



Massachusetts Gaming Commission Meeting Minutes

Date/Time: November 16, 2023, 9:30 a.m.
Place: Massachusetts Gaming Commission
VIA CONFERENCE CALL NUMBER: 1-646-741-5292
PARTICIPANT CODE: 111 403 6163

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 488th Public Meeting of the Massachusetts Gaming Commission ("Commission"). Roll call attendance was conducted, and all five commissioners were present for the meeting.

Chair Judd-Stein stated that the Commission stood up the regulatory framework for sports wagering with a priority on integrity and consumer protections. She stated that the operators were working to comply with the Commission's regulations and cooperate with the Commission. She noted that there was also an unregulated sports wagering market that did not offer consumer protections to Massachusetts citizens. She stated that a list of legal sports wagering operators was located on the Commission's website.

2. [Minutes](#) (07:11)

a. February 28, 2023

The *February 28, 2023 public meeting minutes* were included in the Commissioners' Packet on pages 4 through 15.

Commissioner Maynard moved that the Commission approve the minutes from the February 8, 2023 public meeting that are included in the Commissioners' Packet subject to any necessary corrections for typographical errors or any other non-material matters. 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.

b. [March 1, 2023](#) (08:23)

The *March 1, 2023 public meeting minutes* were included in the Commissioners' Packet on pages 16 through 29.

Commissioner Maynard moved that the Commission approve the minutes from the March 1, 2023 public meeting that are included in the Commissioners' Packet subject to any necessary corrections for typographical errors or any other non-material matters. Commissioner Hill seconded the motion.

Commissioner O'Brien noted that she found some typographical errors which would need to be corrected and stated that she would circle back to Commissioner Maynard with the proposed edits.

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.

c. [March 2, 2023](#) (09:42)

The *March 2, 2023 public meeting minutes* were included in the Commissioners' Packet on pages 30 through 36.

Commissioner Maynard moved that the Commission approve the minutes from the March 2, 2023 public meeting that are included in the Commissioners' Packet subject to any necessary corrections for typographical errors or any other non-material matters.

Commissioner Skinner explained that a quote was misattributed to her on the second page of the minutes two paragraphs from the bottom on page thirty-one of the Commissioners' Packet. Chair Judd-Stein stated that she believed Commissioner Hill made that statement. Commissioner Hill confirmed that he made the comment in question. Associate General Counsel Judith Young stated that she would make that change.

Commissioner Skinner offered an amendment to change that instance of "Commissioner Skinner" to "Commissioner Hill". Commissioner Maynard accepted the amendment. 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.

3. [Administrative Update](#) (12:59)

a. MGC Information Security Plans

Interim Executive Director and General Counsel Todd Grossman stated that the Commission was required by law to have an information security plan. He explained that the information security plan had recently been updated. He noted that some sensitive information and documents would not be shared publicly.

Chief Information Officer ("CIO") Katrina Jagroop-Gomes explained that 201 CMR 17 implemented provisions of Massachusetts General Law Chapter 93H requiring the Commission to develop, implement, and maintain a comprehensive written information security program. She stated that the Commission was also required to annually attest to having these policies in place. She stated that the policies would be made available on the ITS intranet for all Commission staff to view.

Information and Network Security Manager Kevin Gauvreau explained that the objective of information security policies was to enable organizational strategy for the protection of customer data, management of identified security risks and compliance with applicable laws, regulations, and contractual obligations of the organization.

Mr. Gauvreau explained that the Commission initially adopted the Executive Office of Technology Services and Securities' ("EOTSS") information security policies. He stated that since then minor modifications had been made to reflect the needs of the Commission. He stated that policies would be updated annually or after any significant change to industry standards or the Commission's infrastructure. He stated that the information security policies included

password complexity, asset inventory, and security controls. Chair Judd-Stein stated that the information security policy seemed to be ahead of the curve on complex issues.

4. [Legal](#) (20:05)

a. 205 CMR 152: Individuals Excluded from Gaming and Sports Wagering Review for Commencement of Promulgation Process and Small Business Impact Statement

Associate General Counsel Ying Wang stated that the legal division had suggested an amendment to 205 CMR 152 related to the involuntary exclusion list in order to reference court-ordered exclusion as envisioned by statute.

Associate General Counsel Wang presented the changes to 205 CMR 152. The *small business impact statement and draft of 205 CMR 152* were included in the Commissioners' Packet on pages 39 through 47.

Commissioner O'Brien noted that the changes to the regulation only addressed statutory obligations the Commission has to act on in accordance with a district court order. She stated that the Commission might want to consider how to respond if there is a request from another court, such as a condition of probation.

Chair Judd-Stein stated that the Trial Court Administrator had reviewed the regulation and indicated that they had no comments at this time. Chair Judd-Stein stated that this requirement is unique to Massachusetts. Commissioner Skinner noted that the trial court had been cooperative with the Commission in developing a process in which the Commission could be informed of the processes and procedures the trial court implements. She stated that the Deputy Court Administrator for the district courts would work with the Commission to inform stakeholders about this option.

Director of the Research and Responsible Gaming Division Mark Vander Linden stated that this was a top priority for the responsible gaming division. He stated that when family members seek relief for themselves and a loved one it was important that the process was as easy as possible, and that the information was presented clearly. He stated that collaboration with the court officials helped with communicating their orders to individuals who were interested. He noted that this process was the work of the Gaming Policy Advisory Committee's Addiction Services Subcommittee.

Commissioner O'Brien moved that the Commission approve the small business impact statement and draft of 205 CMR 152 as included in the Commissioners' Packet and discussed here today, and further that staff be authorized to take the steps necessary to file the required documentation with the Secretary of the Commonwealth to begin the regulation promulgation process. Commissioner Maynard 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.

b. [205 CMR 2.00: Racing Meeting Licensing – Discussion and Review of Regulation and Small Business Impact Statement for Final Review and Possible Adoption](#) (31:53)

Attorney Paul Kominers, Outside Counsel from the law firm Anderson and Krieger, presented the changes to 205 CMR 2.00. The *amended business impact statement, public comments and draft of 205 CMR 2.00* were included in the Commissioners’ Packet on pages 52 through 77.

Mr. Kominers explained that several public comments were received by counsel for Baystate Racing LLC (“Baystate”) and the Executive Director of the New England Horsemen and Benevolence Protective Association (“NEHBPA”) Paul Umbrello. Mr. Kominers stated that the overarching theme of concerns was that the racing license application review process would be rigidly centered around the statutory October 1 date. He stated that amendments could be made to offer more clarity and introduce flexibility in the process.

Mr. Kominers stated that the first issue raised by Baystate was regarding the timeline for submitting scoping surveys, business entity disclosures (“BED”), multi-jurisdictional personal history disclosure forms (“MJPHD”) and the Massachusetts supplemental form. He stated that the applicants can always supply materials earlier provided the Commission has enough time to adequately review the suitability of the application. He stated that the Investigations and Enforcement Bureau (“IEB”) needs time to review the scoping survey to identify which affiliated entities or people need to submit a BED, MJPHD, or Massachusetts Supplemental forms. He stated that it would be helpful for applicants to submit paperwork for the obvious people while the IEB is still processing the scoping survey.

Mr. Kominers explained that the regulation was edited to allow applicants to submit anticipated qualifiers with the permission of the IEB. He explained that the regulation was also amended to allow applicants to submit qualifier materials on a per-qualifier basis with the permission of the IEB. He stated that the next change was to 205 CMR 2.03(5) to add language that the Commission could start processing applications as soon as they were complete.

Mr. Kominers stated that the Commission did not accept a comment from Baystate and the NEHBPA that requested a 45-day deadline for the processing of an application upon receipt of a complete application. He stated that adopting this change would be counter to the principles of flexibility and dealing with situations as they arise that was embodied in the regulation. He stated that there was a risk that adopting a rigid deadline could disadvantage applicants who have a more complex application. He stated that the Commission could do its best to accommodate the needs of particular applicants, such as needing a license for construction permitting.

Chair Judd-Stein sought clarification as to how the applicant would make such a request. Mr. Kominers explained that if an applicant informs the Commission that they need a license by a certain date, then the Commission could discuss with the applicant when materials would need to be submitted by. He stated that the Commission could do their best to accommodate the request.

Chair Judd-Stein asked if the request would be made to the Commission or the IEB. Mr. Kominers stated that it would depend upon what stage of the process the application is in, as a major portion of sequencing and staging of the application materials is done with the IEB but the Commission is the ultimate decider on license applications. Chair Judd-Stein noted that this could create a lot of work for the IEB. Interim IEB Director Heather Hall stated that she worked with the legal team on this regulation, and that the IEB would communicate with the Commission should an issue arise.

Commissioner Hill moved that the Commission approve the small business impact statement and draft of 205 CMR 2.00 as included in the Commissioners' Packet and discussed here today, and further that staff be authorized to take the steps necessary to file the required documentation with the Secretary of the Commonwealth to begin the regulation promulgation process.

Commissioner O'Brien offered an amendment that Commissioner Hill's motion be done pursuant to the emergency regulation process. Commissioner Hill accepted the amendment. Commissioner Maynard 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.

5. [Sports Wagering Division](#) (45:38)

a. Sports Wagering Operators' Requests for Waivers from 205 CMR 238.02(7) and 205 CMR 257: Sports Wagering Data Privacy. Operators requesting waivers include MGM Springfield, BetMGM, Fanatics, DraftKings, Caesars, FanDuel, Betr, Plainridge Park Casino, PSI, Encore Boston Harbor, and WynnBET

Sports Wagering Business Manager Crystal Beauchemin explained that the Commission had given a uniform waiver from the requirements in 205 CMR 257 through November 17, 2023. She noted that the operators had since submitted updated waiver requests and implementation details that the Commission requested. The *Sports Wagering Division's memorandum, operator responses, and waiver requests* were included in the Commissioners' Packet on pages 78 through 184.

Attorney Mina Makarios, Outside Counsel from Anderson and Krieger, stated that there were a lot of overlapping waiver requests, and stated that he would go through them section-by-section. He explained that the first key section waivers were requested for was 205 CMR 257.02(1). He stated that several operators sought clarification regarding the definition of “necessary to operate”.

Mr. Makarios stated that the term “necessary to operate” was broad and encompassed everything an operator has to do to provide their product for patrons in a safe way. He stated that this includes anti-money laundering protections and marketing. He noted that most operator concerns were regarding sharing information with third parties. He stated that there was discretion regarding what was necessary based upon how the operator structures their platform and operations.

Mr. Makarios stated that Fanatics requested a waiver through May 2024, that DraftKings had requested a waiver from 205 CMR 257.02(1) and 205 CMR 257.02(2) through July 1, 2024, and that Caesars had requested a waiver through June 30. He stated that the Commission might want to consider granting a waiver to all operators through a certain date. Commissioner O’Brien asked if the Attorney General’s Office’s data privacy group was consulted regarding the reasonableness of this timing. Mr. Makarios stated that the Attorney General’s Office was made aware of the waiver requests, but that the deadlines requested were not discussed. Commissioner O’Brien asked if only these three operators requested this waiver extension. Mr. Makarios stated that more operators requested waivers for 205 CMR 257.02(2) than 205 CMR 257.02(1).

Mr. Makarios stated that 205 CMR 257.02(2) was regarding the patron’s opt-in consent for information sharing. He stated that following the clarification of the term “necessary to operate” some operators no longer felt the need to request a waiver. He noted that Fanatics, DraftKings, Caesars, FanDuel, and Betr had requested waivers. He noted that the waivers requested ranged from March 2024 through October 2024. He stated that DraftKings and Caesars had both requested dates at the end of June 2024. Commissioner O’Brien stated that the October date seemed like an outlier that was outside of her comfort zone.

Chair Judd-Stein asked why October 1, 2024, might be reasonable for FanDuel. Director of Government and Regulatory Affairs with FanDuel Andrew Winchell explained that it was an estimated twenty to twenty-four weeks to develop a solution, an estimated four to six weeks for testing, and one to two months to roll out the solution and connect the consent mechanisms with internal systems. He stated that he understood other operators could be compliant sooner, but that this seemed like a reasonable timeline for FanDuel.

Commissioner O’Brien stated that while she appreciated the clarification, she was still not inclined to grant a waiver that far out. She suggested that FanDuel could receive the same waiver as other operators and request additional time if it is necessary. Mr. Winchell stated that he would have to consult the tech team, but that FanDuel would endeavor to create the opt-in mechanism quickly. He stated that if any period was truncated it would likely be the testing and roll-out. Commissioner O’Brien stated that FanDuel could return in the spring if they needed to request additional time, but that a waiver for a full year was too far out. Mr. Winchell stated that

it was a fair compromise and that FanDuel would provide an update on this topic during their quarterly report.

Mr. Makarios stated that a universal waiver with a consistent date would help prevent confusion. He noted that 205 CMR 257.02(1) and 205 CMR 257.02(2) were closely tied together and recommended that the waiver for each provision be extended through June 30, 2024. He explained that if the operators did not get a further waiver at that point, they would not be able to use data that requires consent other than for necessary purposes.

Commissioner Skinner expressed support for the compromise related to FanDuel's request. She stated that the operators should adjust business priorities to ensure that they are meeting the deadlines for these waivers.

Mr. Makarios stated that he received a question from Betr requesting clarification as to what would happen to existing patrons who signed up prior to implementation of the opt-in system. He stated that the regulation covers existing patrons and that it would be on the operator to seek consent. He noted that it was not unusual to get updated privacy policies.

Senior Manager of Responsible Gaming from Fanatics Alex Smith stated that the clarification regarding the term "as necessary to operate" was helpful. He noted that the May of 2024 date listed in the memo was incorrect and that Fanatics had requested a waiver for 18 months to be in compliance with 205 CMR 257.02.

Commissioner O'Brien stated that the June 30, 2024, date was good for most operators, and that other operators could come in with an update at that point to request any further extension. Chair Judd-Stein stated that the Commission thought it was critical that data privacy protections are in place, and that it was in the operators interests to get their systems in compliance. She expressed an interest in knowing how many operators would need additional time past the June 30, 2024, date.

Mr. Makarios stated that some operators requested waivers more broadly, and that Fanatics had requested eighteen months to be in compliance with 205 CMR 257.02. He noted that MGM Springfield ("MGM") had requested a waiver from 205 CMR 257 generally through May 15, 2024. He suggested a June 30, 2024, waiver for 205 CMR 257.02(1). He stated that Fanatics' request for 18 months seemed to be based on developing a new user experience flow and implementing tools to prevent defined data elements being used for non-essential features. He stated that some of the features detailed could be implemented before June 30, 2024, and that an update could be provided at that point. Betr's Head of Gaming Alex Ursa requested that the waiver date be the same for each operator.

Commissioner O'Brien moved that in accordance with 205 CMR 202.03(2) the Commission issue the following waivers as further detailed in the materials in the Commissioners' Packet and discussed here today, as granting the waivers meets the requirements specified in 205 CMR 102.03(4) and is consistent with the purposes of G.L. Chapter 23N, from the requirements

outlined in 205 CMR 257.02(1) to Fanatics, DraftKings, and Caesars through June 30, 2024. Commissioner Hill seconded the motion.

Commissioner Maynard asked if Betr should be included in this waiver. Commissioner O'Brien stated that Betr only requested a waiver from 205 CMR 257.02(2).

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.

Commissioner Hill moved that in accordance with 205 CMR 202.03(2) the Commission issue the following waivers as further detailed in the materials in the Commissioners' Packet and discussed here today, as granting the waivers meets the requirements specified in 205 CMR 102.03(4) and is consistent with the purposes of G.L. Chapter 23N, from the requirements outlined in 205 CMR 257.02(2) to Fanatics, DraftKings, Caesars, FanDuel, and Betr through June 30, 2024. Commissioner O'Brien 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.

Mr. Makarious stated that DraftKings had requested a waiver from 205 CMR 257.02(3). He explained that this provision was regarding the prohibition of the use of certain types of data to promote individual bets. He stated that further clarification was given to the operators regarding the definition of dormancy and that after clarification only DraftKings had requested the waiver. He noted that Fanatics waiver was for the entirety of 205 CMR 257.02 and would therefore also include this provision.

Mr. Makarious stated that DraftKings had requested a waiver through December 1, 2024, to update internal tooling databases, promotional campaigns, develop employee training, engage in comprehensive auditing of promotional activity and run new geo-location-based flags.

Chair Judd-Stein asked if this regulation was unique in comparison to other jurisdictions. Mr. Makarious stated that it was unique in that it was more explicit about what was prohibited. He stated that if the Commission grants a single entity a waiver for a year, it might want to consider whether to sua sponte grant it to other operators. Commissioner O'Brien asked whether DraftKings was the only operator to request a waiver from this provision. Mr. Makarious stated

that DraftKings requested a waiver from this specific provision, but Fanatics requested a waiver for this whole section. Chair Judd-Stein stated that the request included training and auditing which the Commission values.

Commissioner O'Brien stated that a year waiver was excessive, and that she was flummoxed as to why DraftKings is the only operator to request this waiver following clarification. She expressed an interest in receiving clarification from DraftKings regarding what remains to be done. She stated that she was inclined to give a shorter extension followed by an update. Mr. Winchell stated that approving this waiver for only a single entity would have significant commercial impacts.

Government Affairs Manager at DraftKings David Prestwood stated that his team indicated they would not be able to comply with this provision unless they built a separate customer relationship management system solely for Massachusetts. He stated that DraftKings' platform might operate significantly differently than the other operators and that the intention was not to seek a competitive advantage.

Mr. Prestwood stated that DraftKings would accept a shorter waiver period and would be willing to discuss particulars of the platform's operating system in an executive session. Deputy General Counsel Caitlin Monahan stated that she was not sure that this would meet the requirements for an executive session. She explained that an executive session exception for competitively disadvantageous information did not exist in the sports wagering statute and only applied during the application period. She stated that this was related to operations outside of the application process which does not have an executive session exception.

Chair Judd-Stein asked if the exemption related to deployment of security devices could be used. General Counsel Grossman stated that there are exemptions related to cyber issues which were not limited to the application process, but that the statutes did not grant sports wagering as much flexibility as casino gaming. Chair Judd-Stein asked if this would be considered under the ongoing application process. General Counsel Grossman stated that this issue was not related to the application.

Mr. Prestwood explained that discussing its proprietary platform in a public forum could put DraftKings at a significant competitive disadvantage. He suggested that a waiver could be extended for a short time to allow DraftKings to have a conversation with Commission staff and receive further clarification.

Commissioner O'Brien stated that the Commission had yet to know why DraftKings needed this extension when other licensees did not. She stated that out of fundamental fairness to the other operators a short universal waiver could be provided so that nobody is put at a disadvantage. Mr. Prestwood stated that clarifying conversations would be beneficial. Chair Judd-Stein stated that a universal waiver would be fair.

Commissioner Skinner expressed that she was sympathetic to Mr. Winchell's concern about a competitive disadvantage. She stated that each other operator would be in compliance with this

provision by the following day and that she wanted to be careful in granting any waiver where only one operator requested it.

Mr. Prestwood noted that Fanatics had requested a 12-month waiver for the entire section. Mr. Makarious replied that Fanatics had requested a general waiver, but did not raise specific issue with 205 CMR 257.02(3). Commissioner Skinner asked what amount of time would be required for Mr. Prestwood to get answers needed to communicate with the Sports Wagering Division for implementation. Mr. Makarious noted that there was nothing to implement for this provision as it was a prohibition, and that DraftKings was not asked to build anything. Commissioner Skinner stated that DraftKings appeared to be trying to build a system to comply with this provision. Mr. Prestwood stated that he could get the information requested quickly, but that he was not comfortable sharing it in a public setting.

Chair Judd-Stein suggested a universal waiver through December 14, 2023, at which point DraftKings could provide an update. Commissioner Skinner agreed. Chair Judd-Stein stated that this regulation went into effect months ago and that the promotional team should be informed regarding what is prohibited. She stated that the legal team and Sports Wagering Division should work with DraftKings to provide clarity within the confines of the open meeting law.

Mr. Prestwood stated that DraftKings does not parse its rules by jurisdiction and that no other jurisdiction has these requirements. He stated that development needed to occur to comply with Massachusetts. He stated that he would want the technical staff present for the December 14, 2023, meeting.

Commissioner Skinner stated that it was important for the Commission to know what was feasible short of creating an entirely new system. She recommended inviting Gaming Laboratories International (“GLI”) to the December 14, 2023, meeting for their technical expertise.

Mr. Prestwood stated that he hoped that further conversations and clarification might narrow the scope of what had to be performed. Commissioner O’Brien suggested that DraftKings get in touch with the Attorney General’s Office’s data privacy group to better understand requirements.

Commissioner O’Brien moved that in accordance with 205 CMR 202.03(2) the Commission issue the following waivers as further detailed in the materials in the Commissioners’ Packet and discussed here today, as granting the waivers meets the requirements specified in 205 CMR 102.03(4) and is consistent with the purposes of G.L. Chapter 23N, from the requirements outlined in 205 CMR 257.02(3) to all sports wagering operators through December 14, 2023. Commissioner Skinner seconded the motion.

Roll call vote:

<i>Commissioner O’Brien:</i>	<i>Aye.</i>
<i>Commissioner Hill:</i>	<i>Aye.</i>
<i>Commissioner Skinner:</i>	<i>Aye.</i>
<i>Commissioner Maynard:</i>	<i>Aye.</i>

Chair Judd-Stein: *Aye.*
The motion passed unanimously, 5-0.

Mr. Makarious stated that 205 CMR 257.03 was the provision related to data use and storage when sharing data with third parties. He explained that two issues arose: what was necessary to operate a sports wagering platform and practical concerns related to updating vendor contracts.

Mr. Makarious stated that if an operator has a marketing affiliate relationship with a third-party company, such as Marriott, they would be required to have customer consent to share that information. He noted that it was necessary to share information for security vendors and that a marketing affiliate who solely does marketing would also be considered necessary. He stated that the intent of the regulation was to capture operations necessary to operating a sportsbook.

Mr. Makarious stated that the waiver request dates ranged from February 1, 2024, to October 2025. He noted that the operators who had requested later dates had concerns about updating contracts. He suggested that the Commission could give a universal waiver date and request an update on that date. Chair Judd-Stein asked if any operator did not request a waiver from this provision. Mr. Makarious stated that Betr had not made a request for this provision. Mr. Ursa explained that Betr is a smaller operation and that this provision would be easier to implement. Deputy General Counsel Monahan stated that Penn Sports Interactive did not request a waiver for this provision.

Mr. Winchell clarified the October 2025 waiver date was only for complying with all existing contracts and that the rest of the provision would be implemented by February 2024. Mr. Makarious stated that there was a logistical question as to how soon operators could get a contract reopened. He stated that some reasonable time would be needed to address contracts. He suggested a waiver date of June 30, 2024, at which point the operators could provide updates regarding the contract process. He stated that there should be some flexibility as contracts were not entirely in the operators' control.

Privacy & Product Associate General Counsel at BetMGM Alexis Cocco stated that most operators already operate with data protection addendums in their contracts. She stated that there could be disproportionate impact to the operators if they were required to renegotiate new terms into contracts that had been negotiated and were ready to sign. She suggested that this regulation apply to contracts going forward.

Mr. Winchell stated that while existing contracts have language related to data security, they might not have exact provisions. He stated that there might not be enough leverage to bring certain vendors to the table to renegotiate contracts. He stated that the contracts provision may not be fully addressed until the time when contracts were up for renegotiation. He suggested a short waiver be granted, and that any contracts entered following that date would need to be in full compliance with this regulation. Commissioner O'Brien expressed concern that it would take years for operators to be in full compliance. She recommended conditioning the waiver to require that efforts are made to renegotiate existing contracts.

Ms. Cocco stated that Commissioner O'Brien's suggestion was fair, and suggested that any contract entered into past January 1, 2024, be in full compliance with the regulation. She stated that efforts would be made to update ongoing contracts, and that it might take a year to fully implement. Commissioner O'Brien stated that she was not a fan of long waivers. Ms. Cocco stated that BetMGM was using commercially reasonable procedures to protect the confidentiality of data, and that the waiver would solely be to update contract language identified in 205 CMR 257.03(3).

Mr. Makarios stated that one way this issue could be addressed is to give reasonable time for operators to have good faith efforts to amend contracts. Commissioner Skinner agreed that there needs to be reasonable time for operators to renegotiate contracts. She expressed support for extending the waiver for 205 CMR 257.03(3), and requested more discussion regarding 205 CMR 257.03(1)

Commissioner Maynard stated that issues with data breaches typically come from vendors and third parties who are not as secure as the principals. He stated that he understood it would take time to rework existing contracts, but that he would want a check-in point, so the Commission stays informed.

Chair Judd-Stein asked what the recommended timeframe would be for the operators to take commercially reasonable steps to come into compliance. Mr. Makarios stated that 205 CMR 257.03(1) had issues similar to 205 CMR 257.02(1), and suggested a June 30, 2024, date. He stated that 205 CMR 257.02 had substantive protections that most operators have complied with.

Commissioner Skinner asked if there was a policy question relative to 205 CMR 257.03(1). Mr. Makarios explained that 205 CMR 257.03(1) did not have a policy question, but a question of how "necessary to operate" was interpreted. He stated that any action related to running the business and marketing were necessary to operate, but that sharing information with a third-party to conduct ancillary business was not.

Mr. Makarios stated that 205 CMR 257.03(1) and 205 CMR 257.03(2) did not require contract amendment. He stated that these provisions apply to all data whether it had been shared before or not. Commissioner Skinner asked if granting a waiver for 205 CMR 257.03(1) would allow operators to continue to share data with third parties when it is not necessary to operate their business. Mr. Makarios stated that operators would be able to do so to the extent they are currently doing so and with commercially reasonable measures. He noted that one thing that would be different is the opt-in mechanism.

Commissioner Skinner asked how the waivers would be connected. Mr. Makarios stated that they were based on similar questions of what is necessary to operate, and that backend compliance would be the same regarding consent. Mr. Smith noted that this requirement might be difficult for Fanatics in comparison to other operators as Fanatics worked with a lot of affiliate businesses.

Mr. Makarios recommended a waiver of 205 CMR 257.03(1) and 205 CMR 257.03(3) through June 30, 2024, subject to a condition that operators would take good faith commercially reasonable efforts to amend existing contracts and come into compliance and implement the regulatory requirements of 205 CMR 257.03 into any new contracts before June 30, 2024. He stated that the legal team and Sports Wagering Division could continue to consider whether the regulatory language could include a safety valve.

Commissioner O'Brien sought clarification as to whether the language regarding commercially reasonable efforts would apply to 205 CMR 257.03(1) in addition to 205 CMR 257.03(3). Mr. Makarios stated that it would make sense to require the operators to do their best to comply with both provisions.

Chair Judd-Stein suggested that the waiver for this provision should be universal to ensure fairness between the operators. Commissioner O'Brien asked if a universal waiver could be granted if not all operators had made a waiver request. Ms. Beauchemin stated that universal waivers had been granted in the past when not all operators had submitted waiver requests. Mr. Makarios stated that as 205 CMR 257.03(1) and 205 CMR 257.03(3) were related they should both have a universal waiver.

Commissioner Skinner asked why a universal waiver could be used for these provisions but not for the previously discussed provisions. Mr. Makarios stated that the distinction was that 205 CMR 257.03 touches upon sharing information with third parties and has implementation issues outside of the operators' control. Commissioner Skinner asked if a universal waiver could be used for 205 CMR 257.02(3). Deputy General Counsel Monahan clarified that 205 CMR 257.02(3) was voted on as a universal waiver until December due to the issue of fairness.

Ms. Cocco noted that some contracts had been heavily negotiated and were waiting for signatures. She asked that the waiver require compliance with all contracts past January 1, 2024, rather than immediately. She stated that the waiver could still include the commercially reasonable language.

Chair Judd-Stein asked when the regulation went into effect. Ms. Cocco stated that the regulation went into effect on September 1, 2023, but that a blanket waiver was given to all operators through November 17, 2023. Deputy General Counsel Monahan stated that she understood Ms. Cocco's concerns, and that it was a policy question for the Commission whether there would be a short window before the language is implemented. She stated that a compromise would be to require contracts to conform with the requirements of the regulation as of a certain date.

Commissioner O'Brien asked if January 1, 2024, was reasonable. Ms. Cocco explained that there would be less business disruption if contracts past January 1, 2024, conformed with the language. Commissioner Maynard expressed that he wanted to ensure the citizens of the Commonwealth were protected. Commissioner Skinner stated that the operators were aware of the regulation and should have discussed it in negotiations. She stated that the regulation should take effect for all contracts yet to be signed.

Chair Judd-Stein stated that she somewhat agreed with Commissioner Skinner, but expressed concern about being unreasonable. Mr. Makarious stated that legally the Commission had a right to insist upon this, and that the regulation was first discussed in public meetings during the summer. He stated that contract work in regulated industries might take time. He stated that it was a policy decision regarding when the contract requirements were implemented.

Commissioner O'Brien stated that she wanted licensees to have time to implement the requirements and suggested that the contract requirements go into effect on December 14, 2023, provided that the operators agree to use commercially reasonable efforts to amend existing contracts. Commissioner Maynard stated that the Commission could weigh enforcement actions on the backend if an issue arises.

Commissioner O'Brien moved that in accordance with 205 CMR 202.03(2) the Commission issue the following waivers as further detailed in the materials in the Commissioners' Packet and discussed here today, as granting the waivers meets the requirements specified in 205 CMR 102.03(4) and is consistent with the purposes of G.L. Chapter 23N, from the requirements outlined in 205 CMR 257.03(1) to all sports wagering operators through June 30, 2024, and notwithstanding the waiver licensees will make commercially reasonable efforts to comply with 205 CMR 257.03(1). Commissioner Hill seconded the motion.

Chair Judd-Stein asked if it would matter if "good faith" was included before commercially reasonable efforts. Mr. Makarious stated that the Commission could, but that it would be redundant.

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.

Commissioner Hill moved that in accordance with 205 CMR 202.03(2) the Commission issue the following waivers as further detailed in the materials in the Commissioners' Packet and discussed here today, as granting the waivers meets the requirements specified in 205 CMR 102.03(4) and is consistent with the purposes of G.L. Chapter 23N, from the requirements outlined in 205 CMR 257.03(3) to all sports wagering operators through June 30, 2024, and notwithstanding the waiver all contracts entered into as of December 14, 2023, must conform with the requirements of 205 CMR 257.03(3) and operators must make all commercially reasonable efforts to conform existing and ongoing contracts with 205 CMR 257.03(3). Commissioner O'Brien 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.

Mr. Makarios stated that only DraftKings has requested a waiver from the requirements outlined in 205 CMR 257.05(1)(k). Commissioner Skinner asked if this provision should be universal as it deals with contracts. Mr. Makarios noted that this provision dealt with internal controls and was not necessarily a contracts provision.

Mr. Makarios stated that a waiver might not be needed for this provision. He stated that operators should assume their policies will eventually need to be in compliance with the rule. He stated that the policies and procedures should reflect what the operator is required to do as of the time they are required to do so. He stated that the legal team recommended that this guidance is sufficient.

Chair Judd-Stein stated that while a waiver may not be necessary that the Commission can revisit this provision for further clarification at the December 14, 2023, meeting. Mr. Makarios stated that it may not make sense to require documentation for work that is not yet completed. Chair Judd-Stein asked which provisions this guidance would apply to. Mr. Makarios stated that it applied to portions of 205 CMR 238 and 205 CMR 257.05. He stated that the operators should have a data privacy security policy, but that the policy should reflect the requirements required at the time and that the policy would be updated moving forward.

Mr. Makarios stated that 205 CMR 257.02(5) was the next provision for which waivers were requested. He stated that this provision was related to responsible gaming reporting, which requires operators to collect and aggregate data for the Commission's responsible gaming division. He stated that the intent of the term aggregate was not to limit the operator from using individualized data to help patrons who need it. He stated that the information is aggregated because the report is going to the Commission and aggregating the data allows it to be submitted without putting patron details in the public records.

Mr. Makarios stated that the responsible gaming division may need to view particular data at some point, and that the legal team intends to propose further clarification regarding the language in this provision. He stated that DraftKings requested a waiver through January 1, 2024, Caesars requested a waiver through June 30, 2024, and that Plainridge Park Casino ("PPC") requested a waiver through January 1, 2025.

Mr. Makarios stated that because the legal team intended to give further clarification regarding this provision that he recommended that the Commission give the operators until June 30, 2024, to submit their first report. He stated that the responsible gaming division and Sports Wagering Division would develop a more detailed request for information required for the report pursuant to the regulation.

Director Vander Linden stated that the Commission had begun work in identifying risky player behavior and developing appropriate responses. He stated that developing responses relies upon the operators having a system in place. He stated that he consulted with researcher Dr. Michael Wohl, and that the term “aggregate” was a concern as it relates to responsible gaming initiatives.

Commissioner Hill moved that in accordance with 205 CMR 202.03(2) the Commission issue the following waivers as further detailed in the materials in the Commissioners’ Packet and as discussed here today, as granting the waivers meets the requirements specified in 205 CMR 102.03(4) and is consistent with the purposes of G.L. Chapter 23N, from the requirements outlined in 205 CMR 257.02(5) to all sports wagering operators a waiver through June 30, 2024 for the first report to be provided to the Commission. 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.

Mr. Makarios stated that some operators had requested a waiver from 205 CMR 257.03(4) regarding encryption and hashing of all patrons’ confidential or personally identifiable information. He clarified that the information required to be encrypted was information in the care, custody, or control of the operator and vendors by extension.

Mr. Makarios explained that BetMGM has indicated that encryption or hashing might not make sense in all cases. He stated that BetMGM had requested a permanent waiver and that DraftKings had requested a waiver through the end of 2024. He stated that language could be added to the provision to have a performance-based standard. He stated that if operators could demonstrate that they have other protective methods in place which are as protective where encryption did not make sense, they should be able to use those. He suggested that a shorter waiver is appropriate while the legal team consults GLI, the ITS division, and the Attorney General’s Office.

Chair Judd-Stein asked if the waiver for this provision could be for June 30, 2024. Mr. Makarios stated that the operators have indicated that they have reasonable security measures in place, and that June 30, 2024, might be reasonable. Commissioner Hill asked if the waiver could be for three months. Commissioner O’Brien asked if a three-month waiver would work for the Sports Wagering Division and legal division. Ms. Beauchemin stated that it would not impact the Sports Wagering Division. Deputy General Counsel Monahan stated that it was unlikely that the changes to the regulation would be complete by March unless enacted by emergency. She stated that any waiver could be extended if necessary. Mr. Makarios recommended that the waiver be universal as the regulation is changing and the changes might encourage operators to look at alternative technologies.

Commissioner Maynard moved that in accordance with 205 CMR 202.03(2) the Commission issue the following waivers as further detailed in the materials in the Commissioners' Packet and as discussed here today, as granting the waivers meets the requirements specified in 205 CMR 102.03(4) and is consistent with the purposes of G.L. Chapter 23N, from the requirements outlined in 205 CMR 257.03(4) to all sports wagering operators a waiver through March 1, 2024. 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.

Mr. Makarious stated that the last waiver request was regarding 205 CMR 257.04. He noted that if an operator believes it necessary to hold onto data and the patron requests that the information is deleted, then the operator can hold onto the information if it might be related to fraud or safety issues. He stated that the operators had differing levels of granularity in their requests. He stated that BetMGM focuses on access control which they considered a permanent issue rather than an implementation issue. He recommended that if the Commission grants a waiver that it not be longer than the waiver for the opt-in consent mechanism. He stated that further clarification can be given regarding BetMGM's concerns and stated that the legal team might understand a narrower interpretation.

Chair Judd-Stein stated that it might be beneficial to walk through each operators' particular request. Deputy General Counsel Monahan stated that she was cognizant of timing with the upcoming adjudicatory hearing and suggested that the Commission give a short waiver and roll this discussion over to the next meeting. The Commission reached unanimous consensus to review the waiver requests for 205 CMR 257.04 at the December 14, 2023, public meeting.

Commissioner O'Brien moved that in accordance with 205 CMR 202.03(2) the Commission issue the following waivers as further detailed in the materials in the Commissioners' Packet and as discussed here today, as granting the waivers meets the requirements specified in 205 CMR 102.03(4) and is consistent with the purposes of G.L. Chapter 23N, from the requirements outlined in 205 CMR 257.04 to FanDuel, Fanatics, BetMGM, Betr, and Caesars through December 15, 2023, on the condition that these waivers will be addressed at the December 14, 2023 meeting. 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.

b. [DraftKings: Request to Void Wagers](#) (4:32:08)

Interim Sports Wagering Operations Manager Andrew Steffen explained that DraftKings had requested authorization to void wagers after incorrect market totals were posted for an NBA game dated October 24, 2023, in a match between the Los Angeles Lakers and Denver Nuggets. He stated that 205 CMR 248.35(2) allows a sports wagering operator to request that the Commission authorize the cancellation or voiding of wagers, and that pursuant to 205 CMR 238.35(4) the Commission shall issue a written order granting or denying the request.

Mr. Steffen stated that between 4:22 p.m. and 4:35 p.m. on October 24, 2023, DraftKings offered incorrect odds on same-game parlay markets. He stated that odds for first quarter markets were offered for full game markets. He noted that LeBron James averaged nearly 30 points per game in the prior season, and odds on the market for this game were an over-under of 23.5 points. He stated that the incorrect odds listed for same-game parlay prop wagers listed LeBron James with an over-under of 8.5 points.

Mr. Steffen explained that the incorrect odds affected all players from both teams for this matchup. He stated that 178 wagers were placed on impacted markets by 137 customers for a total handle of \$4,182.36 and a total liability to DraftKings of \$575,436.82. He stated that the memorandum in the Commissioner's Packet provided a timeline of the incident. The *Sports Wagering Division's memorandum* was included in the Commissioners' Packet on pages 185 through 186.

Mr. Steffen explained that as a remediation effort DraftKings had notified their vendor, SportsCast, that DraftKings would not be offering first quarter player markets until further development work was completed and implemented. He stated that the Sports Wagering Division had reviewed the request, incident report, and remediation report, and that all requirements of 205 CMR 238.35(2) had been met. He stated that the Sports Wagering Division had no reservation with voiding these wagers.

Commissioner O'Brien questioned how these odds were listed when SportsCast was asked not to send first quarter markets. Senior Director of Regulatory Operations for DraftKings Jacob List stated that DraftKings was sent data from SportsCast, which was interpreted and translated by DraftKing's system for customers to view on the website. He stated that DraftKings's system was set up to translate full game prop markets, but the vendor submitted first quarter markets due to a miscommunication. He stated that the first quarter markets were incorrectly translated to full time markets. Commissioner O'Brien asked if the obligation to pay should fall on the vendor as it was clearly erroneous.

Mr. List stated that this was a circumstance of obvious error. He noted that the error affected multiple markets and customers discussed this error on social media. He stated that a request to void wagers is an extreme option, but that this instance was an obvious error. Commissioner O'Brien asked if these specific bets were discussed on social media. Mr. List confirmed that was correct. Commissioner O'Brien asked how much was bet in total. Mr. Steffen stated that there

were \$4182.36 in bets. Commissioner O'Brien noted that the payout, if honored, was a little over half a million. Mr. List stated that was correct.

Commissioner O'Brien noted that DraftKings had informed their vendor not to supply quarter one markets prior to this error and asked if reiterating this request was a sufficient remediation effort. Mr. List stated that they had asked SportsCast to review its internal communications process. He noted that DraftKings was also moving to an in-house version of the same-game parlay product and won't be subject to communications errors in the future.

Commissioner Skinner asked if the vendor could have a contractual responsibility to pay out the wagers, such as through an indemnity clause, if the Commission did not grant the request to void. Mr. List stated that commercial arrangements were not his area of expertise, and that he did not feel comfortable discussing contracts with vendors in a public setting.

Commissioner Skinner stated that it was clear this was an obvious error and that she was inclined to grant the request. She stated that she would still like more information regarding operators' other avenues of relief if the request to void wagers is not granted, or if insurance would cover this issue. Mr. List stated that DraftKings could provide information regarding their relationship with their vendors, but that DraftKings would not want it discussed in a public setting. Commissioner Skinner requested that the information be provided to the Sports Wagering Division.

Commissioner O'Brien noted that 205 CMR 238.35(2)(c) requires the operator to include an explanation of why voiding the wager is in the best interest of the Commonwealth or ensures the integrity of the sports wagering industry in their request to void wagers. She noted that the request submitted did not include that requirement. Mr. List stated that this was a truly exceptional circumstance, which did not only affect Massachusetts, and that operators should have some kind of protections when an error like this occurs. He stated that recourse should be available for truly exceptional circumstances.

Commissioner O'Brien asked if any other jurisdiction refused to void the wagers related to this error. Mr. List stated that while he had the status of requests in other jurisdictions, he was not at liberty to share that information in a public forum. He stated that the vast majority of jurisdictions had permitted DraftKings to void these wagers. Commissioner O'Brien stated that information regarding the other jurisdictions and the information requested by Commissioner Skinner would weigh on her decision.

Commissioner Maynard asked if 940 CMR 3.00 or any other consumer rights laws were applicable to this situation. Chair Judd-Stein noted that the Commission's regulation permitted the voiding of wagers. Commissioner Maynard noted that all other applicable laws in the Commonwealth would still apply. Chair Judd-Stein stated that most states allowed the voiding of wagers. Deputy General Counsel Monahan stated that she did not recall reviewing consumer protection laws when drafting this regulation. She stated that she would look into whether there were conflicts with consumer protection laws.

Mr. List stated that the requested information could be sent to Commission staff later in the day. General Counsel Grossman stated that he did not recall ever using consumer protection laws in this context. Chair Judd-Stein asked if the Attorney General's Office reviewed 205 CMR 238. Deputy General Counsel Monahan stated that the Attorney General's Office did not review this regulation. General Counsel Grossman stated that 205 CMR 238 was generated with GLI's assistance.

Commissioner O'Brien asked if allowing the voidance of these wagers would be unfair to patrons. Mr. List stated that the obviousness of the error should weigh in to that discussion. He noted that patrons noticed five similar errors of almost certain outcomes and parlayed them together for thousands of dollars in winnings.

Commissioner O'Brien stated that the interests of the Commonwealth and integrity of the industry were a big factor. Mr. List stated that if precedent was set where this type of obvious error was not voidable, then other exceptional situations might cause significant problems for the sports wagering industry down the line.

Commissioner Maynard noted that an intelligent player might have constructed a parlay without necessarily relying on the fact of the error. He asked how DraftKings would address this type of player. Mr. List stated that DraftKings' highest priority was customer happiness. He stated that if a good-faith customer reached out to DraftKings' support that DraftKings would try to make it right so that the customer would continue to wager with DraftKings.

Mr. Steffen noted that DraftKings' house rules defined error as including "bets placed at odds that are materially different from those available in the general market at the time the bet was placed". He noted that the error in this instance only affected the same-game parlay markets, and that correct odds were given in other markets for this game.

Chair Judd-Stein asked if the house rules definition helped Commissioner O'Brien's view. Commissioner O'Brien stated that she could see both sides of how the voiding of bets would benefit the Commonwealth as opposed to just benefitting DraftKings. She stated that voiding the wagers consistent with the house rules speaks to industry integrity. Commissioner Hill stated that he believed that this situation was an obvious mistake and that he had no concerns with voiding these wagers. He stated that he had the same request as Commissioner Skinner regarding information related to indemnification from the vendor.

Commissioner O'Brien noted that she wanted all patrons to be treated equally and asked if there was disparate treatment among patrons being given compensation while the bet was on hold. Mr. List stated that compensation was reviewed on a case-by-case basis when patrons wrote in to complain. He stated that if a customer complains about their bet being in limbo that DraftKings could provide a discretionary bonus.

Commissioner O'Brien stated that she would be troubled if the customers were not being treated the same in regard to compensation. Mr. List stated that bets had been refunded in almost every jurisdiction. He stated that if a customer complains about non-settlement of a bet, then

DraftKings might give a refund to get ahead of the process. He stated that customers should not be held up due to regulatory engagement moving at different speeds in different jurisdictions. Commissioner O'Brien stated that the remedy should be consistent regardless of who the patron is.

Commissioner O'Brien stated that she was not in a position to vote until all of the information the Commission requested is received. Commissioner Skinner stated that she was comfortable voting as it appeared to be an obvious error. She stated that she would still like information regarding indemnification from vendors. She stated that she respected that Commissioner O'Brien was not comfortable with voting and suggested that the Commission move the vote until all information is received.

Chair Judd-Stein asked what further information was needed. Commissioner O'Brien stated that she wanted the information regarding indemnification, the status of adjudications to void wagers in other jurisdictions, and information as to whether patrons had been treated equally.

Chair Judd-Stein noted that she disagreed regarding the customer treatment as DraftKings seemed to be exercising business judgment regarding customer service. She asked if an executive session could be held regarding indemnification clauses. Commissioner O'Brien stated that one of the regulatory criteria was whether the voiding of wagers is unfair to patrons, and fairness was a factor in her decision.

Chair Judd-Stein stated that the definition in DraftKings' house rules helped her become comfortable with the possibility of voiding these wagers as an obvious error. She stated that she was hesitant to have this vote rolled over to a future meeting as the wagers had been on hold since October. Commissioner O'Brien stated that the definition of obvious error was discussed in relation to this regulation, and that she might interpret it differently. Commissioner Maynard stated that he did not want to vote without information regarding how this issue is affected by Massachusetts' consumer protection laws.

Commissioner Skinner stated that she respected her fellow Commissioners' desire to be fully informed prior to taking a vote. She stated that the Sports Wagering Division could seek out the information requested on this topic. Mr. List stated that the status of other jurisdictions could be provided shortly, but he was unsure whether it was publicly available information yet.

Chair Judd-Stein stated that there was a dilemma that the Commission could not discuss the information unless it was presented publicly. General Counsel Grossman stated that any materials received related to indemnification would likely be a public record, and that he was unsure what theory the Commission could use to withhold that information. Chair Judd-Stein advised that the operator reach out to the Sports Wagering Division and legal team, as anything sent to the Commissioners could only be discussed in public. Mr. List stated that DraftKings would conduct an internal review before providing any information that could become public.

Chair Judd-Stein asked if there were any further concerns about continuing discussion of this topic until December 14, 2023. Director of the Sports Wagering Division Bruce Band stated that

he was concerned with customers funds being tied up for another two weeks. Chair Judd-Stein asked how many patrons were affected. Mr. Steffen stated that it was 137 patrons, and that the Sports Wagering Division had received a handful of customer disputes. Commissioner Hill stated that if the Commissioners needed additional information, then the questions should be answered before a vote.

Commissioner O'Brien noted that there was only approximately \$4,000 tied up in bets, and that DraftKings could refund customers while waiting for the vote. Chair Judd-Stein stated that she is unaware of a regulation that would support that refund. Commissioner O'Brien noted that she wanted to put into context the amount of money being held up in addition to the number of customers affected.

Mr. List stated that the information requested would be provided quickly. He stated that most difficulty and complaints from customers with pending bets happens immediately, and that there was not much concern about extending until the next meeting. He noted that DraftKings had reviewed the previous request from another Operator to void wagers that appeared before the Commission. Commissioner O'Brien noted to Mr. List that the previous request was different factually, from this current request.

The Commissioner reached consensus to address this topic further at the November 30, 2023, public meeting.

6. [Community Affairs Division](#) (5:26:04)

The Commission reached unanimous consensus to move the executive session related to MGM Springfield's security to a later meeting due to time constraints. Chair Judd-Stein suggested that the Community Affairs Division start with the items that required a vote prior to the casinos' quarterly reports.

a. [Final FY 2025 Community Mitigation Fund Guidelines](#) (5:29:10)

The *FY 2025 Community Mitigation Fund Guidelines* were included in the Commissioners' Packet on pages 233 through 260.

Commissioner Hill moved that the Commission approve the FY 2025 Community Mitigation Fund Guidelines as included in the Commissioners' Packet and discussed here today. Commissioner Maynard 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.

b. [Final FY 2025 Community Mitigation Fund Grant Amounts](#) (5:30:33)

The *final FY 2025 Community Mitigation Fund Grant Amounts* were included in the Commissioners' Packet on pages 261 through 273.

Commissioner Hill moved that the Commission approve the FY 2025 Community Mitigation Fund Grant Amounts as included in the Commissioners' Packet and discussed here today. 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.

Chief of the Community Affairs Division Joe Delaney thanked his team for their efforts in changing the community mitigation fund with a short timeline.

c. [Plainridge Park Casino Q3 Quarterly Report](#) (5:32:56)

General Manager from Plainridge Park Casino ("PPC") North Grounsell and Vice President of Human Resources from PPC Kathy Lucas presented PPC's Q3 quarterly report with topics including sports wagering revenue, gaming revenue, lottery sales, spending by state, vendor diversity, diverse spend, compliance, employee diversity, PPC's Team and community engagement. *PPC's Q3 Report* was included in the Commissioners' Packet on pages 187 through 201.

Chair Judd-Stein noted that the employment diversity numbers were increasing for women. Ms. Lucas stated that even better numbers were expected for quarter four. Commissioner O'Brien asked how the sports bar was doing. Mr. Grounsell stated that the sports bar was busy on weekends and game nights, and that he was proud of that space.

Commissioner Hill asked why PPC did not have a greater number of veterans hired. Mr. Grounsell stated that the 4% of veteran employees hit PPC's targets. He stated that progress had been made in terms of hiring veterans and that PPC had connections with local veterans groups. He noted that one issue is that some employees might not want to disclose their veteran status.

d. [Encore Boston Harbor Q3 Quarterly Report](#) (5:42:19)

Senior Vice President and General Counsel for Encore Boston Harbor ("EBH") Jacqui Krum, Executive Director for Legal at EBH Julianna Catanzariti, and Director of Investigations and Training at EBH Carla Pivero presented EBH's quarterly report with topics including gaming revenue, lottery sales, sports wagering revenue, workforce diversity, recruitment, operational

spending, compliance, human resource initiatives, community relations, and charitable contributions. *EBH's Q3 Report* was included in the Commissioners' Packet on pages 202 through 231.

Commissioner Skinner noted that she was on the team working on the diversity audit and asked if the adjustments to EBH's employment diversity calculation had been reported to RSM. Ms. Krum stated that RSM was on the call when the calculation issue was discovered. Commissioner Skinner stated that it was good that EBH caught the issue with calculations, but that further discussion would have to be held regarding how that impacts the diversity audit. Chair Judd-Stein noted that the diversity audit was being conducted due to a news story regarding whether the Commission was getting accurate data from the licensed casinos.

Chair Judd-Stein asked what follow-up occurred with the security officer who allowed an underage person onto the gaming floor after their identification failed Veridocs. Ms. Krum explained that EBH had a progressive discipline policy, and that the security officer received a written notice for the first offense.

Commissioner O'Brien sought further detail regarding the woman who repeatedly returned to the casino with her sister's identification. Ms. Pivero stated that the underage woman looked remarkably like her sister, and that security officers need to pay attention to detail in stopping a person from accessing the gaming floor if there is a failed Veridocs check.

8. [Commissioner Updates](#) (6:06:56)

Commissioner O'Brien noted that the concept of a logo or insignia indicating that an operator was licensed in the Commonwealth of Massachusetts was briefly discussed. She suggested that the Commission revisit this topic and put it on the agenda for further discussion.

Commissioner O'Brien stated that some companies had been in the news regarding the crossing of paths between daily fantasy sports operators and casinos. She suggested that the Commission might want to identify fantasy sports companies who had been subject to action by the Attorney General's Office or other gaming commissions. Chair Judd-Stein stated that inquiries had previously been received from operators regarding fantasy sports. She stated that the Attorney General's Office had expressed an interest in coordinating on this matter.

Commissioner Skinner stated that the IEB Director position had been posted, and that HR was in the process of expanding the posting to affinity associations. She stated that HR was working diligently to get the job posting distributed as widely as possible.

9. [Other Business](#) (6:11:10)

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 November 14, 2023
2. [Commissioner's Packet](#) from the November 16, 2023, meeting (posted on massgaming.com)