



Massachusetts Gaming Commission Meeting Minutes

Date/Time: January 9, 2023, 10:00 a.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 420th Public Meeting of the Massachusetts Gaming Commission ("Commission"). Roll call attendance was conducted, and all five commissioners were present for the meeting.

2. [Evaluation Process](#) (01:16)

Chair Judd-Stein stated that the Commission would evaluate the category three sports wagering license application submitted by Betfair Interactive US, LLC d/b/a FanDuel ("FanDuel").

- a. [Presentation of application and demonstration of technology and user experience by each applicant for a Category 3 untethered sports wagering operator license in accordance with 205 CMR 218.06\(3\)](#) (01:34)

FanDuel's Vice President of Product and New Market Compliance, Cory Fox, introduced FanDuel's Chief Legal and Compliance Officer, Carolyn Renzin, FanDuel's CFO, David Jennings, FanDuel's Senior Director of Diversity, Equity, and Inclusion ("DEI"), Keita Young, FanDuel's President, Christian Genetski, and Outside Counsel from the law firm Womble, Bond, Dickinson (US), LLP, Jed Nosal. Mr. Fox noted that portions of FanDuel's presentation contained commercially sensitive and proprietary information and requested that those topics be discussed in executive session.

Mr. Genetski explained FanDuel's history and experience with the sports wagering industry. He stated that FanDuel has been offering sports wagering since 2018 and had more than 3,000 employees. He stated that FanDuel had \$3 billion in revenue in 2022. He explained that FanDuel operated both retail and online sportsbooks in 21 states. He noted that FanDuel's daily fantasy sports and horseracing products were already available in Massachusetts. He stated that all technology was in-house which allowed FanDuel to have key product innovation.

Mr. Jennings stated that FanDuel's parent company had a market cap in excess of \$25 billion and employed 16,000 employees globally. He stated that FanDuel projected \$200 million in sportsbook tax revenue in the first five years. He stated that FanDuel would spend \$50 million with locally based media in the first five years.

Attorney Renzin stated that every employee was trained on FanDuel's responsible gaming policy and were re-tested annually. She stated that there was a dedicated responsible gaming team with 15 employees. She stated that employees were trained to spot behavioral red flags and evaluate them against a pre-determined risk scale. She stated that FanDuel aired responsible gaming messages more than 10,000 times in 2022. She stated that FanDuel offered Gamban blocking software to individuals who self-excluded through its website and has a responsible gaming ambassador program.

Ms. Young stated that FanDuel was committed to increasing diversity representation at all levels of leadership. She noted that the CEO and 45% of the C-suite were women. She stated that FanDuel was partnered with various diversity organizations and programs. She stated that FanDuel had an ongoing investment with employee resource groups. She stated that FanDuel was developing and implementing a diverse supplier strategy.

Mr. Fox stated that FanDuel had technological expertise regarding geolocation and know-your-customer ("KYC") approaches. He explained the technology related to comprehensive data security controls.

Attorney Renzin stated that FanDuel had a culture of compliance and transparency. She explained that FanDuel had a financial crime program, conduct and integrity programs, and a robust regulatory team. She stated that FanDuel engaged with regulators as partners and reported issues early.

FanDuel's Senior Vice President of Product, Billy Turchin, provided a product demonstration of FanDuel's player management platform. Chair Judd-Stein asked if FanDuel provided notice that a cooling-off period is ending. Attorney Renzin stated there was no affirmative notice provided to patrons that the cooling-off period was ending.

Chair Judd-Stein inquired about the reality check feature on FanDuel's platform. Mr. Turchin stated that it was a prompt that explains the amount of time the player has been using the platform and amount wagered during that time period. Mr. Fox noted that some jurisdictions required players to receive a prompt or be logged out after a certain time period. Commissioner O'Brien asked which jurisdiction required these features. Mr. Fox explained that this feature was required in New Jersey and Connecticut.

Commissioner Hill asked if the platform checked for age between different forms of wagering such as daily fantasy sports, horseracing, and sports wagering. Mr. Fox stated that the platform implements an age check which checks the user's date of birth. He noted that daily fantasy sports and sports wagering both required customers to be 21 or older in Massachusetts. FanDuel's Senior Vice President of Sports Product and Pricing, Conor Farren, provided a technology demonstration for placing a wager on FanDuel's platform.

b. [Presentations and Analysis Relevant to review and evaluation of Application for each Category 3 untethered sports wagering operator license](#): (1:13:11)

i. [Technical Components](#) (1:14:09)

Gabe Benedik, Client Solutions Executive from Gaming Laboratories International ("GLI"), provided an overview of the certification process and end verification for mobile applications and other digital platforms once they are approved by the Commission. He stated that GLI would verify whether the platform meets all requirements specific to Massachusetts during the verification process.

ii. [Report on suitability of the Applicant](#) (1:20:49)

Chief Enforcement Counsel Heather Hall discussed the Investigation and Enforcement Bureau's ("IEB") report on the preliminary suitability of FanDuel. She noted that the Licensing Division identified six entity qualifiers and four individual qualifiers. She stated that tax certifications from FanDuel's entity qualifiers were not submitted, and that the licensing division was working to get those documents.

iii. [Financial and Economic Impact Analysis RSM US LLP](#) (1:27:11)

Theresa Merlino, Finance Consultant from RSM US LLP ("RSM"), presented on the financial projection estimates provided by FanDuel, including anticipated market size in Massachusetts, year-over-year growth trends, market share data from other jurisdictions, hold percentage over

time, and liquidity of the applicant. She stated that the information provided by FanDuel included competitively sensitive data that would be better addressed in an executive session.

Chief Enforcement Counsel Hall stated that there had been a correction with respect to recorded ownership percentages, and that the topic would be suitable for executive session. Chair Judd-Stein sought clarification regarding the outstanding filing related to the entity qualifiers' tax certifications. Chief of Licensing Kara O'Brien stated that the Licensing Division was waiting on both state and federal tax certifications for FanDuel's six entity qualifiers.

c. Review and evaluation of each Application for a Category 3 untethered sports wagering operator license as submitted by Betfair Interactive US, LLC (d/b/a FanDuel), in accordance with 205 CMR 218.00 including, but not limited to consideration of the following criteria: (1:58:01)

Chair Judd-Stein noted that the Commission would review FanDuel's application at this meeting, and that there would be a holistic review of each category three application on January 18, 2023 and January 19, 2023.

i. Experience and Expertise related to Sports Wagering (205 CMR 218.06(5)(a)) (1:59:39)

Commissioner Hill noted that a broadcaster related to the Cleveland Browns was removed from his position because he had placed a bet on an NFL game. He noted that FanDuel had partnerships with sports leagues and asked what safeguards are in place for the integrity of sports wagering.

Mr. Genetski stated that FanDuel works closely with league partners on developing policies to identify prohibited bettors. Attorney Renzin stated that FanDuel had internal processes in place to work with sports leagues to obtain lists of prohibited players. She noted that FanDuel's terms and conditions prohibited these individuals from using FanDuel's platform. Mr. Farren stated that FanDuel worked with U.S. Integrity and that FanDuel was notified of issues flagged by other competitors.

Chair Judd-Stein expressed concern about the intensity of advertising in the sports wagering industry. Mr. Genetski stated that FanDuel's advertisements were geared towards adults and transparent to consumers. He stated that FanDuel worked with the sports leagues in order to not oversaturate the advertising market.

Commissioner O'Brien asked how many Massachusetts residents used FanDuel's services for daily fantasy sports, horseracing, and sports wagering in neighboring jurisdictions. Mr. Genetski stated that this was confidential and specific information that he would prefer to discuss in executive session.

Commissioner O'Brien requested that FanDuel register as a daily fantasy sports operator in Massachusetts and pay the associated taxes. Mr. Fox stated that FanDuel would register and that the only delay was an issue related to the calculation of daily fantasy sports income attributable to the Commonwealth.

Chair Judd-Stein asked if FanDuel was pre-registering customers before going live. Mr. Fox stated that FanDuel hoped to do pre-live marketing if FanDuel was granted a license. He stated that Massachusetts users could sign up for FanDuel's daily fantasy sports offering but that they could not currently sign up for FanDuel Sportsbook.

The Commission reached a consensus that FanDuel had met the Commission's expectations with regard to Section B of the application.

ii. Economic impact and other benefits to the Commonwealth if applicant is awarded a license (205 CMR 218.06(5)(b)) (2:26:38)

Commissioner O'Brien expressed that she would like to see an increase in the number of Massachusetts employees at FanDuel. She asked about how FanDuel intended to utilize local spending. Mr. Genetski stated that FanDuel offers events in states where their platform is offered, and that FanDuel uses local vendors to supply these events. Commissioner Skinner stated that she wanted to see long-term ongoing efforts to engage the community in Massachusetts. She requested that FanDuel supplement its application to include information regarding long-term community engagement efforts.

Commissioner Skinner asked if FanDuel's eighteen Massachusetts employees were full-time or part-time. Mr. Fox confirmed that the employees residing in Massachusetts were full-time remote employees. Commissioner Skinner requested information regarding the diversity of those Massachusetts employees. Mr. Fox agreed to provide that information.

Commissioner Maynard expressed the expectation that FanDuel collaborate with the Massachusetts Lottery. Mr. Genetski stated that FanDuel planned to collaborate with the Massachusetts Lottery, and that he could discuss further details in executive session. Chair Judd-Stein stated that promotion in local establishments was an opportunity for engagement with the lottery and diverse businesses.

Commissioner O'Brien noted that FanDuel had a Women's Leadership and Development program and asked if similar opportunities were available to other minority employees. Ms. Young stated that the Women's Leadership and Development program had just launched and was a pilot program. She stated that other mentoring programs were available through employee resource groups.

Commissioner Hill asked if FanDuel had planned any involvement with food banks, toy drives, or other community engagement opportunities in Massachusetts. Mr. Genetski explained that

FanDuel participated in annual toy drives and specialized community engagement to each specific community.

The Commission reached a consensus that FanDuel had met the Commission's expectations with regard to Section C of the application, subject to the Commission's receipt of the requested supplemental information.

iii. [Applicant's willingness to foster racial, ethnic, and gender diversity, equity, and inclusion \(205 CMR 218.06\(5\)\(d\)\)](#) (2:50:38)

Commissioner Skinner noted that FanDuel had listed that the C-suite was 42% women. She asked FanDuel to provide information regarding other underrepresented groups in the C-suite and other management positions. Ms. Young stated that she believed the C-suite was 42% women and 18% underrepresented minorities, and that she would report back to the Commission with the exact figures. She stated that 28% of FanDuel's employees were female, and that 39% of FanDuel's employees were underrepresented minorities.

Commissioner Maynard asked if the Commission would receive percentage goals for supplier diversity spending. Ms. Young stated that FanDuel was taking steps to identify diverse vendors. Mr. Genetski stated that FanDuel would provide its diverse spending action plan for 2023.

The Commission reached a consensus that FanDuel had met the Commission's expectations with regard to Section D of the application, subject to the Commission's receipt of the requested supplemental information.

iv. [Proposed measures related to responsible gaming \(205 CMR 218.06\(5\)\(c\)\)](#) (3:04:09)

Commissioner O'Brien asked what changes FanDuel had made as a result of the daily 2016 and 2017 fantasy sports settlements in New York and Massachusetts. Mr. Genetski noted that daily fantasy sports was unregulated as of 2015. He stated that FanDuel worked with the Massachusetts Attorney General to develop consumer protection regulations for daily fantasy sports. He stated that FanDuel had implemented all required changes and were in compliance with the fantasy sports regulations by the time of the settlement.

Commissioner O'Brien inquired about FanDuel's use of responsible gaming ambassadors. Mr. Genetski stated that one responsible gaming ambassador focused on responsible gaming for the average customer, and that the other ambassador focused on those with compulsive tendencies. He stated that it was helpful to have an ambassador discuss their own troubles related to gambling at town halls and colleges.

Commissioner O'Brien stated that she had questions related to open matters listed in Section E3(F)(1) of the application. Attorney Nosal requested that any matters that were not public be discussed in executive session.

Commissioner Skinner asked for details related to the lawsuit filed by Mr. Manganaro. FanDuel's Senior Director of Litigation Robert Dunn stated that Mr. Manganaro filed a lawsuit in New Jersey regarding an incorrect understanding of withdrawing deposits. He stated that FanDuel was contesting that litigation. Commissioner Skinner asked how much the deposit in question was. Mr. Dunn stated that it was a \$500 deposit with \$300 remaining in the customer's account.

Commissioner O'Brien stated that she had questions regarding a matter from New Jersey listed in Section E3(F)(1) of the application. Mr. Genetski stated that he would prefer to discuss that matter in executive session.

Commissioner O'Brien inquired about the tenth item listed in Section E3(F)(1) of the application. Attorney Renzin stated that during a routine audit, FanDuel discovered that one of its KYC providers had incorrect settings for customer age. She stated that underage individuals could be verified under KYC protocols, but that they were not able to deposit, withdraw, or wager on FanDuel's platform. She stated that FanDuel then conducted a more fulsome investigation of its KYC providers.

Commissioner O'Brien noted that the 21st item listed in Section E3(F)(1) of the application was marked as pending. Mr. Fox explained that the matter was not pending, and that there was no final disposition following the warning letter. Commissioner O'Brien asked to discuss the timeline of this matter in executive session.

Chair Judd-Stein inquired about the settlement from Connecticut. Attorney Renzin stated that more details could be provided in executive session. Commissioner Hill stated that any consensus as to whether FanDuel met the Commission's expectations with regard to this section of the application should be taken after the executive session.

v. [Technology that the applicant intends to use \(205 CMR 218.06\(5\)\(e\)\)](#) (3:40:20)

Chair Judd-Stein asked where FanDuel's server would be located. Mr. Fox stated that FanDuel was working with a vendor to determine server location.

The Commission reached a consensus that FanDuel had met the Commission's expectations with regard to Section F of the application.

vi. [Suitability of the applicant and its qualifiers \(205 CMR 218.06\(5\)\(f\)\)](#) (3:43:58)

Commissioner O'Brien sought clarification regarding the patent lawsuit. Mr. Dunn explained that a patent holding company had filed an infringement claim against FanDuel and other operators regarding geolocation services. He noted that the lawsuit was dismissed in district court and appealed.

Commissioner O'Brien asked about an employee termination lawsuit. Mr. Dunn noted that the employee did not work at FanDuel but at a sister company owned by the same parent company. He explained that the plaintiff was not an employee of FanDuel, and that FanDuel had no control over the plaintiff's termination.

Chair Judd-Stein stated that any consensus as to whether FanDuel met the Commission's expectations with regard to this section of the application would be taken after the executive session.

d. [Executive Session](#) (3:48:02)

General Counsel Grossman reiterated the matters identified for discussion in executive session and stated that the topics would be appropriate for executive session in accordance with G.L. c. 23N, § 6(i).

Chair Judd-Stein stated that the Commission anticipated that it would meet in executive session in conjunction with its review of 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 then applicant at a competitive disadvantage.

Commissioner O'Brien moved that the Commission go into executive session on the matters delineated by General Counsel Grossman and for the reasons set forth by the Chair.

Commissioner Skinner 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 noted that the public session of the Commission meeting would reconvene at the conclusion of the executive session.

Transcriber's Note: The Commission entered executive session and returned to the public session of the meeting at [5:21:26](#).

The Commission reached a consensus that FanDuel had met the Commission's expectations with regard to Section E of the application. The Commission reached a consensus that FanDuel had met the Commission's expectations with regard to Section G of the application.

Chair Judd-Stein asked what supplemental information was requested. General Counsel Grossman stated that the Commission had requested that FanDuel register as a daily fantasy sports operator and pay the associated taxes. He stated that the Commission had requested a demographic breakdown of FanDuel's Massachusetts-based employees. He stated that the Commission had requested tax certifications from FanDuel's entity qualifiers. He noted that the Commission sought information relative to the exact percentages of underrepresented minorities and women in FanDuel's C-suite.

General Counsel Grossman stated that FanDuel offered to supply the Commission with FanDuel's action plan for supplier diversity. He asked if that information was sufficient for the requests regarding supplier diversity. Commissioner Maynard stated that he wanted available information related to current statistics and requested that diversity spending goals be set. Mr. Genetski stated that the requested information would be provided and that FanDuel would establish such goals.

The Commission thanked FanDuel's representatives for their time.

5. [Other Business](#) (5:32:49)

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 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 January 3, 2023](#)