



NOTICE OF MEETING AND AGENDA

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

Thursday | September 22, 2022 | 9:00 a.m.
Gardner Auditorium – Massachusetts State House
24 Beacon Street
Boston, MA 02108

This meeting will also be streamed live on 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 - #395

1. Call to Order
2. Welcome and Opening Remarks – Cathy Judd-Stein, Chair
3. Commissioners' Round Table on Mobile Sports Wagering
 - a. Requested Input from Invited Participants regarding Mobile Licenses (5 minutes per participant)
 - i. Assuming any Commission implementation of temporary licensure for untethered Category 3 operators would necessarily include technical testing, suitability, internal controls and other industry-standard requirements, and given the logistical complexities and consumer protection concerns outlined at the Commission meeting on September 15, 2022, would you have an interest in a temporary license and if so, do you have any suggestions on how to address consumer protection concerns in the event that a large number of licensees may be required to dismantle their operations within a short period of time?
 - ii. What is your position on a staggered launch vs. a simultaneous launch of the different categories of sports wagering operators? (retail vs. mobile, tethered mobile vs. untethered mobile.) Any experience from other jurisdictions and reasoning behind your position should be included in your answer.



Massachusetts Gaming Commission

b. Commissioner Follow-up Questions

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

I certify that this Notice was posted as “Massachusetts Gaming Commission Meeting” at www.massgaming.com and emailed to regs@sec.state.ma.us. Posted to Website: September 19, 2022 5:00 p.m.

September 19, 2022

Cathy Judd-Stein

Cathy Judd-Stein, Chair

*This meeting is open to all interested individuals for viewing.
If there are any questions pertaining to accessibility and/or further assistance is needed, please email
crystal.beauchemin@massgaming.gov.*



Massachusetts Gaming Commission

Name of Attendee	Title	Entity
Smith, Justin	Legal Counsel	Bally's Interactive
Hays, Cynthia	Vp of Compliance	BetFred
Wyseman, Joshua	Senior Manager, Licensing	BetMGM
Krishnan, Ashwim	Head of Legal	Betr
Hichar, Mark	Greenberg Traurig	Caesars Sportsbook
Hanley, Patrick	Legal Counsel	Commonwealth Equine and Agricultural Center LLP
Cipolla, Chris	Senior Director, Government Affairs	DraftKings
Smith, Alex	VP, Regulatory Affairs	Fanatics Betting & Gaming
Fox, Cory	Vice President, Product & New Market Compliance	FanDuel
Sullivan, Walter	Legal Counsel	FanLogic
Hall, Brian	Director of Regulatory Affairs	FSST Interactive
Boyd, Danielle	Vice President, Regulatory & Compliance	Hard Rock Digital
Miller, Danielle	Director, Compliance	MGM Springfield
Casole, Joe	Odds on Compliance	Novibet / MaximBet
Pearl, Josh	Senior Director of New Markets and Strategic Initiatives	Penn Interactive
Grounsell, North	General Manager, Plainridge Park Casino	Plainridge Park Casino
O'Brien, Daniel	CPA	Raynham Park
Barnett, Bruce	Legal	Suffolk Downs
Krum, Jacqui	Executive Vice President & General Counsel, EBH	WynnBet / Encore Boston Harbor

I am the Corporate Compliance Officer of **Digital Gaming Corporation USA (DGC)**, one of the companies that filed a Notice of Intent regarding a license for sports wagering in Massachusetts. I write on behalf of DGC in anticipation of the Massachusetts Gaming Commission's meeting for prospective mobile sports wagering licensees scheduled for Thursday, September 9, 2022.

Although I will not be able to attend the meeting in person, your email of September 15 indicated that the Commission would welcome written comments on the questions posed in that email. DGC's responses are set forth below:

- 1) Assuming any Commission implementation of temporary licensure for untethered Category 3 operators would necessarily include technical testing, suitability, internal controls and other industry-standard requirements, and given the logistical complexities and consumer protection concerns outlined at the Commission meeting on September 15, 2022, would you have an interest in a temporary license and if so, do you have any suggestions on how to address consumer protection concerns in the event that a large number of licensees may be required to dismantle their operations within a short period of time?

As an operator currently offering live sports wagering in multiple states, with applications pending in several more, DGC can categorically state that in our experience we have never encountered the issue of temporary licensure proposed as it is in the questions and comments of the Commission. DGC has encountered – and obtained – temporary licensure in only two situations.

The first situation arises in states which offer an unlimited number of sports wagering licenses. Here, once a preliminary investigation indicates that the applicant is probably qualified, the applicant may be permitted to go live under a temporary license, pending completion of the full investigation. The expectation is that if the full investigation does not disclose any previously unknown disqualifying information, the applicant will receive plenary licensure. This model allows for speed to market while still maintaining full integrity checks, without unreasonably frustrating the applicant's business plans and expectations.

*The second situation occurs in states which offer only a limited number of sports wagering licenses, awarded in some type of competitive evaluation process. DGC has been authorized to go live on a temporary basis in such a state, but only **after – not before** - it has received notice of its preliminary selection, contingent only on satisfactory completion of its plenary investigation.*

*While this question **assumes** "Commission implementation of temporary licensure for untethered Category 3 operators," DGC does not believe such a procedure would truly serve the interests either of Massachusetts or its prospective mobile sports wagering applicants. Specifically, it appears that what is contemplated is*

allowing more than seven applicants for the untethered sports wagering licenses to go live under temporary licensure, with those applicants which are not subsequently awarded one of the seven available licenses having to shut down their Massachusetts operations within a short period of time. Such a process would only serve a speed-to-market goal if enough applicants participated. However, the plan constitutes a huge disincentive for businesses which might otherwise be interested in Massachusetts, but which cannot reasonably assume the unusually high risk that its large expenditure of funds to go live could rapidly become a sunk cost. As outlined, the proposed temporary licensure plan seems more akin to a high-stakes lottery, which most companies could not afford to enter.

- 2) What is your position on a staggered launch vs. a simultaneous launch of the different categories of sports wagering operators? (retail vs. mobile, tethered mobile vs. untethered mobile.) Any experience from other jurisdictions and reasoning behind your position should be included in your answer.

Recognizing that Massachusetts may have differing, even conflicting, goals regarding this issue, DGC can nevertheless point the Commission to Ohio, which has designated a “universal start date” for all sports gaming in that state. The rationale for proceeding in this manner is set forth on the website of the Ohio Casino Control Commission, which states:

“The Universal Start Date is January 1, 2023. This date was chosen to give all stakeholders time to start offering sports gaming on the same date—including businesses looking to offer online and brick-and-mortar sports gaming, as well as kiosks in bars and taverns across Ohio. Leading up to the universal start date, prospective licensees will be completing buildings, distributing kiosks, hiring and training employees, obtaining partners, and making all other necessary arrangements to begin offering sports gaming from the same starting line. The Commission is aware that some stakeholders, specifically many online operators, have fewer preparations to make leading up to launch and could start sooner. However, pursuant to HB 29, all forms of sports gaming must have the opportunity to launch on the exact same date.”

In essence, a universal start date ensures fairness by affording all sports wagering operators the chance to begin on an equal footing.

We thank you for your consideration.

Gary Ehrlich

Luis Anthony Gaud
CEO, G3 Esports LLC
September 21, 2022



Responses to Massachusetts Gaming Commission Questions

(1) Assuming any Commission implementation of temporary licensure for untethered Category 3 operators would necessarily include technical testing, suitability, internal controls, and other industry-standard requirements, and given the logistical complexities and consumer protection concerns outlined at the Commission meeting on September 15, 2022, would you have an interest in a temporary license and if so, do you have any suggestions on how to address consumer protection concerns if a large number of licensees may be required to dismantle their operations within a short period of time?

G3 Esports LLC is interested in obtaining a temporary, untethered license and welcomes any technical and compliance oversight required to be approved, obtain and sustain a license.

Regarding the question about consumer concerns related to a ‘large number of licensees’ being required to dismantle their operations within a short period of time, please consider the following:

(a) A significant amount of time and financial expense is required to establish operations in any state, including instituting state and regulatory compliant KYC, AML, KBA, a secured user PII database, approved money in-out systems, responsible gaming protocols, and, in my company’s case, biometric user identification. Additionally, companies need to commit to hiring and training a substantial amount of new employees to run Massachusetts-based operations and the time to launch marketing efforts that introduce their brand and products to consumers.

(b) There will likely be substantial market and consumer confusion if a large number of temporary licensees begin operations but subsequently have their licenses revoked after only a year or less of operation. Because ceasing operations will add considerable costs, the methods by which revoked-operators handle PII storage, employee terminations, and outstanding player balances may not meet the expected standards of the Massachusetts Gaming Commission and act to erode consumer trust in the system. The possibility that potentially disenfranchised, revoked operators will use player data in non-desired ways may be heightened. The process of what to do with PII data in the event of business closure needs to be clearly defined by regulators.

(c) The ability to expand existing operations to Massachusetts is relatively simple for larger, established operators but has a material and significant impact on smaller operators. This impact will act as a substantial barrier to product and service innovation for consumers. Smaller, independent operators that strive to introduce new ideas will have to determine if it is worth the risk and cost to obtain a temporary license with the looming possibility of revocation. This risk will effectively preclude minority-owned companies from being able to enter the state in any significant manner.

(d) The Massachusetts Gaming Commission should clearly establish the requirements for permanent licensure so that temporary license applicants can recognize their significant expense of time and money as a solid investment in obtaining a permanent license. Other concepts for consideration should include: (1) Temporary licenses should allow for a period of operations of at least three years, or if one year, it should be auto-renewed for up to 3 years subject to operational compliance (i.e. “a final determination on its operator license application” is not made for at least 3-4 years), (2) The criteria for revocation (or failure to renew) a temporary license should be indicated clearly at the beginning of the licensing process, and (3) Temporary operators not in compliance should be provided a minimal period of time to comply, depending on the severity of the issue, and whether or not it existed, or was known, during their launch period.

(e) The concept should also be established that obtaining a temporary (or provisional) license is the standard process by which the Massachusetts Gaming Commission enables independent operators to obtain full licensure. As part of this process, companies should be required to submit their product offerings as well as their responsible gaming, regulatory, and internal control plans during a pre-screening period.

(f) In order to ensure fairness, companies that apply but are not selected, should have their \$1M fee refunded, or the fee should not be payable until the seven temporary licensees are selected.

(2) What is your position on a staggered launch vs. a simultaneous launch of the different categories of sports wagering operators? (retail vs. mobile, tethered mobile vs. untethered mobile.) Any experience from other jurisdictions and reasoning behind your position should be included in your answer.

Market confusion is often the result of introducing too many concepts (products, categories, features, etc.) simultaneously, creating information overload in the mind of consumers. This is especially the case with products that are similar in nature or with differences that are not apparent. Consumers will often conflate

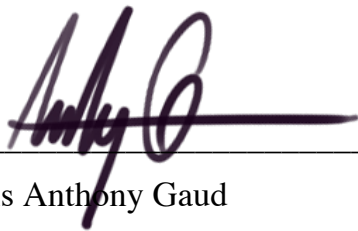
one message with another, resulting in frustration and a loss of trust in the system that has oversight responsibility.

Staggering launches for new market categories will allow for better early consumer adoption and for operators to educate users about new market categories while allowing regulators to monitor safe marketing practices.

A staggered launch related to *retail vs. mobile* is highly preferable to provide each category operator adequate time to establish itself apart from other operators, as well as differing classifications of wagering. This includes efforts related to category introduction, operator brand introduction, marketing initiatives, and consumer education efforts.

Additionally, this would include staggering the launch of sportsbooks (traditional sports betting) apart from the new video game and esports wagering category. To assure responsible behavior from both operators and consumers, each category of wagering needs to be clearly and separately introduced, along with best practice operator requirements, to establish trust with consumers.

Thank you for considering my responses as part of your process,

A handwritten signature in dark ink, appearing to read "Luis Anthony Gaud", is written over a horizontal line. The signature is stylized and cursive.

Luis Anthony Gaud

Fubo Gaming thanks the Commission for the opportunity to provide these comments and to ultimately apply for licensure to offer a comprehensive sports & entertainment experience in the Commonwealth. Please see our comments in line with the questions from the Commission below.

Assuming any Commission implementation of temporary licensure for untethered Category 3 operators would necessarily include technical testing, suitability, internal controls and other industry-standard requirements, and given the logistical complexities and consumer protection concerns outlined at the Commission meeting on September 15, 2022, would you have an interest in a temporary license and if so, do you have any suggestions on how to address consumer protection concerns in the event that a large number of licensees may be required to dismantle their operations within a short period of time?

Fubo would be interested in the opportunity to obtain a temporary license and believes operations under such licensure in the Commonwealth can be performed in a manner that addresses the consumer protection concerns outlined at the Commission meeting on September 15, 2022. Specifically, there can be on-platform messaging that notifies consumers of special considerations during the period of temporary licensure, limits on futures wagers that extend beyond a certain date or number of days, and an additional acknowledgment by consumers regarding the method of returning any balances in their accounts.

What is your position on a staggered launch vs. a simultaneous launch of the different categories of sports wagering operators? (retail vs. mobile, tethered mobile vs. untethered mobile.) Any experience from other jurisdictions and reasoning behind your position should be included in your answer.

Fubo believes that a simultaneous launch of different categories of sports wagering operators will create the best environment possible for consumers in the Commonwealth.

A staggered launch will create an unintended benefit for the first category of licensees by providing limited competition, unintentionally enhanced brand awareness, and default brand loyalty.

One of the strengths of the legislation in Massachusetts is the variety of opportunities it makes available to consumers to wager among competing businesses and staggered launches will erode that benefit. Further, staggered launches in other jurisdictions have created confusion in the marketplace because consumers have believed the first available method of wagering remained the only form of wagering, even after operators launched under other categories of licenses.

Victory Game Challenge, Inc.

Question 1: Assuming any Commission implementation of temporary licensure for untethered Category 3 operators would necessarily include technical testing, suitability, internal controls and other industry-standard requirements, and given the logistical complexities and consumer protection concerns outlined at the Commission meeting on September 15, 2022, would you have an interest in a temporary license and if so, do you have any suggestions on how to address consumer protection concerns in the event that a large number of licensees may be required to dismantle their operations within a short period of time?

Response:

We are interested in the temporary license.

Our suggestion is to leverage the mobile/online technology to bring the TPPPS (Third-Party Providers of Propositional Players) concept in retail gambling from California to the online/mobile sports wagering.

The key idea of TPPPS (Third-Party Provider of Propositional Players) in California is the collaboration between the casino establishments with sportsbooks and the TPPPS without sportsbooks to improve experiences for bettors as well as the business of casino establishments without losing protection of end consumers. The sportsbook closing issues of the temporary licenses in MA could be solved with the similar type of collaboration between potential CAT 3 licenses under the guidance of MGC.

There could be many ways to achieve collaboration in the spirit of TPPPS. In the following, we will elaborate on one type and how to achieve that in stages.

Stage 1 (agreement stage): Potential CAT3 operators agree that the final regular licenses will accept transferred wagers from these temporary licensees, who will stop their sportsbook because they do not make into the regular license list. Note that those temporary licensees will stop their sportsbooks but will continue running by simply forwarding wagers to regular licenses if consumers still want to use their platform (like TPPPS). Also, note that Know Your Customer (KYC) is already validated on the temporary licensees based on regulation. Regular licensees will agree that temporary licensees will do KYC if customers choose to do so. It is a requirement on the mobile/online platform that the wagers could be transferred to another licensed platform under the choice of sports bettor. There are incentives for both sides for such agreements. For regular licensees, they will accept transferred wagers of customers

from those non-sportsbook temporary licensees with pre-determined compensations for each transfer. For non-sportsbook temporary licensees, the predetermined compensations could make up the initial investment and their performance with end consumers could help their applications for future regular license during renewal/update time.

Stage 2 (temporary license stage): CAT3 operators have temporary licenses and start to accept customers and their wagers. Their platform should have the capability of transferring wagers.

Stage 3 (temporary license sportsbook closing stage): When regular licenses are issued, temporary licensees will stop running sportsbooks and transfer consumer wagers to the regular licenses of consumer's choice based on the agreement and prebuilt-in platform capability as described in stage 1. As mentioned before, the temporary licensee's online/mobile platform could still be running, but all wagers will be forwarded to regular licensees of consumers' choice. It is the end consumers to decide whether they would like to switch to the regular licensee's platform or continue to use the existing one with forwarded wagers to fully protect consumer's right/choice.

Stage 4 (license renewal and update stage): During the regular license renewal/update time, the performance and consumer inputs on these temporary licensee's platforms (WITHOUT sportsbook and just wager-forwarding) could be considered as a criterion in the competitive process by MGC. It is also suggested that MGC adds a special type of license to regulate such non sportsbook and wager-forwarding providers, which is like TPPPS license in California.

Question 2: What is your position on a staggered launch vs. a simultaneous launch of the different categories of sports wagering operators? (retail vs. mobile, tethered mobile vs. untethered mobile.) Any experience from other jurisdictions and reasoning behind your position should be included in your answer.

Response:

We support the simultaneous launching process for all sports wagering operators, retail and mobile, tethered mobile and untethered mobile.

It will provide sports bettors more choices, less confusing process, and better/consistent experiences across different operators. It will also provide a level playground for all operators. Given retail operators' existing presence in the field, staggered launching could further deepen the already steep slope for CAT3 operators, leading to fragile or even unsuccessful launches of CAT3 operators. That will eventually adversely affect the protection of sports bettors.

Brief introduction of Victory Game Challenge, Inc.

Victory Game Challenge, Inc.(VGC) is an international company in both retail and mobile/online lottery and sports wagering service provider and operator.

VGC provides both retail and mobile lottery/ sports wagering platforms based on cutting edge conformance bidding technology. Just to provide some highlights here with further details upon requests. Our lottery services/devices are certified by GLI (Gaming Laboratories International). Our innovative portable sale devices, with which a lottery salesperson could carry this mobile "kiosk" to bettors, instead of forcing bettors to walk to the stationary kiosk. This greatly improves the lottery sales as well as experiences of lottery buyers. And we use Spring cloud micro service technology to achieve a large-scale mobile/online gaming platform which is highly concurrent and distributed requiring load balancing, service protection, and route protection.

We operate in multiple international jurisdictions, including Nigeria(easywin.ng), Uganda(ienjoybet.com), Zambia(easy.win)and Kenya(easywin.ke). We had extensive experiences in launching operations in a short period of time, including hiring, training, software/hardware/data procurement, licensing, compliance, and advertising and promotion. We successfully launched Nigeria in 30 days, Uganda in 21 days, and Kenya in 14 days.