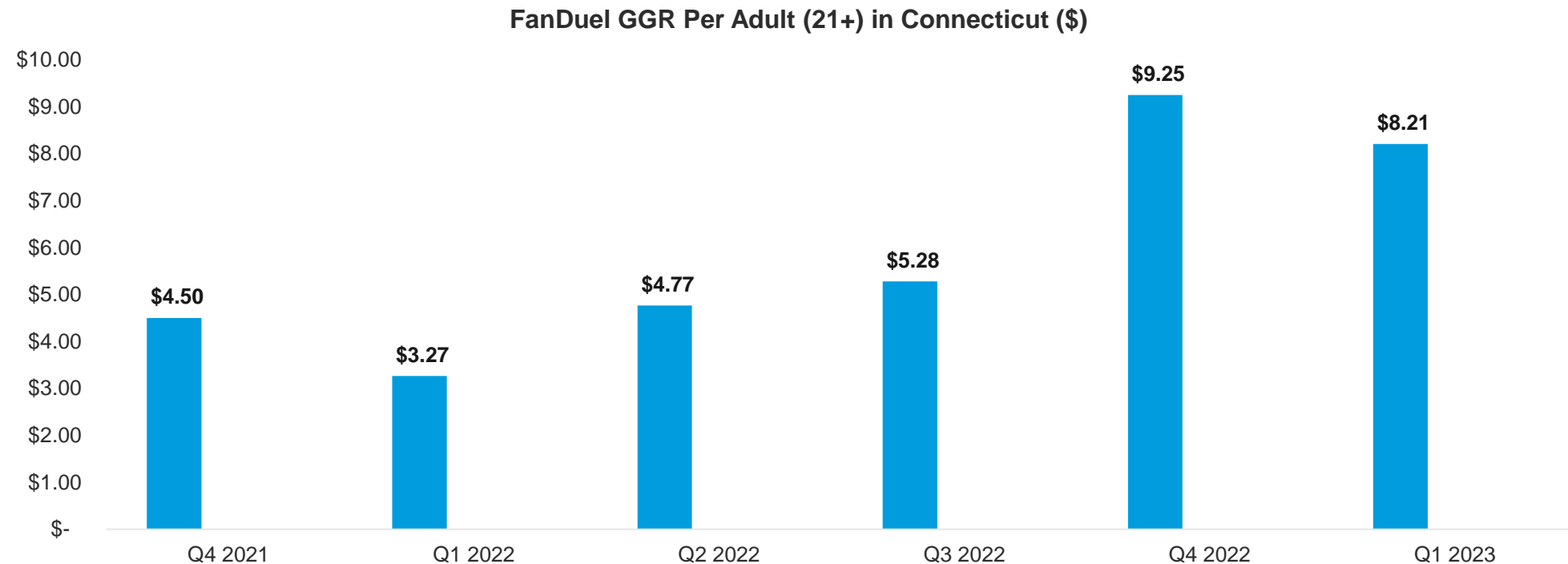


Notes: OSB launched on November 23, 2022 in the state of Maryland and on October 19, 2021 in the state of Connecticut, respectively. As such, Maryland's November 2022 period and Connecticut's October 2021 period are comprised of only eight and thirteen operating days, respectively. OSB in the state of Ohio launched on January 1, 2023. Ohio has not reported March 2023 actuals as of April 25, 2023

FanDuel: OSB GGR Per Adult in Select States

RSM utilized data as reported by Connecticut to perform a trend analysis of the OSB GGR of FanDuel:

Key Observations: FanDuel's OSB GGR has generally improved steadily quarter to quarter in Connecticut. The second quarter of operations was the only quarter to experience a decline. On a year-over-year basis, DraftKings' Q1 OSB GGR in Connecticut grew by 151.1% as of March 2023.

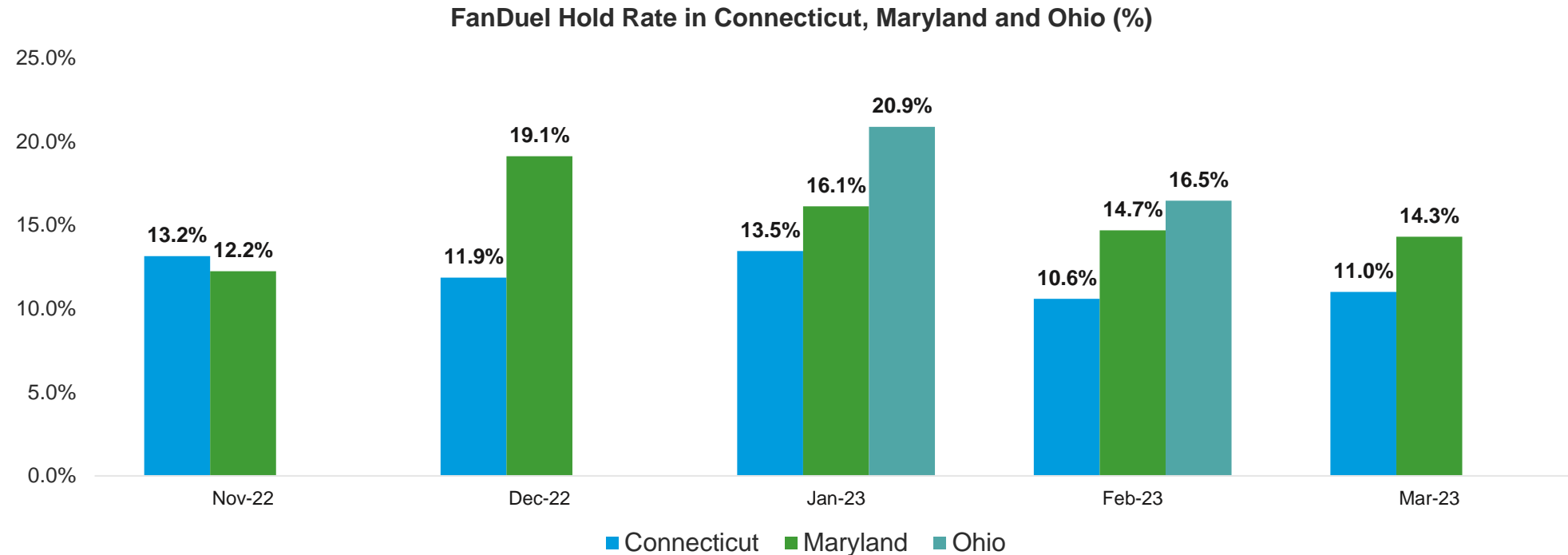


Notes: OSB launched on October 19, 2021 in the state of Connecticut.

FanDuel: Hold Rate in Select States

RSM utilized data as reported by Connecticut, Ohio and Maryland to perform a trend analysis of the Hold Rate of FanDuel:

Key Observations: Both Ohio and Maryland reported very high Hold Rates for FanDuel (around 20.0%) in the initial month of operations. This fell in subsequent months. In the most recently available data, DraftKings had a Hold Rate of 11.0%, 14.3%, and 16.5% in Connecticut, Maryland, and Ohio, respectively.

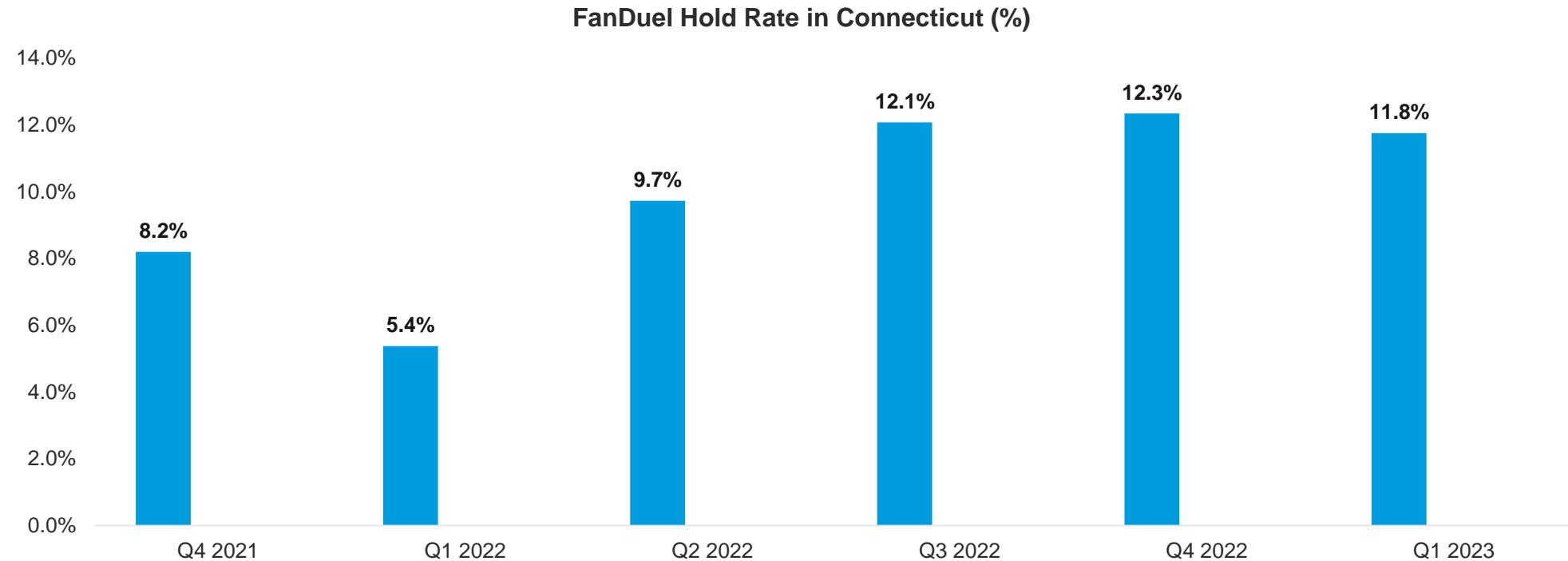


Notes: OSB launched on November 23, 2022 in the state of Maryland and on October 19, 2021 in the state of Connecticut, respectively. As such, Maryland's November 2022 period and Connecticut's October 2021 period are comprised of only eight and thirteen operating days, respectively. OSB in the state of Ohio launched on January 1, 2023. Ohio has not reported March 2023 actuals as of April 25, 2023

FanDuel: Hold Rate in Select States

RSM utilized data as reported by Connecticut to perform a trend analysis of the Hold Rate of FanDuel:

Key Observations: FanDuel's Hold Rate has improved in Connecticut over time, rising from 5.4% to 11.8% from Q1 2022 to Q1 2023. This higher Hold Rate indicates that FanDuel is generating more revenue from its players' Handle.

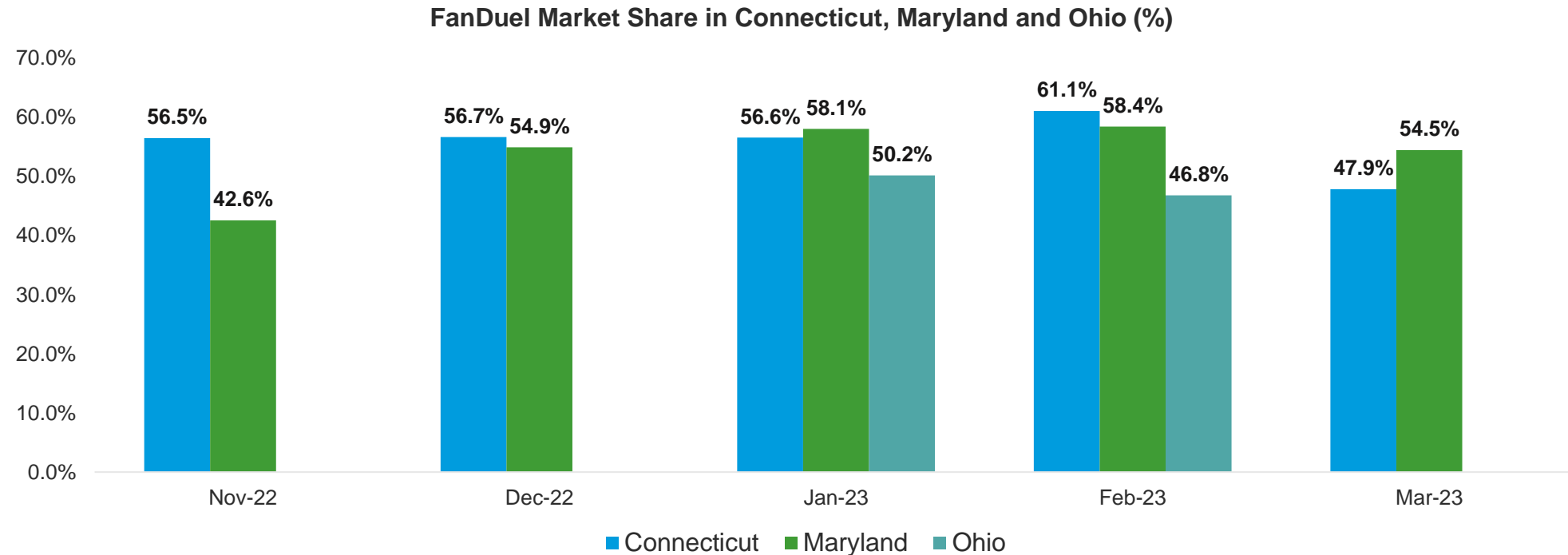


Notes: OSB launched on October 19, 2021 in the state of Connecticut.

FanDuel: Market Share in Select States

RSM utilized data as reported by Connecticut, Ohio and Maryland to perform a trend analysis of FanDuel's Market Share:

Key Observations: FanDuel is a prominent player in the online sports betting space and ranks first for GGR in several states. In Maryland, FanDuel controlled a majority of the market in every full month of operations since launch, peaking in February 2023 at 58.4%. FanDuel has a market share of roughly 50% in Ohio for the first two months.

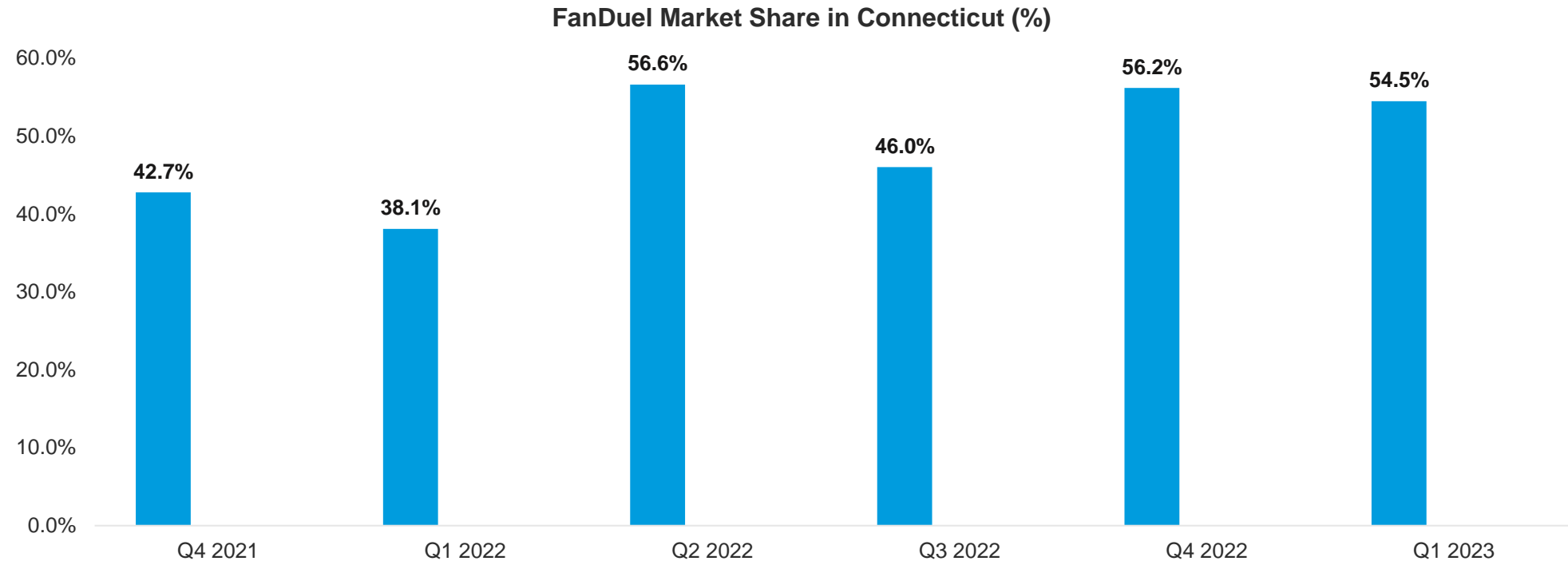


Notes: OSB launched on November 23, 2022 in the state of Maryland and on October 19, 2021 in the state of Connecticut, respectively. As such, Maryland's November 2022 period and Connecticut's October 2021 period are comprised of only eight and thirteen operating days, respectively. OSB in the state of Ohio launched on January 1, 2023. Ohio has not reported March 2023 actuals as of April 25, 2023

FanDuel: Market Share in Select States

RSM utilized data as reported by Connecticut to perform a trend analysis of FanDuel's Market Share:

Key Observations: FanDuel's market share has varied over time in Connecticut but has trended upward since launch. FanDuel held the largest market share in the state for 4 of the last 6 quarters, specifically, every quarter after Q2 2022.

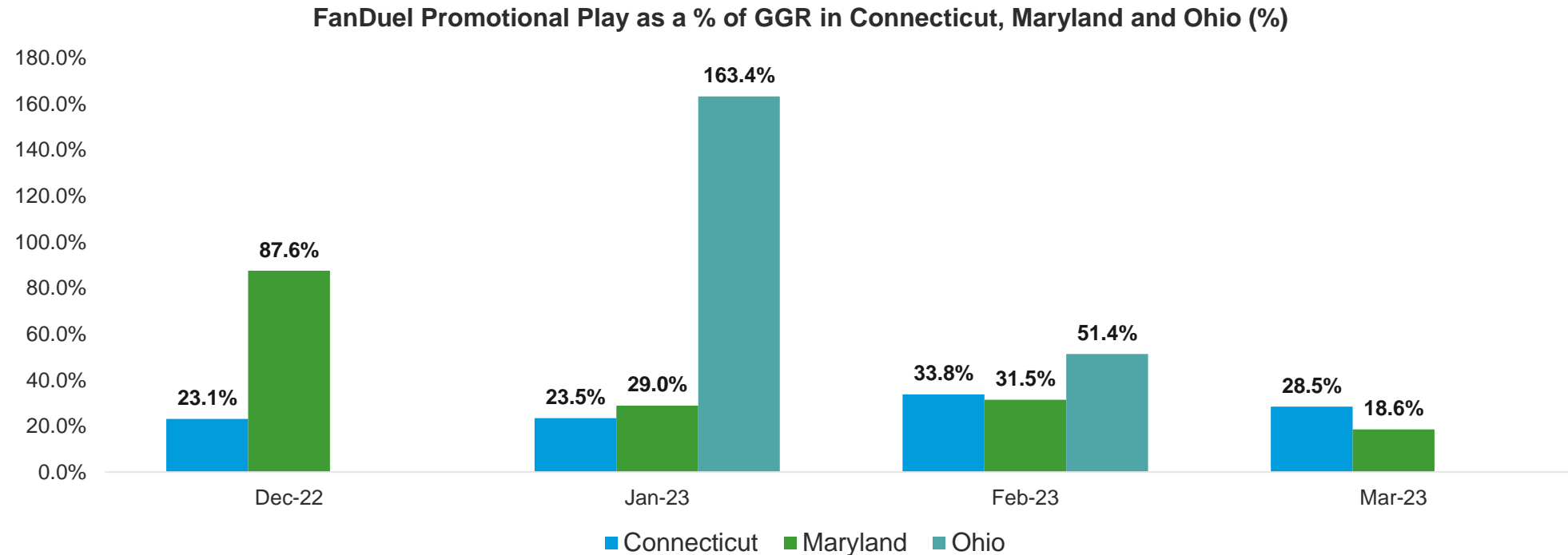


Notes: OSB launched on October 19, 2021 in the state of Connecticut.

FanDuel: Promotional Play as a Percent of GGR in Select States

RSM utilized data as reported by Connecticut, Ohio and Maryland to perform a trend analysis of the FanDuel's Promotional Play:

Key Observations: Similar to DraftKings and other new entrants, FanDuel utilized heavy Promotional Play to gain market share during the OSB launch in Ohio and Maryland. In the first month in Ohio, Promotional Play exceeded GGR by a ratio of 163.4%. The ratio fell substantially in February 2023.

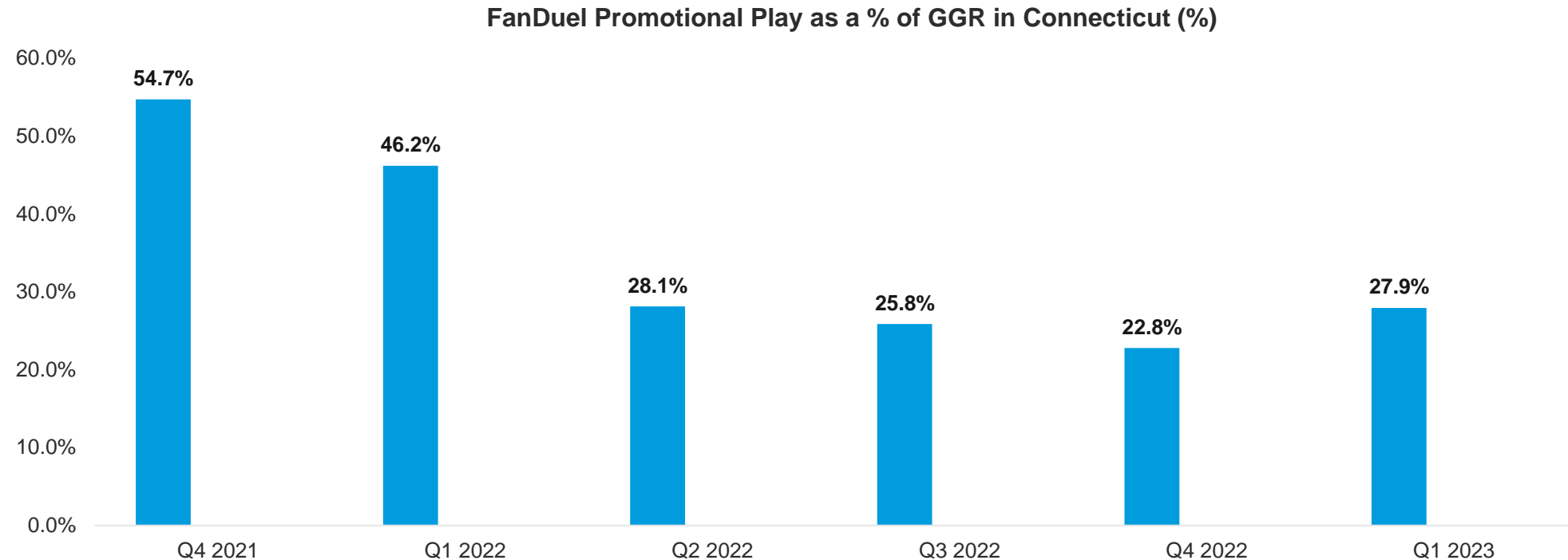


Notes: OSB launched on November 23, 2022 in the state of Maryland and October 19, 2021 in the state of Connecticut, respectively. Many bets made in this partial month may not have been settled as GGR until the following month. As a result, the ratio of bonuses to GGR may not be representative of a normal operations. In Maryland, an outlier of 276.6% from November 2022 has been excluded from the chart. OSB in the state of Ohio launched on January 1, 2023. Ohio has not reported March 2023 actuals as of April 25, 2023.

FanDuel: Promotional Play as a Percent of GGR in Select States

RSM utilized data as reported by Connecticut to perform a trend analysis of the FanDuel's Promotional Play:

Key Observations: The ratio of Promotional Play to GGR has fallen in every quarter but one for FanDuel in Connecticut. FanDuel's promotions fell particularly quickly between the first and second quarters of 2022. The reduced usage of Promotional Play will improve the profitability of FanDuel.



Notes: OSB launched on October 19, 2021 in the state of Connecticut.

APPENDIX B: DEFINITIONS

Appendix: Definitions

Active Users – The number of unique users who have engaged with the sportsbook within a certain period. This metric measures the number of users over time, adding new and returning users and subtracting inactive users

Adjusted EBITDA – Earnings before interest, taxes, depreciation, and amortization, including adjustments for one-time or non-recurring items

Adjusted GGR – Gross Gaming Revenue less bonuses and promotions

Churn – The number of users who stop using a platform within a set period

Comparable States – Seven states were chosen to compare OSB figures and statistics with Massachusetts. Specifically, Recently Launched States (Maryland and Ohio) and Established States (Colorado, Connecticut, New Jersey, Virginia, West Virginia)

Compound Annual Growth Rate (“CAGR”) – The measure of an investment's annual growth rate over time, with the effect of compounding considered. It is often used to measure and compare the past performance of investments or to project their expected future returns

Contra Revenue – Deduction from the gross revenue reported by a business

Contribution Margin – Net revenue less variable operational costs. Represents the profitability of a single unit, such as a single OSB jurisdiction

EBITDA – Earnings before interest, taxes, depreciation, and amortization

Established States – Comparable states that have allowed OSB for over one year (Colorado, Connecticut, New Jersey, Virginia, West Virginia)

Excise Tax – Excise tax is imposed on various goods, services and activities. The Internal Revenue Code currently imposes a federal excise tax of 0.25% on the amount of any legal sports wager with a commercial sportsbook

First Time Deposits (“FTDs”) – The number of new users who make a first-time monetary deposit with a sportsbook within a certain period

General Application – Application for category 1, 2, & 3 sports wagering operator licenses for the MGC

Gross Gaming Revenue (“GGR”) – Total amount bet by players less winning payouts to players

Gross Margin – Gross profit over total revenue; represents a company's profitability after accounting for the direct costs involved in providing a good or service

Appendix: Definitions, continued

Handle – Total amount of betting wagers accepted

Hold Rate – The share of total bets kept by the sportsbook after winnings have been paid out

IEB – Investigations and Enforcement Bureau, a department of the Massachusetts Gaming Commission

Market Share – Portion of an overall region's GGR taken in by a specific entity

MGC – Massachusetts Gaming Commission

Net Gaming Revenue ("NGR") – Gross Gaming Revenue less costs such as player bonuses, taxes, licensing fees, etc.

OSB – Online Sports Betting

Promotional Play – Promotional activity or award that requires game play as a condition of eligibility

Recently Launched States – Comparable States that have allowed OSB for less than one year (Maryland, Ohio)

Research & Development (R&D) – Exploratory costs related to the creation of new products and the improvement of existing ones

RSM – RSM US LLP a third-party consulting firm assisting MGC with reviewing the Applicants for sports wagering in Massachusetts

Sales, General, and Administrative Expenses (SG&A) – Costs like marketing, rent, and insurance that are not directly used to provide a product or service

Temporary Applicant – An Applicant that has been granted a temporary Sports Betting License in the State of Massachusetts

Total Addressable Market ("TAM") – Also referred to as total available market, a term that is typically used to reference the revenue opportunity available for a product or service

Total OSB Handle – Total amount of money wagered by bettors at a sportsbook over a given period

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TO: Chair Judd-Stein
Commissioner O'Brien
Commissioner Hill
Commissioner Skinner
Commissioner Maynard

FROM: Carrie Torrisi, Deputy General Counsel
Bruce Band, Director of Sports Wagering

DATE: May 23, 2023

RE: Operator Requests for Temporary Waivers from Certain Provisions of 205
CMR 255

On May 4, 2023, the Commission voted to finalize the draft of 205 CMR 255: Play Management, to file the regulation by emergency, and to begin the formal regulation process. The legal department filed the regulation by emergency on May 9, 2023, and it is now in effect.

Beginning on May 12, 2023, the sports wagering division began receiving feedback from several sports wagering operators that they would need additional time to implement some of the technical provisions of 205 CMR 255, primarily 205 CMR 255.03 related to enrollment procedures and notifications and 205 CMR 255.04(4) related to patron acknowledgments. Beginning on May 17, 2023, the following operators submitted requests for temporary waivers pursuant to 205 CMR 202.02(3) and 205 CMR 102.03(4) as outlined below.¹

BetMGM

BetMGM has requested a temporary waiver from 205 CMR 255.03(1), 255.03(2), and 255.03(3) until **August 10, 2023**, to develop, test, and implement the changes on their platform.

¹ As of the writing of this memorandum, the sports wagering division is seeking feedback from GLI on these waiver requests.

205 CMR 255.03(1): When an individual seeks to enroll onto a Sports Wagering, a Sports Wagering Operator shall conspicuously display to the individual a message describing the available limitations for Sports Wagering, and offering the individual the opportunity to designate themselves as subject to one or more of those limitations. In the event the individual chooses to decline that opportunity, the individual shall be required to affirmatively state that choice to the Sports Wagering Operator.

205 CMR 255.03(2): On a monthly basis as measured from the time of enrollment onto the Sports Wagering Platform, if an individual has not designated themselves as subject to limitations regarding Sports Wagering, the Sports Wagering Operator shall conspicuously display a message offering individuals the opportunity to designate themselves as subject to limitations regarding Sports Wagering. In the event the individual chooses to decline that opportunity, the individual shall be required to affirmatively state that choice to the Sports Wagering Operator.

205 CMR 255.03(3): Sports Wagering Operators shall maintain at all times a link prominently placed on the Sports Wagering Platform or Sports Wagering Kiosk on which individuals may designate themselves as subject to limitations regarding Sports Wagering.

Betr

Betr has requested a temporary waiver from 205 CMR 255.03(2) until **August 17, 2023**, and a temporary waiver from 205 CMR 255.04(4) until **July 2, 2023**.

205 CMR 255.03(2): On a monthly basis as measured from the time of enrollment onto the Sports Wagering Platform, if an individual has not designated themselves as subject to limitations regarding Sports Wagering, the Sports Wagering Operator shall conspicuously display a message offering individuals the opportunity to designate themselves as subject to limitations regarding Sports Wagering. In the event the individual chooses to decline that opportunity, the individual shall be required to affirmatively state that choice to the Sports Wagering Operator.

205 CMR 255.04(4): A Sports Wagering Operator shall require an individual to acknowledge the following prior to being designated as subject to limitations regarding Sports Wagering:

- (a) That the individual shall not collect any winnings or recover any losses resulting from Sports Wagering in violation of the limitation in accordance with 205 CMR 255.02(1);*
- and*
- (b) That once the individual is designated as subject to limitations regarding Sports Wagering, an individual's attempted Sports Wager or deposit into the individual's Sports Wagering Account may be rejected or, if placed, may be voided or cancelled by the Sports Wagering Operator.*

DraftKings

DraftKings has requested a temporary waiver from 205 CMR 255.03(1), 205 CMR 255.03(2), and 205 CMR 255.04(4) until **August 31, 2023**, to scope, build, and test the relevant product changes that will be required.

205 CMR 255.03(1): When an individual seeks to enroll onto a Sports Wagering, a Sports Wagering Operator shall conspicuously display to the individual a message describing the available limitations for Sports Wagering, and offering the individual the opportunity to designate themselves as subject to one or more of those limitations. In the event the individual chooses to decline that opportunity, the individual shall be required to affirmatively state that choice to the Sports Wagering Operator.

205 CMR 255.03(2): On a monthly basis as measured from the time of enrollment onto the Sports Wagering Platform, if an individual has not designated themselves as subject to limitations regarding Sports Wagering, the Sports Wagering Operator shall conspicuously display a message offering individuals the opportunity to designate themselves as subject to limitations regarding Sports Wagering. In the event the individual chooses to decline that opportunity, the individual shall be required to affirmatively state that choice to the Sports Wagering Operator.

205 CMR 255.04(4): A Sports Wagering Operator shall require an individual to acknowledge the following prior to being designated as subject to limitations regarding Sports Wagering:

- (a) That the individual shall not collect any winnings or recover any losses resulting from Sports Wagering in violation of the limitation in accordance with 205 CMR 255.02(1);*
- and*
- (b) That once the individual is designated as subject to limitations regarding Sports Wagering, an individual's attempted Sports Wager or deposit into the individual's Sports Wagering Account may be rejected or, if placed, may be voided or cancelled by the Sports Wagering Operator.*

Fanatics

Fanatics has requested a temporary waiver from 205 CMR 255.03(2) until **August 31, 2023**. They have stated that this would allow them to design an appropriate solution and to successfully test in advance of its release to the production environment.

205 CMR 255.03(2): On a monthly basis as measured from the time of enrollment onto the Sports Wagering Platform, if an individual has not designated themselves as subject to limitations regarding Sports Wagering, the Sports Wagering Operator shall conspicuously display a message offering individuals the opportunity to designate themselves as subject to limitations regarding Sports Wagering. In the event the individual chooses to decline that opportunity, the individual shall be required to affirmatively state that choice to the Sports Wagering Operator.

FanDuel

FanDuel has requested a temporary waiver from 205 CMR 255.03(1) until **May 31, 2023**, to update the text on the relevant page to include all responsible gaming tools that are available to users; a temporary waiver from 205 CMR 255.03(2) until July 17, 2023, to develop and configure a compliant solution; and a temporary waiver from 205 CMR 255.04(4) until **May 31, 2023**, to make changes to the relevant page where users set responsible gaming limits to require users to provide an additional acknowledgement addressing the new requirements.

205 CMR 255.03(1): When an individual seeks to enroll onto a Sports Wagering, a Sports Wagering Operator shall conspicuously display to the individual a message describing the available limitations for Sports Wagering, and offering the individual the opportunity to designate themselves as subject to one or more of those limitations. In the event the individual chooses to decline that opportunity, the individual shall be required to affirmatively state that choice to the Sports Wagering Operator.

205 CMR 255.03(2): On a monthly basis as measured from the time of enrollment onto the Sports Wagering Platform, if an individual has not designated themselves as subject to limitations regarding Sports Wagering, the Sports Wagering Operator shall conspicuously display a message offering individuals the opportunity to designate themselves as subject to limitations regarding Sports Wagering. In the event the individual chooses to decline that opportunity, the individual shall be required to affirmatively state that choice to the Sports Wagering Operator.

205 CMR 255.04(4): A Sports Wagering Operator shall require an individual to acknowledge the following prior to being designated as subject to limitations regarding Sports Wagering:

(a) That the individual shall not collect any winnings or recover any losses resulting from Sports Wagering in violation of the limitation in accordance with 205 CMR 255.02(1);

and

(b) That once the individual is designated as subject to limitations regarding Sports Wagering, an individual's attempted Sports Wager or deposit into the individual's Sports Wagering Account may be rejected or, if placed, may be voided or cancelled by the Sports Wagering Operator.

In addition, FanDuel is seeking clarification regarding its implementation of certain provisions of 205 CMR 255.03(5) and compliance therewith. The legal department and sports wagering division are reviewing this portion of their request. In the interim, FanDuel has requested a temporary waiver from 205 CMR 255.03(5) until **July 31, 2023**, so that they will remain in compliance with the regulation while these additional questions are reviewed and as the regulation is being finalized.

205 CMR 255.03(5): Individuals shall be permitted to modify or unenroll from their selected limitations regarding Sports Wagering. If individuals modify the limitations to be more restrictive, the limitations shall become immediately effective. If individuals modify the wager limitation described in 205 CMR 255.02(a) to be less restrictive or unenroll from the limitation, the new limitation or unenrollment shall not take effect until the next business day and the individual reaffirms the modification or unenrollment. If individuals modify the limitations described in 205

CMR 255.02(b)-(c) to be less restrictive or unenroll from the limitations, the new limitation or unenrollment shall not take effect until the next business day after the time period specified pursuant to 205 CMR 255.02(1)(b)-(c) has expired and the individual reaffirms the modification or unenrollment.

Penn Sports Interactive

Penn Sports Interactive has requested a temporary waiver from 205 CMR 255.03 until **September 30, 2023**, to complete the necessary technological work to comply with the requirements surrounding pop-up notifications to patrons.

205 CMR 255.03

- (1) When an individual seeks to enroll onto a Sports Wagering, a Sports Wagering Operator shall conspicuously display to the individual a message describing the available limitations for Sports Wagering, and offering the individual the opportunity to designate themselves as subject to one or more of those limitations. In the event the individual chooses to decline that opportunity, the individual shall be required to affirmatively state that choice to the Sports Wagering Operator.*
- (2) On a monthly basis as measured from the time of enrollment onto the Sports Wagering Platform, if an individual has not designated themselves as subject to limitations regarding Sports Wagering, the Sports Wagering Operator shall conspicuously display a message offering individuals the opportunity to designate themselves as subject to limitations regarding Sports Wagering. In the event the individual chooses to decline that opportunity, the individual shall be required to affirmatively state that choice to the Sports Wagering Operator.*
- (3) Sports Wagering Operators shall maintain at all times a link prominently placed on the Sports Wagering Platform on which individuals may designate themselves as subject to limitations regarding Sports Wagering.*
- (4) Limitations shall become immediately effective upon designation.*
- (5) Individuals shall be permitted to modify or unenroll from their selected limitations regarding Sports Wagering. If individuals modify the limitations to be more restrictive, the limitations shall become immediately effective. If individuals modify the wager limitation described in 205 CMR 255.02(a) to be less restrictive or unenroll from the limitation, the new limitation or unenrollment shall not take effect until the next business day and the individual reaffirms the modification or unenrollment. If individuals modify the limitations described in 205 CMR 255.02(b)-(c) to be less restrictive or unenroll from the limitations, the new limitation or unenrollment shall not take effect until the next business day after the time period specified pursuant to 205 CMR 255.02(1)(b)-(c) has expired and the individual reaffirms the modification or unenrollment.*

WynnBET

WynnBET has requested a temporary waiver from 205 CMR 255.02(1)(a) until **June 20, 2023**, and from 205 CMR 255.03(2) until **August 31, 2023**, to complete implementation of the relevant functionality.

205 CMR 255.02(1): Individuals who designate themselves as subject to limitations regarding Sports Wagering shall select one or more of the following specific activities subject to the limitations:

(a) placing a Wager over a specified dollar amount.

205 CMR 255.03(2): On a monthly basis as measured from the time of enrollment onto the Sports Wagering Platform, if an individual has not designated themselves as subject to limitations regarding Sports Wagering, the Sports Wagering Operator shall conspicuously display a message offering individuals the opportunity to designate themselves as subject to limitations regarding Sports Wagering. In the event the individual chooses to decline that opportunity, the individual shall be required to affirmatively state that choice to the Sports Wagering Operator.



May 17, 2023

Massachusetts Gaming Commission
Sports Wagering Division
Attn: Bruce E. Band

Via Email Only: bruce.band@massgaming.gov

Re: Partial Waiver of 205 CMR 255

Dear Mr. Band,

In accordance with regulation 205 CMR 202, I, Ashwin Krishnan, as Head of Legal & Business Affairs of Betr Holdings, Inc. (“**Betr**”), hereby submit a request to you and the Massachusetts Gaming Commission (the “**MGC**”) requesting a partial and temporary waiver of regulation 205 CMR 255, such that the implementation of the items set forth below will only take effect with respect to the Betr mobile application (the “**App**”) as requested below.

Due to technical and coding developments, application approval processes, and the fact that not granting the waiver will force Betr to suspend its operations entirely, we respectfully ask you and the MGC for an extension to implement the two (2) sections stated below:

- 205 CMR 255.03(2) – Betr shall conspicuously display, on a monthly basis as measured from the time the individual enrolls, a message offering individuals the opportunity to designate themselves as subject to limitations regarding Sports Wagering. In the event the individual chooses to decline that opportunity, the individual shall be required to affirmatively state that choice to Betr. **Betr requests a ninety (90) day extension to implement this within the App.**
- 205 CMR 255.04(4) – Betr shall require an individual to acknowledge the following prior to being designated as subject to limitations regarding Sports Wagering: (a) that the individual shall not collect any winnings or recover any losses resulting from Sports Wagering in violation of the limitation in accordance with 205 CMR 255.02(1); and (b) that once the individual is designated as subject to limitations regarding Sports Wagering, an individual’s attempted Sports Wager or deposit into the individuals’ Sports Wagering Account may be rejected or, if placed, may be voided or cancelled by Betr. **Betr requests a forty-five (45) day extension to implement this within the App.**

It should be noted that Betr, with respect to 205 CMR 255.06, is in the process of implementing the following limitation as well:

- Time Limit – An individual can instruct Betr to set a limitation on the number of hours he or she can be active within a twenty-four (24) hour span; and
- Deposit Limit – Betr will implement a monthly deposit limit of two thousand five hundred dollars (\$2,500) for individuals twenty-five (25) years or younger.

Betr Holdings, Inc.
290 NE 68th Street
Miami, FL 33138



Regarding the latter limit, which is a default limitation, Betr is respectfully asking you and the MGC for an **immediate waiver** of 205 CMR 255.02(2), allowing Betr to have default deposit limitations on individuals twenty-five (25) years or younger.

All capitalized terms not defined herein shall have the meaning set forth in 205 CMR 255.

If you have any questions, concerns, or require additional information, please do not hesitate to contact me at ashwin.krishnan@betr.app.

Thank you in advance for your understanding,

Ashwin Krishnan

Ashwin Krishnan
Head of Legal & Business Affairs



BETMGM

Subject:	205 CMR 255: PLAY MANAGEMENT
To:	Massachusetts Gaming Commission ("MGC")
From:	BetMGM, Richard Taylor – Senior Manager of Responsible Gaming
Date Submitted:	May 17, 2023

Summary and Request

On May 4, 2023, the MGC reviewed and approved changes to 205 CMR 255: PLAY MANAGEMENT. Of note, these changes include the following:

255.03: Enrollment

- (1) When an individual seeks to enroll onto a Sports Wagering, a Sports Wagering Operator shall conspicuously display to the individual a message describing the available limitations for Sports Wagering, and offering the individual the opportunity to designate themselves as subject to one or more of those limitations. In the event the individual chooses to decline that opportunity, the individual shall be required to affirmatively state that choice to the Sports Wagering Operator.

With the significant technical and product development required to meet this regulation, BetMGM respectfully requests an extension until August 10, 2023 to develop, test, and implement the applicable change on the BetMGM MA platform.

- (2) On a monthly basis as measured from the time of enrollment onto the Sports Wagering Platform, if an individual has not designated themselves as subject to limitations regarding Sports Wagering, the Sports Wagering Operator shall conspicuously display a message offering individuals the opportunity to designate themselves as subject to limitations regarding Sports Wagering. In the event the individual chooses to decline that opportunity, the individual shall be required to affirmatively state that choice to the Sports Wagering Operator.

With the significant technical and product development required to meet this regulation, BetMGM respectfully requests an extension until August 10, 2023 to develop, test, and implement the applicable change on the BetMGM MA platform.

- (3) Sports Wagering Operators shall maintain at all times a link prominently placed on the Sports Wagering Platform or Sports Wagering Kiosk on which individuals may designate themselves as subject to limitations regarding Sports Wagering.

With the significant technical and product development required to meet this regulation, BetMGM respectfully requests an extension until August 10, 2023 to develop, test, and implement the applicable change on the BetMGM MA platform.

"

DATE: May 16, 2023
TO: Massachusetts Gaming Commission
FROM: FBG Enterprises Opco, LLC (Fanatics Sportsbook)
SUBJECT: Waiver Request for 205 CMR 255: Play Management

Per 205 CMR 202, FBG Enterprises Opco, LLC ("Fanatics") is seeking a waiver for a period of 90 days (from the expected Fanatics Massachusetts launch date of May 31st) from a specific provision contained within 205 CMR 255: Play Management, which was adopted by the Massachusetts Gaming Commission ("MGC") on May 9, 2023. Specifically, Fanatics is requesting temporary relief from implementing 255.03(2) of the Play Management regulation. 205 CMR 255.03(2) requires building out a notification method that requires several layers of software logic and, while Fanatics agrees this will be an effective play management feature, it cannot be immediately implemented by Fanatics to the MGC's standards. The type of pop-up message the rule contemplates is not a regulatory requirement in any other mobile sports wagering market, so it is not a feature Fanatics has previously scoped out for inclusion on the platform.

Prior to its approval, this regulation remained in draft while undergoing a public comment period. The updates made to the draft of this rule relative to what ultimately was approved by the MGC were reasonable and sound, and truly reinforce the Commonwealth's and the operators' commitment to player protection.

In order to effectively implement these updates, which have technical implications, additional time is needed to align to these new requirements. These technical updates require resources, planning, and development prior to its release on Fanatics' mobile application. As such, Fanatics is seeking relief from implementation of 255.03(2) through August 31st, which would reasonably allow Fanatics to design an appropriate solution and successfully test in advance of its release to the production environment. This temporary relief time frame is consistent with what is afforded to operators by other jurisdictions when new requirements are adopted - particularly those with tech implications.

We sincerely appreciate the thoughtful dialogue around this important regulation and look forward to effectively implementing it in our product as we move to our launch in the Commonwealth.

This waiver request adheres to all requirements set forth in 205 CMR 202.



Cory Fox
cory.fox@fanduel.com

May 17, 2023

VIA EMAIL TO: bruce.band@massgaming.gov
Bruce Band, Director of Sports Wagering
Massachusetts Gaming Commission
101 Federal Street, 12th Floor
Boston, MA 02110

RE: Request for waiver related to play management regulations (205 CMR 255).

Dear Director Band:

I write on behalf of FanDuel Group, Inc. ("FanDuel") to submit the following waiver request related to play management regulations (205 CMR 255). First, let me begin by thanking you and your staff for taking the time to hear our concerns.

Pursuant to 205 CMR 202, FanDuel is submitting the below request for a waiver from certain provisions of the play management regulation (205 CMR 255) which were recently implemented, without which would impact FanDuel's ability to continue to offer online sports wagering in Massachusetts in compliance with all applicable regulations. This request will be comprised of three (3) parts. Part I will consist of background information on the issue and the purpose of the waiver. Part II will detail the nature, duration, and extent of the waiver request. Part III will detail FanDuel's request for a point of clarification.

Part I – Background of issue:

Because of the nature of online sports wagering systems, and the implications that changes to regulations that impact technical systems can have, there are several operational hurdles to immediate implementation of the functionality required under the newly promulgated play management regulation. Although some requirements merely implicate textual changes that can be adjusted on a relatively short timeframe, some of the new requirements will require several weeks of development. Accordingly, FanDuel wishes to request a temporary waiver to certain provisions of 205 CMR 255 to afford FanDuel adequate time to scope, implement, and maintain stable and effective deployment of the required functionality.

FanDuel remains steadfast in its commitment to responsible gaming and serving as a leader in the sports wagering industry. Indeed, FanDuel's current responsible gaming processes already provide



strong protections that minimize player risks, including through tooling such as deposit limits, wager limits, timeouts, self-exclusion, and reality checks, among other things. These tools are easily accessible via FanDuel's Patron Protection Page, which users can navigate to from any page on FanDuel's platform by clicking the Responsible Gaming logo at the top of the platform. This commitment to responsible gaming is why FanDuel's platform already meets many of the new requirements set out in the recently promulgated play management regulations, and this request for a temporary implementation waiver is more limited in scope. FanDuel appreciates and supports the Commission's efforts to further enhance protections for Massachusetts users, but will nonetheless require time to bring some of these enhancements to fruition.

Part II – Waiver request:

We are seeking a temporary waiver of the requirements set forth in 205 CMR 255.03(1), (2), and (5), and 205 CMR 255.04(4) to allow FanDuel the necessary time to scope and develop solutions for implementation in accordance with the development timelines below. We have included the relevant language of the regulation for which we are seeking a waiver in italics below and have outlined the requested duration of the waiver beneath each sub-provision.

205 CMR 255.03: Enrollment

(1) When an individual seeks to enroll onto a Sports Wagering Platform, a Sports Wagering Operator shall conspicuously display to the individual a message describing the available limitations for Sports Wagering, and offering the individual the opportunity to designate themselves as subject to one or more of those limitations. In the event the individual chooses to decline that opportunity, the individual shall be required to affirmatively state that choice to the Sports Wagering Operator.

FanDuel's current sign-up/registration flow complies with the intent of 205 CMR 255.03(1) by including a link to FanDuel's responsible gaming tools on the page confirming that a user has been verified. The current functionality is also consistent with the requirements set forth in 205 CMR 254.02(3). FanDuel respectfully requests a temporary waiver for two weeks to update the text on the page to address the other responsible gaming tools that are already available to users.

(2) On a monthly basis as measured from the time of enrollment onto the Sports Wagering Platform, if an individual has not designated themselves as subject to limitations regarding Sports Wagering, the Sports Wagering Operator shall conspicuously display a message offering individuals the opportunity to designate themselves as subject to limitations regarding Sports Wagering. In the event the individual chooses to decline that opportunity, the individual shall be required to affirmatively state that choice to the Sports Wagering Operator.



FanDuel respectfully requests a temporary waiver to the requirements of 205 CMR 255.03(2), as FanDuel will need approximately two months to develop and configure a compliant solution.

(5) Individuals shall be permitted to modify or unenroll from their selected limitations regarding Sports Wagering. If individuals modify the limitations to be more restrictive, the limitations shall become immediately effective. If individuals modify the wager limitation described in 205 CMR 255.02(a) to be less restrictive or unenroll from the limitation, the new limitation or unenrollment shall not take effect until the next business day and the individual reaffirms the modification or unenrollment. If individuals modify the limitations described in 205 CMR 255.02(b)-(c) to be less restrictive or unenroll from the limitations, the new limitation or unenrollment shall not take effect until the next business day after the time period specified pursuant to 205 CMR 255.02(1)(b)-(c) has expired and the individual reaffirms the modification or unenrollment.

User requests to make responsible gaming limits more restrictive become effective immediately on FanDuel. To the extent a user initiates a request to unenroll from or make a responsible gaming limit less restrictive, the limits will update on the following cadence:

- Daily limits – updated after 72 hours following request
- Weekly limit – updated after seven days following request
- Monthly limit – updated after thirty days following request

As FanDuel’s current daily limit cooldown period is more restrictive than that required under the regulation, we respectfully request the Commission’s clarification that FanDuel’s current cooldown period is compliant with the requirements in 255 CMR 255.03(5). In the alternative, we respectfully request that the current implementation be considered as an “Additional Limitation” permitted under 205 CMR 255.06. This clarification would be consistent with our shared commitment to responsible gaming, and provides users with meaningful opportunities to consider whether reducing a limit they placed at one point in time is really in their best interests. In the event that the Commission determines that changes are necessary to FanDuel’s more restrictive approach to decreasing or removing responsible gaming limits, FanDuel respectfully requests a temporary waiver through the date upon which the Commission will consider industry comments on the requirement provided in response to the request for comments by June 20, 2023 on the proposed rulemaking page of the Massachusetts Gaming Commission website.

205 CMR 255.04: Responsibilities of the Sports Wagering Operator

(4) A Sports Wagering Operator shall require an individual to acknowledge the following prior to being designated as subject to limitations regarding Sports Wagering:



*(a) That the individual shall not collect any winnings or recover any losses resulting from Sports Wagering in violation of the limitation in accordance with 205 CMR 255.02(1); and
(b) That once the individual is designated as subject to limitations regarding Sports Wagering, an individual's attempted Sports Wager or deposit into the individual's Sports Wagering Account may be rejected or, if placed, may be voided or cancelled by the Sports Wagering Operator.*

FanDuel respectfully requests a wavier for two weeks to make appropriate changes to the page where users set responsible gaming limits to require users to provide an additional acknowledgment addressing the new requirements.

Part III – Request for point of clarification:

In addition to the aforementioned temporary waiver requests, FanDuel wishes to request a single point of clarification in relation to 205 CMR 255.04(5).

205 CMR 255.04: Responsibilities of the Sports Wagering Operator

(5) A Sports Wagering Operator shall produce monthly reports containing data and other information regarding the play management program, as specified and requested by the Commission; . . .

In accordance with the text of the regulation, 205 CMR 255.04(5) requires monthly reports on the play management program “*as specified and requested by the Commission . . .*” To date, FanDuel has not received any guidance on the structure or content of the reports required pursuant to this regulation, and the provision of any such required reports will likely necessitate technical development time once the Commission or its staff issues guidance on the structure and content of these reports. In any event, the following reports are currently provided to Commission staff as part of our scheduled regulatory reporting:

- Player Limits Report (“PLR”) – includes a list of all users who have had their wallet located in Massachusetts and currently have a limit implemented; details all current limits users have implemented as of the day the report runs.
- Player Exclusions Report (“PER”) – provides all users who have an exclusion or time-out on their account as of the gaming date.

We appreciate your time and consideration of our request and would be happy to discuss at your convenience.



Sincerely,

A handwritten signature in blue ink, appearing to read 'Cory Fox', with a stylized flourish at the end.

Cory Fox

Vice President for Product and New Market Compliance



May 19, 2023

VIA ELECTRONIC MAIL ONLY

Bruce Band
Director of Sports Wagering
Massachusetts Gaming Commission
101 Federal Street, 12th Floor
Boston, MA 02110

Re: Penn Interactive/Barstool Sportsbook 205 CMR 255 Play Management Waiver Request

Director Band:

Please accept this letter as Penn Sports Interactive (“PSI”)’s request for a temporary waiver from 205 CMR 255.03, Play Management, under 205 CMR 202. This regulation was adopted by the Commission via emergency on May 9, 2023.

PSI specifically requests a waiver of the requirements of 205 CMR 255.03 for a period of 135 days until September 30, 2023, in order to complete the necessary technological work to comply with these requirements. PSI will solve for the requirement outlined in 255.03 (2) via an in-app pop up. Patrons who have not selected limitations outlined in 255.02 (1) (a)-(b) and 205 CMR 248.16 (1)(a)-(b) will receive a pop-up reminder that they have not set limitations for the past month. Patrons will have the option to click a link to then set limits. Patrons will also be provided with a button that states, “Confirm without Setting Limits.”

Granting this waiver would be consistent with the purposes of M.G.L. c. 23K. PSI intends to fully comply with 205 CMR 255.03; however, technological development work and product testing is needed in order to comply. Granting this waiver would not interfere with the ability of the Commission or the Bureau to fulfill its duties - to the contrary, the waiver would allow PSI to continue to operate while developing the technology necessary to comply with the regulation. The public interest will not be affected because the online Barstool Sportsbook, operated by PSI, will continue to operate in the Commonwealth as it does today until the necessary development work and testing is completed. Finally, not granting this waiver would cause substantial hardship to PSI. The online Barstool Sportsbook is already live in the Commonwealth of Massachusetts, but because this regulation was promulgated by emergency, PSI is not currently technologically able to comply with the specific provisions of 205 CMR 255.03 not only due to the fact that technological enhancements require development, testing and validation, but PSI is also currently under resource constraints due to our upcoming migration to our own in-house technology stack.

Please note that responsible gaming (“RG”) features are of the utmost importance to PSI and the Barstool Sportsbook will continue to operate with all RG features that are available to patrons today, with the addition of the requirements of 205 CMR 255.03 when technologically available.

Thank you for your consideration. Please do not hesitate to contact me if you have any questions or concerns.

Respectfully submitted,

Adam Kates

Adam Kates
Sr. Director, Compliance
Penn Interactive

cc:

Sterl Carpenter, Regulatory Compliance Manager, MGC
Crystal Beauchemin, Sports Wagering Business Manager, MGC
Chris Soriano, Chief Compliance Officer, PENN Entertainment, Inc.
Sam Haggerty, Deputy Chief Compliance Officer, PENN Entertainment, Inc.



May 19, 2023

Delivered by email to bruce.band@massgaming.gov
Massachusetts Gaming Commission
101 Federal Street, 12th Floor
Boston, MA 02110

Dear Massachusetts Gaming Commission:

DraftKings, Inc. (“DraftKings”) respectfully requests that the Massachusetts Gaming Commission (“the Commission”) issue temporary waivers for the below regulations as they pertain to DraftKings sports wagering operations in the Commonwealth. We hope to have an opportunity to continue to engage in conversations with the Commission to discuss why these regulations – and others – position Massachusetts as a national outlier amongst sports wagering jurisdictions and are not necessary given safeguards already in place.

Should those conversations not result in modifications to the regulations identified below, DraftKings respectfully requests a waiver until an implementation date of August 31, 2023. The below regulations create compliance obligations unique to Massachusetts, and as such compliance requires significant scoping, building, testing, and then implementation of relevant product changes. Certain changes may also require independent lab testing, which DraftKings has built into this proposed timeline.

205 CMR 202.03(2) authorizes the Commission to grant waivers from the provisions of sports wagering pursuant to the conditions listed in 205 CMR 102.03(4). DraftKings’ request qualifies, as the granting of the waivers is consistent with the purposes of the relevant Massachusetts General Laws, will not interfere with the ability of the Commission to fulfill its duties, and will not adversely the public interest. Additionally, not granting the waiver would cause a substantial hardship to the requestor, DraftKings.

Thank you for your consideration.

Sincerely,

DraftKings, Inc.

* * * * *

205 CMR 255.03 – Enrollment

(1) When an individual seeks to enroll onto a Sports Wagering Platform, a Sports Wagering Operator shall conspicuously display to the individual a message describing the available limitations for Sports Wagering, and offering the individual the opportunity to designate



themselves as subject to one or more of those limitations. In the event the individual chooses to decline that opportunity, the individual shall be required to affirmatively state that choice to the Sports Wagering Operator.

(2) On a monthly basis as measured from the time of enrollment onto the Sports Wagering Platform, if an individual has not designated themselves as subject to limitations regarding Sports Wagering, the Sports Wagering Operator shall conspicuously display a message offering individuals the opportunity to designate themselves as subject to limitations regarding Sports Wagering. In the event the individual chooses to decline that opportunity, the individual shall be required to affirmatively state that choice to the Sports Wagering Operator.

205 CMR 255.04 – Responsibilities of the Sports Wagering Operator

(4) A Sports Wagering Operator shall require an individual to acknowledge the following prior to being designated as subject to limitations regarding Sports Wagering:

(a) That the individual shall not collect any winnings or recover any losses resulting from Sports Wagering in violation of the limitation in accordance with 205 CMR 255.02(1); and

(b) That once the individual is designated as subject to limitations regarding Sports Wagering, an individual's attempted Sports Wager or deposit into the individuals' Sports Wagering Account may be rejected or, if placed, may be voided or cancelled by the Sports Wagering Operator.



May 17, 2023

Mr. Bruce A. Band
Director, Sports Wagering Division
Massachusetts Gaming Commission
101 Federal Street, 12th Floor
Boston, MA 02110

Director Band,

WSI US, LLC, dba WynnBET is requesting the consideration of the Sports Wagering Division of the Massachusetts Gaming Commission for a temporary waiver to the sports wagering regulations as specified within 205 CMR 255: **Play Management**, items 255.02(1)(a) and 255.03(2) as outlined below until August 31, 2023:

255.02 Limitations

(1) Individuals who designate themselves as subject to limitations regarding Sports Wagering shall select one or more of the following specific activities subject to the limitations:

(a) placing a Wager over a specified dollar amount

With regard to the above, this functionality has been integrated into the WynnBET product and is anticipated to be available for release on or about June 20, 2023.

255.03 Enrollment

(2) On a monthly basis as measured from the time of enrollment onto the Sports Wagering Platform, if an individual has not designated themselves as subject to limitations regarding Sports Wagering, the Sports Wagering Operator shall conspicuously display a message offering individuals the opportunity to designate themselves as subject to limitations regarding Sports Wagering. In the event the individual chooses to decline that opportunity, the individual shall be required to affirmatively state that choice to the Sports Wagering Operator.

With regard to the above, this functionality is anticipated to be integrated into the WynnBET product and will be available for release in mid to late August, 2023. WynnBET is compliant with all other requirements of this rule.

Thank you in advance for your consideration of this request. Should you have any questions or wish to further discuss, please free to contact me by e-mail at Jacqueline.Hunter@wynnbet.com or by phone at (702) 770-7614.

Best regards,

A handwritten signature in blue ink that reads "Jacqueline Hunter".

Jacqueline Hunter
Asst. Vice President
Product Compliance