



Massachusetts Gaming Commission Meeting Minutes

Date/Time: January 27, 2023, 1:00 p.m.
Place: Massachusetts Gaming Commission

VIA CONFERENCE CALL NUMBER: 1-646-741-5292
PARTICIPANT CODE: 112 163 3597

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 Jordan Maynard

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

Chair Judd-Stein called to order the 430th Public Meeting of the Massachusetts Gaming Commission ("Commission"). Roll call attendance was conducted. Chair Judd-Stein, Commissioner O'Brien, Commissioner Hill, and Commissioner Maynard were present. Commissioner Skinner was not present for this meeting.

2. [Administrative Update](#) (00:42)

Executive Director Karen Wells stated that the vote on the category one sports wagering operators' certificate of operations would occur on January 30th and that Gaming Laboratories International ("GLI") was expecting to be ready to present their findings to the Commissioners by that date.

Executive Director Wells stated that each category one sports wagering operator had submitted a request for variance for their advertisements. She noted that 205 CMR 256, the sports wagering advertising regulation, had been updated in the week prior. The regulation had the unintended consequence of affecting the licensees' current media buys and promotional activities they had

already engaged in. She stated that the Commission staff recommended granting a two-week waiver request so that each licensee's advertisements would not be out of compliance with the new regulation.

Mark Vander Linden, Director of Research and Responsible Gaming stated that the requests were reasonable, as the licensees' efforts were in compliance with the previous version of the regulation. Commissioner O'Brien inquired how different the sizing of the responsible gaming messaging was. Jacqui Krum, Senior Vice President and General Counsel for Encore Boston Harbor ("EBH") stated that the font size being used was typical for their gaming operations advertisements, but smaller than the requirement under the 205 CMR 256.00.

Director Vander Linden inquired if the tagline for the problem gambling helpline could be removed to free up additional space to account for the new font size. Ms. Krum stated that the current suggested language and font size requirement would preclude marketing on billboards. She stated that any way to shorten the length while ensuring that the message remain visible would be helpful. Director Vander Linden stated that the Department of Public Health stated their satisfaction with the language being shorter.

Chair Judd-Stein acknowledged Executive Director Wells and Director Vander Linden recommendations for the adoption of the three requests and added that the Commission had the flexibility to revisit the language regarding the font in the future. Commissioner Maynard expressed an interest in the responsible gaming language being practical. Ms. Krum stated that EBH could configure different marketing materials in accordance with the new regulation and work with Director Vander Linden on those initiatives. Commissioner Hill expressed an interest in having an in-depth discussion with each sports wagering licensee.

Commissioner O'Brien noted that the language in the regulation was similar to Pennsylvania's advertising rules. She noted that licensee Penn Entertainment, who operated Plainridge Park Casino ("PPC"), also operated in that jurisdiction. General Manager of PPC, North Grounell stated that the language was similar, but that Pennsylvania required disclosure language was shorter. He expressed an interest in working with Director Vander Linden to address the issue in the future. Vice President and Legal Counsel for MGM Springfield ("MGM") Augustine "Gus" Kim stated that MGM would also work to ensure that responsible gaming messaging was on their marketing materials but requested a discussion to change the wording of the language.

General Counsel Grossman stated that the granting of a waiver or variance required the Commission to have four findings pursuant to 205 CMR 202.03(4). He stated that the four findings were that the waiver or variance was consistent with the statute; the waiver or variance would not interfere with ability of the Commission or Investigations and Enforcement Bureau ("IEB") to do its work; that granting the waiver would not adversely affect the public interest; and that not granting the waiver or variance would create a substantial hardship for the requestor. He noted that an amendment to 205 CMR 202 allowing waivers or variances to be requested for sports wagering matters had been approved by emergency in the previous public meeting.

Chair Judd-Stein expressed an interest in looking at the changes to the advertising regulations. Commissioner O'Brien noted that the change was to 205 CMR 256.06(4). Chair Judd-Stein stated that the waiver would be for this round of media buying, but that it would be beneficial for licensees develop a plan prior to the next media buy.

Ms. Krum noted that EBH had already designed marketing for the Superbowl. Chair Judd-Stein asked if that design could be pulled. Ms. Krum stated that EBH would not have time to pull the advertisement, re-design it, and re-submit it prior to the Superbowl. Commissioner O'Brien suggested granting the waiver through February 15, 2023.

Commissioner Maynard moved that the Commission, in accordance with 205 CMR 202.03 in consideration of 205 CMR 256.06(4) as received by a letter by Encore Boston Harbor and expressed here today by MGM and Plainridge Park Casino, that grant a variance in relation to the advertising regulation as the four factors were met. The four factors being that granting the waiver or variance is consistent with the purposes of M.G.L. Chapter 23N; granting the waiver or variance will not interfere with the ability of the Commission or the bureau to fulfill its duties; that granting the waiver or variance would not adversely affect the public interest; and that not granting the waiver or variance would cause a substantial hardship to the persons requesting the waiver or variance.

Commissioner O'Brien offered an amendment to add language that it was consistent with the requirement of 205 CMR 202.03(2). Commissioner Maynard accepted Commissioner O'Brien's amendment and offered an amendment that this variance remains in effect through February 15, 2023. General Counsel Grossman offered clarification that all three category one sports wagering licensees had submitted written comments. Commissioner O'Brien seconded the motion.

Roll call vote:

Commissioner O'Brien: Aye.

Commissioner Hill: Aye.

Commissioner Maynard: Aye.

Chair Judd-Stein: Aye.

The motion passed unanimously, 4-0.

3. [Legal](#) (33:15)

- a. Discussion regarding M.G.L. c. 23N, § 24: Determination of Whether Winner of Cash Prize Owes Past-Due Child Support or Tax Liability to The Commonwealth; Duties of Operator.

General Counsel Grossman explained that General Law Chapter 23N, § 24 was added to the sports wagering law after the initial enactment of most of the sections. He stated that the

provision was related to the operator's duty to intercept certain winnings from players relative to possible outstanding child support and tax obligations. He stated that the language was similar to G.L. c. 23K, § 51 for the interception of casino gaming winnings.

Chair Judd-Stein asked if this change had to occurred prior to the January 31, 2023, launch of category one sports wagering. General Counsel Grossman stated that licensees were required to review and sign the amended memorandum of understanding ("MOU") with the Department of Revenue ("DOR"). He stated that all licensees were aware of the requirement.

Chair Judd-Stein asked if DOR was aware that the launch date was January 31, 2023. General Counsel Grossman confirmed that the DOR was aware of the timeline issue and thanked the agency for their quick response. He noted that the agreements would need to be executed and that historically, the Executive Director did the execution.

General Counsel Grossman stated that the second issue was whether sports wagering kiosks could detect when a taxable event threshold was reached, so that the intercept review would be performed prior to payment. Commissioner Maynard asked if the kiosks were configured to perform that check. Director of Sports Wagering Bruce Band explained that he was waiting to hear back from GLI for confirmation on that specific function.

Chair Judd-Stein inquired whether there was a possible retroactive option. General Counsel Grossman stated that there had previously been a technical problem between the communication of PPC and the DOR database, and confirmed it was possible to review which payments had not been previously intercepted.

General Counsel Grossman stated that the arrangement would be similar with category two operators, but he was unsure if it was technologically feasible to integrate this requirement into category three mobile sports wagering platforms. He noted there was a difference between manual payouts at kiosks and mobile applications.

Executive Director Wells stated that the Commission staff would ensure that all licensees comply with state and federal laws, and that she would communicate with DOR, GLI, and the licensees to rectify the situation. Commissioner O'Brien stated that this issue could be addressed further at the meeting on January 30, 2023. Executive Director Wells noted to Commissioners that she had received a communication from PPC; and their kiosks were configured to recognize a taxable event.

Kevin Mulally, Vice President of Government Relations & General Counsel from GLI, stated that kiosks would check for any payouts that would trigger the taxable event reviews. He stated that the review would be a manual search through available information in the account in association with the payout. He stated that the kiosk would then display instructions that would direct the player to proceed to the sports wagering cage.

Director Band noted that over \$3 million dollars had been intercepted each year for the past couple of years through this process. Sports Wagering Operations Manager Sterl Carpenter added that any winning wager with payout odds of 300 to 1 would be directed to the sports wagering cage, and that there would not be a payout at the kiosk.

Chair Judd-Stein stated that there did not seem to be a technical problem for the retail sports wagering operators, and that the MOUs would need to be updated with each facility. She confirmed that Executive Director Wells could execute the updated MOUs on behalf of the Commission. She then inquired how this intercept protocol would function with category three sports wagering operators. Mr. Mulally stated that some mobile operators already had this functionality, as other jurisdictions had similar requirements. He stated that GLI would ask the prospective licensees if they had the feature available.

Joe Bunevith, Director of Client Solutions, from GLI stated that Louisiana had similar language for both retail and mobile operators. Indiana required this provision only for retail operators, and that he would need to check the other jurisdictions where sports wagering was in effect. Chair Judd-Stein stated that some of the provisional licensees operated in those jurisdictions and could have the feature available in the Commonwealth.

Commissioners thanked Commission staff and members of GLI for their comments and discussion.

5. [Other Business](#) (1:09:12)

Hearing no other business, Chair Judd-Stein requested a motion to adjourn.

Commissioner O'Brien moved to adjourn. The motion was seconded by Commissioner Hill.

Roll call vote:

Commissioner O'Brien: Aye.

Commissioner Hill: Aye.

Commissioner Maynard: Aye.

Chair Judd-Stein: Aye.

The motion passed unanimously, 4-0.

List of Documents and Other Items Used

1. [Revised Notice of Meeting and Agenda](#) dated January 25, 2023