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## Massachusetts Gaming Commission Meeting Minutes

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**Date/Time:** January 18, 2023, 2:00 p.m.  
**Place:** Massachusetts Gaming Commission  
VIA CONFERENCE CALL NUMBER: 1-646-741-5292  
PARTICIPANT CODE: 111 1431 1966

The Commission conducted this public meeting remotely utilizing collaboration technology. 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 425<sup>th</sup> Public Meeting of the Massachusetts Gaming Commission ("Commission"). Roll call attendance was conducted, and all five commissioners were present for the meeting.

#### 2. [Opening Remarks](#) (01:07)

Chair Judd-Stein explained that the Commission would begin the evaluation of the category three sports wagering licenses during this meeting and continue the review during the meeting on January 19, 2023. She stated that the Commission may award up to seven licenses, but that the Commission was not required to award licenses to each of the six entities that applied.

Chair Judd-Stein noted that during the review of applications, the Commission had requested supplemental information, and that the supplemental information submitted will be reviewed to

confirm whether the information satisfied the request. She stated that for each applicant, the Commission would make a determination whether the applicant satisfied the regulatory factors under the substantial evidence standard.

3. [License application determinations by the Commission in accordance with 205 CMR 218.07 relative to the applications submitted by Bally's Interactive, LLC, Betfair Interactive US, LLC \(d/b/a FanDuel\), Betr Holdings, Inc., Crown MA Gaming, LLC \(DraftKings\), Digital Gaming Corporation USA, and PointsBet Massachusetts, LLC](#) (04:13)

Chair Judd-Stein asked Chief Administrative Officer to the Chair Crystal Beauchemin to remind the Commission what supplemental information was requested from the applicants. Ms. Beauchemin noted that the Commission requested an update on jobs related to Massachusetts positions and employment opportunities from Bally's Interactive ("Bally's"). She stated that Bally's had provided the number of anticipated employees and various job descriptions.

Ms. Beauchemin stated that Bally's had provided a supplemental response regarding community engagement. The Commission reached a consensus that Bally's supplemental submissions satisfied the Commission's requests.

Ms. Beauchemin stated that the Commission had requested supplemental information related to Betr's current diversity spending, responsible gaming plan, veteran and LGBTQ+ data, and demographics regarding Betr's social media presence. She stated that Betr provided all of this supplemental information.

Commissioner O'Brien stated that she wanted a breakdown of Betr's social media engagement with individuals aged eighteen to twenty. The Commission discussed whether Betr had submitted goals related to supplier diversity. Commissioner Skinner stated that she wanted to know the applicant's overall spending so that she could put diversity spending in context. Ms. Beauchemin noted that Betr's supplier diversity goal was 30% of supplier spend tied to organizations identified as diverse. Commissioner Skinner noted that the total spending figure was required in order to put that 30% goal and current spending into context. Commissioner Skinner stated that she would also like to see women-owned business enterprises be broken out if they were included in the diversity spending percentage.

Chair Judd-Stein asked if Betr's responsible gaming plan was tailored to the Massachusetts market. Ms. Beauchemin stated that a responsible gaming plan tailored to Massachusetts was an ongoing request, but that supplemental responses had been received.

Commissioner O'Brien stated that the requested information regarding complaints was provided but noted that she had yet to review the submitted supplemental materials. She requested that Commission staff seek clarification as to whether demographic statistics from Twitter were available or not.

Ms. Beauchemin explained that the Commission had requested that FanDuel provide supplemental responses related to the diversity of employees within the Commonwealth and FanDuel's diversity goals. She stated that FanDuel had provided a response letter with the requested information. Commissioner Skinner noted that there was a plan to develop diversity goals, but that she was not prepared to comment as she had yet to review that plan. She noted that FanDuel had provided supplemental responses to all of the Commission's requests. Chair Judd-Stein asked if there was still an issue regarding daily fantasy sports taxation. Commissioner O'Brien stated that the daily fantasy sports issue had been rectified.

Ms. Beauchemin noted that DraftKings had submitted supplemental information regarding overall diverse vendor spending, an update on their Ohio launch, and an update on responsible gaming messaging in advertising. The Commission reached a consensus that the supplemental information provided by DraftKings satisfied the Commission's requests.

Ms. Beauchemin stated that Digital Gaming Corp. ("DGC") had submitted supplemental information regarding their go-live date and supplier diversity spend. Commissioner Skinner noted that overall spending numbers were not provided, and that diversity spending could not be put into context. She asked whether overall spend numbers were not readily available or were not something the applicants were willing to share in a public setting. Commissioner Maynard noted that DGC's goal number was progressive. The Commission reached a consensus that the supplemental information provided by DGC satisfied the Commission's requests.

Ms. Beauchemin noted that the only component pending within DGC's application was attestations regarding suitability. Chair Judd-Stein asked when those attestations would be completed. Ms. Beauchemin stated that the IEB was waiting on the qualifiers to submit those attestations. She stated that the Commission would continue to be updated on this matter.

Ms. Beauchemin stated that Pointsbet had submitted supplemental information regarding supplier diversity goals, DEI objectives, updated workforce numbers, and a workforce diversity goal. Commissioner Skinner noted that no information regarding discretionary spend was submitted.

Ms. Beauchemin noted that Pointsbet also submitted a transactional waiver, supplemental information regarding their university partnership, and information regarding the Indiana matter. The Commission reached a consensus that the supplemental information provided by Pointsbet satisfied the Commission's requests.

Chair Judd-Stein noted that representatives from RSM US LLP ("RSM") were on the call, and that the Commission could move forward to reviewing financial matters. She noted that some information in RSM's presentation was appropriate for executive session.

RSM's Director of Strategic Finance Connor Loughlin stated that RSM had reviewed the financial projections from the applications and conducted further independent market research to provide context. He noted that Pointsbet was not reviewed by RSM due to a preexisting conflict, and that Pointsbet was reviewed by Litman Gerson Associates LLP.

Mr. Loughlin stated that consumer protections in case of operator bankruptcy were important to minimize consumer exposure to loss. He stated that other jurisdictions had implemented effective safeguards and that many of these protections were adopted in 205 CMR 238.12. He noted that monitoring for continued compliance was essential to protecting customers. He stated that the other slides in RSM's presentation contained competitively sensitive financial information more suited for executive session.

#### 4. [Executive Session](#) (1:16:25)

General Counsel Todd Grossman stated that RSM would discuss specific information regarding consolidated assessment of financial projections for the applicants. He stated that this information included revenue projections, market share projections, projected handle percentages and hold percentages, and liquidity positions of the applicants. He stated that this information was competitively sensitive and met the standard outlined in G.L. c. 23N, § 6(i) and would be appropriate to discuss in executive session.

Chair Judd-Stein stated that the Commission anticipated that it may meet in executive session in conjunction with its review of the each of the category 3 untethered applications in accordance with G.L. c. 30A, § 21(a)(7) and G.L. c. 23N, § 6(i) to consider information submitted by the applicants in the course of the respective applications for an operator license, as examined by RSM US LLP in the context of any discussed financial metrics, ratios, or associated financial measures, that are a trade secret, competitively-sensitive or proprietary and which if disclosed publicly would place the applicant at a competitive disadvantage.

Commissioner O'Brien moved that the Commission enter executive session for the matters delineated by General Counsel Grossman and for the legal reasons stated by the chair just now. Commissioner Hill seconded the motion.

*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.*

Chair Judd-Stein stated that the Commission would not return to the public session of this meeting.

*Transcriber's Note: The Commission entered executive session at [1:23:04](#) and did not reconvene the public session of this meeting.*

**List of Documents and Other Items Used**

1. [Amended Notice of Meeting and Agenda dated January 13, 2023](#)