



Massachusetts Gaming Commission Meeting Minutes

Date/Time: December 13, 2022, 10:00 a.m.
Place: Massachusetts Gaming Commission

VIA CONFERENCE CALL NUMBER: 1-646-741-5292
PARTICIPANT CODE: 112 608 4976

The Commission conducted this public meeting remotely utilizing collaboration technology. The 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 411th 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's principal responsibility in reviewing the sports wagering applications was to ensure the integrity of the gaming industry in Massachusetts. She stated that the Commission would maintain strict oversight of gaming establishments and sports wagering operators. She noted that awarding a sports wagering license was a privilege and that operators would be held to the highest standards of compliance on a continuing basis. She stated that the Commission's mission permits the creation of a fair, transparent process that engenders the confidence of the public, and maximizes the benefits to the Commonwealth. She then briefly explained the agenda for today's public meeting.

2. [Legal Framework Relative to the Award of a Sports Wagering License](#) (06:17)

General Counsel Todd Grossman stated that this meeting was the Commission's opportunity to evaluate the application for a category three tethered sports wagering license submitted by WSI US, LLC, d/b/a WynnBET and from American Wagering Inc. affiliated Caesars Entertainment Inc.

General Counsel Grossman stated that Chapter 23N allowed the Commission to issue a category three sports wagering license to any entity that offered sports wagering through a mobile application or platform. He stated that there was a cap of seven category three licenses that could be awarded that were not connected to a category one or two sports wagering license. He stated that the applicant today was connected to Wynn MA, LLC, d/b/a Encore Boston Harbor ("EBH") which was awarded a license last week. He noted that only two tethered category three operators could be connected to a category one operator.

General Counsel Grossman stated that 205 CMR 218 set out the application requirements, standards, and procedures. He stated that the regulation sets out factors and considerations for the Commission to analyze in the evaluation process, but that the regulations did not set out a particular order to review factors in or assign particular weight to the factors. He stated that the Commission may require that the applicant provide additional information or documents the Commission deems appropriate.

General Counsel Grossman noted that the evaluation of this application was being conducted in public and that all deliberations made by the Commission must take place in public. He stated that G.L. Chapter 30A, § 21(a)(7) allowed the Commission to move into executive session to comply with or act under the authority of any general law, such as G.L. Chapter 23N, § 6(i) regarding competitively sensitive information submitted in the course of the application process. He stated that if the Commission requested competitively sensitive information, the applicant could request to move the meeting to executive session.

General Counsel Grossman stated that any finding the Commission made must be backed by substantial evidence, and that the heightened standard of clear and convincing evidence applied to suitability pursuant to 205 CMR 215.

General Counsel Grossman stated that the factors the Commission would evaluate would be: the applicant's experience and expertise related to sports wagering; the economic impact and benefits to the Commonwealth; the applicant's proposed measures related to responsible gaming; the description of the applicant's willingness to foster racial, ethnic, and gender diversity, equity, and inclusion ("DEI"); the technology the applicant intends to use in operation; the suitability of the applicant and qualifiers; and any other appropriate factor in the Commission's discretion.

General Counsel Grossman stated that the Commission could determine temporary or durable findings of suitability, but that no preliminary finding needed to be entered. He noted that the Commission could use any information received pursuant to G.L. Chapter 23K, G.L. Chapter 128A, G.L. Chapter 128C, or information from other jurisdictions where the operator was

authorized to operate. He stated that conditions could be placed on a license pursuant to 205 CMR 220.

General Counsel Grossman stated that the tethered category three sports wagering license did not permit untethered operation. He stated that after a decision was made on the license, a written decision would be prepared and issued to commemorate the Commission's decision. He noted that the operator would require an operations certificate before they could begin sports wagering operations.

[3. Presentation of Application for Category 3 Sports Wagering Operator License Submitted by WynnBet Including Demonstration of Technology and User Experience in Accordance with 205 CMR 218.06\(3\) \(21:47\)](#)

WynnBET's Vice President and General Counsel Jennifer Roberts explained that WynnBET entered the sports wagering market in July of 2022 and was live in nine states. She stated that WynnBET anticipated launching in Maryland, Ohio, Pennsylvania, and West Virginia in 2023. She stated that WynnBET worked closely with Wynn Resorts' ("Wynn") Vice President of Diversity and Inclusion Glenda Swain. She stated that WynnBET had representation on the Diversity and Inclusion Advisory Council.

Ms. Roberts stated that WynnBET trained all of its employees in responsible gaming upon their hire and that employees received additional ongoing training. She stated that WynnBET followed the American Gaming Association's ("AGA") responsible marketing code for sports wagering was familiar with Massachusetts' responsible gaming framework. She stated that WynnBET had active members in the National Council on Problem Gambling. She noted that WynnBET also engaged in responsible marketing and had greatly reduced its television and radio advertising and unsustainable bonus-ing practices. She stated that WynnBET primarily marketed through affiliate marketing utilizing social media, partnerships, and the Wynn Rewards program. She stated that all marketing materials used by affiliates were pre-approved and monitored by WynnBET.

Ms. Roberts explained that WynnBET used a shared loyalty program with Wynn Rewards. She stated that WynnBET was partnered with three NFL teams and NASCAR. She stated that WynnBET hoped to expand existing relationships to Massachusetts' professional sports teams. She stated that players could use the WynnBET platforms across iOS, Android, desktop, and mobile.

Ms. Roberts stated that the wagering catalog offered on WynnBET was tailored to what is permitted by regulators of each jurisdiction WynnBET operates in. She stated that WynnBET's sports wagering platform was provided by the vendor GAN, which was licensed in multiple states and familiar with U.S. based sports wagering markets.

WynnBET's Executive Director of Project Management, Adam Harmer provided a product demonstration of WynnBET's user experience. Chair Judd-Stein asked if the responsible gaming language listed on the terms and conditions page could be zoomed in on. Mr. Harmer stated that it could not be zoomed in on, but that it would be easy to adjust if Massachusetts' regulations required the language to be larger. Chair Judd-Stein asked how long the know-your-customer ("KYC") process would take. Mr. Harmer stated that KYC was almost instantaneous, once the customer uploaded their documents.

Commissioner Maynard asked what percentage of customers signing up did not make it through the KYC process. Ms. Roberts stated that WynnBET would prefer to discuss that information in an executive session. Commissioner Maynard asked if patrons could exit a cooling-off period once they had enrolled. Mr. Harmer stated that nothing in the product would allow a customer to exit a cooling-off period. Ms. Roberts stated that patrons could contact customer support and escalate the issue to the compliance team, but that the cooling-off period would typically remain.

Commissioner Hill asked how the free bets from Wynn Rewards interacted with responsible gaming. Ms. Roberts stated that WynnBET offers free bet promotions, but if there was any indication of a responsible gaming issue with a patron, WynnBET would not offer free play to that patron. Commissioner Hill asked how red flags would be identified. Ms. Roberts stated that any comment would alert WynnBET to an issue with problem gambling, such as indicating that the patron was stretched thin for paying bills. Commissioner Hill asked if WynnBET had the technology not to offer free play to those patrons. Ms. Roberts confirmed and stated that team members were advised to put a hold on any free play offered to these patrons. She noted that free play was not offered to any patrons during a cooling-off period.

Chair Judd-Stein asked how geolocation would be addressed to patrons outside of the boundaries of the Commonwealth. Ms. Roberts stated that a message would occur alerting the patron that they are outside of the boundaries of Massachusetts. Chair Judd-Stein asked if accounts could be established outside of the boundaries of the Commonwealth. Ms. Roberts stated that customers could set up accounts and place deposits elsewhere, but that no wagering could take place.

Chair Judd-Stein asked how WynnBET would address a patron alerting the platform that they are in distress. Ms. Roberts stated that there were multiple pages on the application that provided resources for problem gambling, and that communications indicating distress were immediately escalated to WynnBET's legal team, WynnBET's compliance team, or proper authorities.

[4. Presentations and Analysis Relevant to Review and Evaluation of Application for Category 3 Sports Wagering Operator License Submitted by WSI US, LLC \(1:33:54\)](#)

a. Technical Components

Chair Judd-Stein stated that Gaming Laboratories International ("GLI") was the first company to develop and set gaming technical standards which are now considered an industry benchmark.

She stated that GLI continues to innovate standards and regulators rely upon these standards to preserve the integrity of the industry.

GLI's Vice President of Government Relations, and General Counsel, Kevin Mullaly stated that GLI was familiar with the technical solution WynnBET had proposed, and that it had been approved in other jurisdictions with similar regulatory requirements. He stated that WynnBET's platform would be subject to additional testing for deployment in Massachusetts. He stated that there would be testing of the platform to global standards and then to local integration.

GLI's Director of Client Solutions, Joe Bunevith stated that before the test lab could make submittals the Commission would have to approve 205 CMR 138.00, 205 CMR 238.00, 205 CMR 247.00, and 205 CMR 248.00. He stated that after those regulations were approved, the operators would submit the code for their sports wagering system and hardware to GLI for testing.

Mr. Bunevith stated that WynnBET would submit their last submission for one or more U.S jurisdictions and then test any changes to the platform to comply with Massachusetts specific rules and regulations. He stated that if a potential operator's platform was new to GLI, it would undergo an architectural review that identified and documented critical files related to compliance. He stated that after the initial review was complete, the source code could be submitted for testing in a locked-down environment.

Mr. Bunevith stated that the lab would verify changes for Massachusetts specific deployments. And once those changes were validated, a certificate would be issued to the operator. He stated that once the certificate was issued, the Commission could approve the operator for operations. He stated that field verification would be finalized in the upcoming weeks, and that verification of the production server and verification of critical file signatures would commence. He added that GLI would also review internal controls and procedures.

b. [Report on Suitability of The Applicant](#) (1:44:25)

IEB Chief Enforcement Counsel, Heather Hall stated that WynnBET's category three sports wagering license was to be tethered to EBH's category one sports wagering license. She stated that the IEB performed a review for preliminary suitability according to the standards set forth in 205 CMR 2.15.01(2). She noted that a full suitability investigation had not been conducted at this time.

Chief Enforcement Counsel Hall stated that the Licensing Division did a scoping review of the applicant pursuant to G.L. Chapter 23N, § 5(b). She stated that four entities and two individuals were designated as qualifiers in connection with WynnBET's application. She stated that the IEB reviewed the submission and found no substantial deficiencies. She noted that the applicant was very responsive with requests related to the application.

Chief Enforcement Counsel Hall stated that the team conducting the review was comprised of contract investigators. She stated that the review for preliminary suitability included a summary of WynnBET's licensing status in other jurisdictions, compliance history in other jurisdictions, and pending litigation valued over \$100,000. She stated that there was an open-source review of the applicant and individual qualifiers, but not of the entity qualifiers.

Chief Enforcement Counsel Hall stated that RSM would provide a report on the applicant's financial suitability. She stated that RSM worked closely with the Commission's financial investigation team. She stated that RSM reviewed WynnBET's disclosed financial information and supplemental Securities and Exchange Commission ("SEC") filings from WynnBET's parent company Wynn Resorts ("Wynn"). She stated that RSM reviewed WynnBET's forecasting submissions and a summary of WynnBET's self-reported history of judgments.

Commissioner O'Brien noted that the Commission received this report the night before this meeting and expressed an interest in further discussion of the contents of the report related to conduct and consequences in other jurisdictions. Chair Judd-Stein inquired whether Chief Enforcement Counsel Hall would be available later in the meeting, and Chief Enforcement Counsel Hall stated that she would be available.

c. [Financial and Economic Impact Analysis](#) (1:49:20)

Partner from RSM US, LLP, ("RSM") Greg Naviloff stated that RSM reviewed sections of the application related to finance. He introduced RSM's Director of Financial Investigations and Disputes, Chuck Torrisi, RSM's National Gaming and Hospitality Leader, Theresa Merlino, RSM's strategic Finance Practice Leader, Jeff Katz.

Mr. Katz stated that much of the information in RSM's report was likely confidential and that details would have to be discussed in the executive session. Ms. Roberts stated that the specific numbers could not be discussed due to confidentiality, but that the financials of WynnBET were consolidated with Wynn and publicly available via SEC reports.

Ms. Merlino stated that a discussion could be had that did not reference specific numbers, but provided ranges so that the discussion could occur in a public forum. General Counsel Grossman stated that if any part of the report seems like it would enter into the territory of confidential information, that Attorney Roberts could raise the issue.

Mr. Katz stated that if all applicants were granted licenses, then Massachusetts would have an above average number of sportsbooks. He stated that having more sportsbooks was associated with lower hold percentages. He noted that there may be some consolidation in the sports wagering industry via merger or operators unable to sustain operations in this industry. He stated that the evolving nature of the industry made it difficult to predict the composition of the marketplace.

Mr. Katz stated that Wynn had been issued a determination of suitability by the Commission. He stated that the projections and estimates from WynnBET were in line with a successful launch. He stated that WynnBET's projections for Massachusetts anticipated their performance to be higher than in other markets due to EBH's significant market share in the state of Massachusetts. Ms. Merlino stated that the Commission may wish to understand the differences between the applicant's estimated market share in comparison to their performance in other jurisdictions.

Mr. Katz stated that WynnBET's gross gaming revenue estimates were in range of RSM's analysts' projections. He stated that it was difficult to calculate gross gaming revenue as the industry was dynamic. He stated that WynnBET's revenue estimates were based upon a conservative hold percentage.

Commissioner O'Brien asked how much of this topic could be discussed in the public session. General Counsel Grossman stated that this information appeared to be competitively sensitive information that could place the licensee at a competitive disadvantage. He stated that if the Commission came to that conclusion, this information could be discussed in the executive session.

Commissioner O'Brien asked if there was a redacted version of the report that could be queried in public. Ms. Roberts stated that WynnBET was still in the process of redactions, but that WynnBET staff would address any issues regarding confidential or sensitive information in executive session. General Counsel Grossman stated that this information likely fits into exceptions that would allow an executive session.

Mr. Katz stated that WynnBET had reduced marketing spend in other markets in 2022. He stated that the Commission might want to discuss the applicants marketing plan for Massachusetts. He stated that as of quarter three of 2022 Wynn had \$2 billion in cash and \$800 million available in credit lines. He stated that Wynn had \$546 million payable in the next twelve months on long-term debt. He stated that Wynn had the liquidity to fund Massachusetts operations based upon its filings.

General Counsel Grossman stated that there were three potential issues to be addressed, market share and revenue projections in comparison to historic revenue figures from other jurisdictions; information regarding a case in the State of New Jersey; and a matter Mr. Cohen was involved with in Turkey. He stated that the first issue fell within the confines of the public meeting exemption set out in G.L. Chapter 23N. Ms. Roberts stated that the New Jersey court filings were public documents and might satisfy any questions the Commission had.

General Counsel Grossman stated that he was unfamiliar with the law of Turkey and wanted to review whether that topic could be discussed in public. Ms. Roberts stated that WynnBET did not have confirmation as to whether the matter in Turkey was a public record. She stated that it was marked confidential, but that the legal team was uncertain whether it was considered a public record.

General Counsel Grossman stated that in the U.S. criminal matters were resolved in the public, but that he was unsure whether that was the case in Turkey. He stated that the matter could be addressed in executive session, and that if that was incorrect it would be remedied by discussing the information in a public session. Chair Judd-Stein noted that another topic for executive session was raised by Commissioner Maynard regarding the percentage of individuals who did not pass through the KYC process.

5. [Executive Session](#) (2:56:12)

Chair Judd-Stein sought clarity on the exemptions that allowed these topics to be discussed in executive session. General Counsel Grossman stated that the issues of the percentage of patrons who did not pass through the KYC process, and the discrepancies in market share and revenue projections relative to WynnBET's operations in other jurisdictions fell within G.L. Chapter 23N, § 6(i), as authorized by G.L. Chapter 30A, § 21(a)(7).

Executive Director Karen Wells asked if the criminal issue would fall under this exception allowing for an executive session. General Counsel Grossman stated that the criminal issues were appropriate for discussion when the Commission was evaluating suitability, but not at this point.

Chair Judd-Stein stated that the Commission anticipated that it may meet in executive session in conjunction with its review of the WSI US, LLC (d/b/a WynnBET) application in accordance with G.L. c. 30A, § 21(a)(7), and G.L. c. 23N, § 6(i), to consider information submitted by the applicant in the course of its application for an operator license that was a trade secret, competitively-sensitive or proprietary and which if disclosed publicly would place the applicant at a competitive disadvantage and/or G. L. c. 4, § 7(26)(c) (the privacy exemption) to consider information submitted in the application materials related to named individuals, the disclosure of which may constitute an unwarranted invasion of personal privacy, and/or G. L. c. 4, § 7(26)(n), (certain records for which the public disclosure is likely to jeopardize public safety or cyber security) to consider information submitted in the application materials related to the security or safety of persons or buildings, structures, facilities, utilities, transportation, cyber security or other infrastructure located within the Commonwealth, the disclosure of which is likely to jeopardize public safety or cyber security. She noted that the public session of the Commission meeting would reconvene at the conclusion of the executive session.

Commissioner O'Brien moved that the Commission enter executive session for the reasons stated by the Chair on the record, and more specifically under G.L. c. 23N, § 6(i). 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.

Transcriber's Note: The Commission entered executive session, and then returned to the public meeting at the close of the executive session.

6. Review and Evaluation of Application for Category 3 Sports Wagering Operator License Submitted by WSI US, LLC in Accordance with 205 CMR 218.00 (4:15:38)

a. Experience and Expertise related to Sports Wagering (205 CMR 218.06(5)(a))

Commissioner Skinner sought clarification regarding WynnBET's retail partners in other jurisdictions. Ms. Roberts stated that WynnBET was partnered with Caesars' Entertainment in New Jersey and Louisiana, Full House Resorts in Colorado, the Sault Ste Marie tribe in Michigan, NASCAR in Virginia, and the San Carlos Apache tribe in Arizona.

Commissioner Skinner asked if WynnBET had any partners in Tennessee and New York. Ms. Roberts stated that WynnBET received their license in New York through a bid process and that Tennessee was an open market with no retail sportsbooks. Commissioner Skinner noted that the application indicated that a new product feature was anticipated to roll out in the beginning of 2023 and asked for further details. Ms. Roberts stated that WynnBET was planning on moving all of their mobile operations to a single application.

Chair Judd-Stein stated that Massachusetts did not allow credit card deposits for sports wagering, and asked how secondary credit card use could be addressed. Ms. Roberts stated that WynnBET's payment processing and platform provider tailored the payment system to comply with each jurisdiction. Chair Judd-Stein asked if WynnBET allowed secondary credit card use in other jurisdictions. Ms. Roberts stated that WynnBET allows it in states where secondary card use is permitted.

Commissioner O'Brien asked for an example of another jurisdiction that prevented secondary use of credit card deposits, such as PayPal. Ms. Roberts stated that WynnBET worked with Tennessee regulators to ensure secondary credit card deposits did not take place. She noted that PayPal specifically required a bank account. She stated that WynnBET's payment provided could restrict funding methods.

Commissioner O'Brien sought clarification as to how the platform prevented patrons from having a negative balance. Ms. Roberts stated that WynnBET did not offer credit to patrons, and that if the patron did not have the requisite amount for a bet, they would be prevented from placing that bet. Commissioner O'Brien commended the 24/7 customer service that WynnBET provided.

Commissioner Maynard asked for an example of an emergency situation where the operator would move forward without contacting the Commission first. Ms. Roberts stated that technology changes going through the product compliance department, such as a new classification of prohibited patron designations, would be an emergency change. She stated that another example would be a geolocation provider update to enhance geolocation services. She stated that emergency changes would be to enhance customer protection and improve WynnBET's ability to be in compliance with Massachusetts' regulations.

Commissioner Maynard stated that Commission staff should be notified first whenever practical. Ms. Roberts stated that these changes would only occur without notice as necessitated by emergency. She stated that the product compliance team would be in constant communication with regulators to ensure any updates went through the approval process.

The Commission reached a consensus that WynnBET had met the Commission's expectations in regard to this section of the application.

b. [Economic Impact and Other Benefits to The Commonwealth if Applicant is Awarded a License \(205 CMR 218.06\(5\)\(b\)\)](#) (4:26:57)

Chair Judd-Stein noted that every response in this section of the application was marked confidential. Ms. Roberts stated that certain items related to this topic involved operational business intelligence. She stated that if there was a topic WynnBET was not comfortable discussing publicly she would flag it as a concern.

Commissioner O'Brien sought further clarification regarding field marketing partners. Ms. Roberts stated that field marketing was internal groups and groups through a licensed vendor that engaged in activities to help register patrons. She stated that these partners would go to certain events to help with brand recognition and registration. She stated that it was qualified as "if permitted" in the application as it would be a policy decision of the Commission whether those activities were restricted. Commissioner O'Brien asked if any jurisdictions prohibited field marketing partners. Ms. Roberts stated that no jurisdiction prohibited the practice, but that New York had restrictions on marketing within the field.

Chair Judd-Stein stated that the expectation of generating seventy jobs in Massachusetts with the launch of sports wagering was exciting. She stated that there might be ways to regulate the frequency and intensity of marketing to address the Commission's concerns. She asked if the field marketing representative provided any benefit to the venues and events they attend. Ms. Roberts stated that it would depend upon the field marketers' arrangement with the venue.

Chair Judd-Stein stated that there might be opportunities for partnerships with minority-owned business enterprises that would both bring in new patrons and enhance local establishments. Ms.

Roberts stated that Wynn was always considering vendor opportunities as part of their DEI initiatives.

Commissioner Hill sought clarification regarding WynnBET's experience engaging with communities. Ms. Roberts stated that WynnBET had partnerships with local sports teams. She stated that Wynn and EBH were involved significantly in community engagement, and that some of WynnBET's staff were also involved. Commissioner Hill asked if WynnBET had experience in the tourism field. Ms. Roberts stated that WynnBET's sister property, EBH, was involved in the tourism and hospitality industries. She stated that WynnBET used hospitality activities as a way to draw in players. She stated that rewards included tickets to sporting events. She stated that there were opportunities to increase tourism in the mobile space.

Commissioner O'Brien noted that Wynn had a nonprofit leadership program in Las Vegas and asked if a similar program would be considered in Everett. Ms. Roberts stated that EBH was working with the Wynn Foundation on offering a program. She stated that this program would be more closely connected with EBH. Commissioner O'Brien noted that the program was referenced in WynnBET's application. Ms. Roberts explained that EBH's staff may be more appropriate to answer questions regarding the rollout of this program.

The Commission reached a consensus that WynnBET had met the Commission's expectations in regard to this section of the application.

c. [Applicant's Willingness to Foster Racial, Ethnic, and Gender Diversity, Equity, and Inclusion \(205 CMR 218.06\(5\)\(d\)\)](#) (4:42:08)

Commissioner O'Brien noted that WynnBET's gender split looked good at the manager level, but not as good for the Director, Vice President, and C-Suite positions. She asked what WynnBET was doing to increase the number of women at those levels. Ms. Roberts stated that WynnBET was working on increasing diversity in the workforce at all levels. She stated that one area of focus was implementing a career development path for current employees to help elevate them into positions they show interest in.

Commissioner O'Brien noted that Penn Entertainment was a licensee that did a great job advancing women and stated it might be beneficial for WynnBET to look into what Penn does. Ms. Roberts stated that she was a Director of the Global Gaming Women Organization and was interested in seeing women advance their careers in the gaming industry.

Chair Judd-Stein commended WynnBET's number of veterans at the C-Suite level. Commissioner Maynard stated he was very impressed by the diversity numbers. Commissioner Skinner stated that she did not see the number of people of color at the C-Suite level in the submitted materials. Ms. Roberts stated that 27% of Wynn's executives were of a minority ethnicity. She stated that WynnBET was a newer company and was still working to establish diversity at all levels of the organization.

Commissioner Skinner asked what goals WynnBET had in regard to vendor spending at minority-owned business enterprises (“MBE”), women-owned business enterprises (“WBE”) and veteran-owned business enterprises (“VBE”). Ms. Roberts stated that WynnBET’s goals were to increase vendor representation, but that WynnBET did not mandate disclosure of these categories for its vendors. Commissioner Skinner asked if WynnBET had strategies for increasing these numbers or identifying goals. Ms. Roberts stated that WynnBET was working with Wynn’s DEI office to help identify vendors that would help meet WynnBET’s goals.

Commissioner Skinner asked if WynnBET had any current goals as to diverse vendor spending. Ms. Roberts stated that there were no established goals, as WynnBET wanted to identify opportunities before making commitments. She stated that WynnBET wanted to ensure commitments were achievable.

Commissioner Maynard noted that there did not seem to be many vendors’ information submitted. Ms. Roberts stated that WynnBET had a large number of vendors for technology, marketing affiliates, KYC, and payment processors. Commissioner Maynard asked approximately how many vendors would be used. Ms. Roberts stated that WynnBET used more than 200 vendors in the jurisdictions it had launched in.

Commissioner Hill stated that the application met his expectations for this section of the application. Commissioner O’Brien stated that the application met her expectations, but some areas were flagged that she would like to see progress in. Commissioner Skinner expressed that she was disappointed that WynnBET did not have clear diversity spending goals. She stated that the responses did not meet her expectations. Commissioner Maynard stated that the response met his expectations, but that he would like to see more data points.

The Commission reached a consensus that WynnBET had met the Commission’s expectations in regard to this section of the application.

d. [Proposed Measures Related to Responsible Gaming \(205 CMR 218.06\(5\)\(c\)\)](#) (4:57:50)

Chair Judd-Stein inquired as to how WynnBET tracked content distributed by third-party marketing affiliates. Ms. Roberts stated that the contractual obligations on affiliates required them to engage in responsible marketing activities. She stated that WynnBET’s marketing team provided the content to the marketing team. She stated that the internal marketing team performs reviews and audits of content posted by affiliates.

Commissioner O’Brien noted that in application section E, question 25 WynnBET stated that it would not advertise to children or minors. She noted that Massachusetts’ advertising regulations required that sports wagering operators only market to those aged twenty-one or older.

Commissioner O'Brien stated that she wanted more information related to the fine for geolocation services being lowered. Ms. Roberts stated that she could provide robust explanations for all actions but requested that the discussion occur in the executive session, as the scope and content of those incidents were not public knowledge. She confirmed that the language regarding minors would be changed to match the language within Massachusetts' statutes and regulations.

Commissioner O'Brien asked if WynnBET planned to partner with problem gambling councils in the Commonwealth. Ms. Roberts stated that WynnBET was figuring out opportunities and local partnerships they could enter into Massachusetts.

Commissioner Skinner asked for more details related to the discipline where WynnBET had directly marketed to persons on the voluntary self-exclusion ("VSE") list. Ms. Roberts stated that she would prefer to address this in the executive session as there was confidential non-public information related to the resolution of that issue.

Commissioner Maynard asked if there was empirical data that having a regulated operator in Massachusetts would bring patrons back to Massachusetts for gaming. Ms. Roberts stated that there was increased enrollment in legal regulated sports wagering when customers transitioned from illegal sites to legal sites.

Chair Judd-Stein expressed appreciation that WynnBET planned to use employees for customer service rather than artificial intelligence. She asked what alternatives to promotional play WynnBET planned to use to attract customers. Ms. Roberts stated that promotions were important to attract and sustain players. She stated that WynnBET offered a quality product with a rewards program. She stated that there were marketing accomplishments from third party affiliates and social media campaigns.

The Commission agreed to enter executive session before determining whether this section of the application met its expectations. Commissioner O'Brien noted that her concerns related to geofencing were also relevant to the review of the application's technology section.

e. [Technology that the Applicant Intends to Use \(205 CMR 218.06\(5\)\(e\)\)](#) (5:13:48)

Commissioner Maynard noted that he had questions similar to Commissioner O'Brien's about how the geolocation issue pertained to technology. Commissioner Hill agreed and noted that it would be beneficial to get more information in the executive session and return to this topic.

f. [Suitability of the Applicant and its Qualifiers \(205 CMR 218.06\(5\)\(f\)\)](#) (5:15:32)

Commissioner O'Brien stated that the complaint filed was a public document, and that there was no answer filed. Ms. Roberts stated that WynnBET was awaiting the court's decision on the motion to dismiss before deciding whether an answer was warranted. Commissioner O'Brien

noted that the allegations stemmed from the behavior of a member of the compliance team and stated that she would like assurances from WynnBET to ensure that the compliance team was comporting themselves appropriately. Ms. Roberts stated that WynnBET would prefer to address this in the executive session, as it was active litigation.

Commissioner O'Brien stated that she reviewed the documentation submitted by Mr. Cohen and she would like to address that matter in executive session. Ms. Roberts confirmed that Mr. Cohen would be available for questioning.

Chair Judd-Stein asked if each Commissioner had the opportunity to review the complaint regarding the compliance team referenced by Commissioner O'Brien. Commissioner Skinner stated that she had not reviewed that document, but that a summary of allegations could be read as the complaint was a public document.

Commissioner O'Brien stated that it was a wrongful termination lawsuit alleging a hostile work environment. She stated that the alleged perpetrator of the conduct had a position in compliance. She stated that a motion to dismiss had been filed. Ms. Roberts stated that this information was accurate.

Commissioner Skinner asked if it was appropriate to summarize the matter related to Mr. Cohen. Ms. Roberts stated that WynnBET would prefer to discuss any legal matters in the executive session. The Chair sought General Counsel Grossman's guidance as to whether these topics could be discussed in executive session.

General Counsel Grossman stated that the Commission could use the privacy exemption as it pertained to documentation to ensure there was no unwarranted violation of Mr. Cohen's privacy. He stated that the other litigation issues would fall under the exemption in G.L. c. 23N, § 6(i).

Chair Judd-Stein stated that the Commission anticipated that it may meet in executive session in conjunction with its review of the WSI US, LLC (d/b/a WynnBET) application in accordance with G.L. c. 30A, § 21(a)(7), and G.L. c. 23N, § 6(i) to consider information submitted by the applicant in the course of its application for an operator license that is a trade secret, competitively-sensitive or proprietary and which if disclosed publicly would place the applicant at a competitive disadvantage and/or G. L. c. 4, § 7(26)(c) (the privacy exemption) to consider information submitted in the application materials related to named individuals, the disclosure of which may constitute an unwarranted invasion of personal privacy.

Commissioner O'Brien moved that the Commission enter executive session on the matters just delineated by the Chair and for the reasons just stated on the record. 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.

Transcriber's Note: The Commission entered executive session and returned to the public meeting at [6:19:32](#) in the recording.

The Commission reached a consensus that WynnBET had met the Commission's expectations in regard to the section of the application regarding responsible gaming. The Commission reached a consensus that WynnBET had met the Commission's expectations in regard to the section of the application regarding technology the applicant intended to use. The Commission reached a consensus that WynnBET had met the Commission's expectations in regard to the section of the application regarding suitability.

Commissioner O'Brien noted that she was comfortable regarding suitability, due to the applicant cooperating with the IEB during the preliminary suitability stage.

7. [WSI US, LLC license Application Determination by the Commission in Accordance with 205 CMR 218.07](#) (6:23:03)

Chair Judd-Stein asked for General Counsel Grossman to clarify the factors the Commission was to use to evaluate the application. General Counsel Grossman reiterated that the factors the Commission would evaluate would be: the applicant's experience and expertise related to sports wagering; the economic impact and benefits to the Commonwealth; the applicant's proposed measures related to responsible gaming; the description of the applicant's willingness to foster racial, ethnic, and gender DEI; the technology the applicant intends to use in operation; the suitability of the applicant and qualifiers; and any other appropriate factor in the Commission's discretion.

Commissioner Hill noted that the Commission may have to put a condition on the license and sought clarification as to how conditions would be placed. General Counsel Grossman recommended that the Commission discuss any potential conditions prior to voting. Chair Judd-Stein asked what the Commission proposed as conditions for the license.

Commissioner Maynard stated that he would like to receive a list of vendors from WynnBET, a percentage of diversity spend goals based upon those vendors, and information regarding potential vendors within the Commonwealth. Commissioner Skinner stated that she wanted WynnBET to identify their diversity spending goals for Massachusetts, and their approach to soliciting business from MBE, WBE, and VBE vendors.

Chair Judd-Stein asked if there would be a timeline for WynnBET in providing this information. Commissioner Skinner stated that she would like to see the vendor diversity goals before launch. General Counsel Grossman noted that the presumptive licensee must receive an operations certificate before operating. He stated that 205 CMR 251.01(3) required the licensee to provide a current list of sports wagering vendors, non-sports wagering vendors, and a list of employees as a prerequisite to receiving their operations certificate. Ms. Roberts stated that WynnBET would immediately submit a list of vendors and work on identifying diversity spending goals.

General Counsel Grossman asked if this information could be provided within a week. Ms. Roberts stated that she could provide a list of vendors from other jurisdictions and proposed vendors for Massachusetts. She stated that WynnBET would have to take measures to identify which vendors were MBE, WBE, and VBE to set future goals.

General Counsel Grossman stated that there might be two conditions. He stated that the first condition was to identify and provide a list of all MBE, WBE, and VBE to the Commission identifying the percentage of expenditures as a proportion of their entire vendor spend to the Commission as soon as possible. He stated that the second condition was that the licensee establish and provide to the Commission its goals during its operational phase to ensure its expenditures to diverse vendors meet the goals.

General Counsel Grossman stated that a series of automatic conditions were attached to licensure. He stated that whether preregistration could occur might be better addressed by regulation. He stated that the automatic conditions that attach to the license are that: the operator obtain an operations certificate before conducting sports wagering; the operator comply with all terms and conditions of the license and operations certificate; the operator comply with G.L. Chapter 23N and all rules and regulations of the Commission; the operator make all required payments to the Commission in a timely manner; the operator maintain its suitability to hold a sports wagering license; and the operator conduct sports wagering within its approved system of internal controls and in accordance with its approved house rules and G.L. c. 23N, § 10(a).

Commissioner O'Brien moved that based on the application, the hearing on this date, and what was discussed before the Commission on this date, that the Commission find that the applicant WSI US, LLC, d/b/a WynnBET has shown the Commission by substantial evidence that they have satisfied the criteria set forth in G.L. Chapter 23N as well as 205 CMR 218.06 and specifically as to subsection 7 that the approval of their application would benefit the Commonwealth and further that they have established by substantial evidence their qualifications for preliminary suitability in accordance with 205 CMR 215.01(2) and 205 CMR 218.07(2)(a) and that this approval be subject to the requirements of G.L. Chapter 23N and the requirements set forth in 205 CMR 220.01 in addition to the two additional conditions that were 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.

The motion passed unanimously, 5-0.

The Commission thanked WynnBET's representatives for their cooperation and responsiveness in the application process.

General Counsel Grossman stated that this vote made WynnBET eligible to apply for a temporary license pursuant to the process in 205 CMR 219. He stated that the Executive Director would have to make certain findings and bring the issue back before the Commission. Commissioner Skinner asked if the conditions applied to the temporary license or the full license. General Counsel Grossman replied that the conditions applied to both licenses. Chair Judd-Stein stated that she wanted to develop the Commission's agenda appropriately with the 205 CMR 219 timeline.

8. [Other Business](#) (6:53:50)

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

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

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 December 8, 2022