

**COMMONWEALTH OF MASSACHUSETTS  
MASSACHUSETTS GAMING COMMISSION**

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In the Matter of )

Application of PointsBet Massachusetts LLC d/b/a PointsBet )  
for a Temporary Untethered Category 3 Sports Wagering )  
Operator License )

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**DECISION DEEMING POINTSBET MASSACHUSETTS LLC  
D/B/A POINTSBET ELIGIBLE TO REQUEST A TEMPORARY UNTETHERED  
CATEGORY 3 SPORTS WAGERING OPERATOR LICENSE<sup>1</sup>**

**I. Introduction**

PointsBet Massachusetts LLC d/b/a PointsBet (“PointsBet”) applied to the Massachusetts Gaming Commission (“MGC” or “Commission”) for an Untethered Category 3 Sports Wagering License. Under G.L. c. 23N, the Commission may issue an Untethered Category 3 Sports Wagering License (“License”) to an entity that offers sports wagering through a mobile application or other digital platform that meets the requirements of c. 23N and the rules and regulations of the Commission. For the following reasons, the Commission hereby deems PointsBet eligible to request a License.

**II. Procedural History<sup>2</sup>**

On November 21, 2022, the Commission received PointsBet’s Sports Wagering License Application (“Application”), including the \$200,000 application fee. *See* G.L. c. 23N, § 7(A) and 205 CMR 214.01. The MGC Division of Licensing reviewed the Application for administrative sufficiency and determined that the application was sufficient. *See* 205 CMR 218.03. On January 3, 2023, the Commission held a virtual public meeting to hear public comments on all Untethered Category 3 Sports Wagering applications, *see* 205 CMR 218.05 and 205 CMR 218.06, which are contained in the Commission’s public record. On January 17, 2023, the Commission held a virtual public meeting to determine whether to issue PointsBet a preliminary finding of suitability, which included hearing an informal presentation from PointsBet and the Commission’s consultants. *See* 205 CMR 218.04(1)(a)-(b), 218.05(1)(b), 218.06(1). At that same meeting, the Commission deliberated on the Application, *see* 205 CMR 218.06(4)-(5), and on January 19, 2023, the Commission found PointsBet preliminarily suitable and eligible to request a Temporary License. *See* 205 CMR 215.01(2)(c)-(d), 218.07(1)(a).

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<sup>1</sup> All facts referenced in this decision were current as of the date of the respective hearings referenced in the Procedural History for this applicant.

<sup>2</sup> Pointsbet completed the application process but withdrew its application afterwards and never requested its license.

### **III. Findings and Evaluation**

In evaluating whether to issue the Category 3 Sports Wagering License to PointsBet, the Commission considered all information in the application submitted by PointsBet; the public comments made on January 3, 2023; the presentations made by PointsBet and the Commission's external consultants<sup>3</sup> on January 17, 2023; and a written report prepared by the Investigations and Enforcement Bureau ("IEB" or "Bureau") in accordance with 205 CMR 215.01(2)(b).

In accordance with 205 CMR 218.06(5), in determining whether to deem PointsBet eligible to request a Temporary Untethered Category 3 Sports Wagering License, the Commission evaluated all materials and information in the record to determine whether a license award would benefit the Commonwealth, and considered the following factors:

- a) PointsBet's experience and expertise related to Sports Wagering, including:
  - 1. PointsBet's ability to offer Sports Wagering in the Commonwealth;
  - 2. A description of PointsBet's proposed Sports Wagering Platform;
  - 3. The technical features & operation of PointsBet's proposed Sports Wagering Platform;
- b) The economic impact and other benefits to the Commonwealth if PointsBet is awarded a License, including:
  - 1. Employment opportunities within the Commonwealth;
  - 2. Projected revenue;
  - 3. Community engagement;
- c) PointsBet's proposed measures related to responsible gaming, including:
  - 1. PointsBet's responsible gaming policies;
  - 2. PointsBet's advertising and promotional plans;
  - 3. PointsBet's history of demonstrated commitment to responsible gaming;
- d) A description of PointsBet's willingness to foster racial, ethnic, and gender diversity, equity, and inclusion, including:
  - 1. Within PointsBet's workforce;
  - 2. Through PointsBet's supplier spend;
  - 3. In PointsBet's corporate structure;
- e) The technology that PointsBet intends to use in its operation, including:

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<sup>3</sup> The consultants include RSM US LLP ("RSM"), which presented on PointsBet's financial projections; Gaming Laboratories International LLC ("GLI"), which presented on technology considerations; and the Commission's Investigations and Enforcement Bureau ("IEB"), which presented on PointsBet's suitability.

1. Geofencing;
  2. Know your customer measures; and
  3. Technological expertise and reliability;
- f) The suitability of PointsBet and its qualifiers, including:
1. PointsBet's corporate integrity;
  2. The integrity of PointsBet's individual qualifiers;
  3. PointsBet's financial stability, integrity, and background;
  4. PointsBet's history of compliance with gaming or Sports Wagering licensing requirements in other jurisdictions; and
- g) Any other appropriate factor, in the Commission's discretion.

In each case, the Commission decided whether each section of PointsBet's application addressing these factors failed to meet, met, or exceeded expectations.

Ultimately, the Commission finds there is substantial evidence in the record to conclude that PointsBet's proposed Sports Wagering operation meets the requirements set forth in G.L. c.23N and 205 CMR 218. The Commission further finds there is substantial evidence to adopt the following specific findings of fact and conclusions of law related to PointsBet's Application.

**A. Experience and Expertise Related to Sports Wagering**

As reported during the January 17, 2023, presentation, PointsBet first launched in Australia in 2017 before launching in the United States in early 2019. As of January 17, 2023, PointsBet operated in Australia, Canada, and 14 U.S. states. PointsBet reported that it is one of the top three sports betting applications, and that PointsBet owns its source code and technology.

Members of the Commission asked PointsBet to describe "points betting" a type of wager that PointsBet offers. PointsBet stated that "points betting" is a proprietary wager of PointsBet and that via points betting, customers can wager on how "right" they are. PointsBet stated that points betting is optional for customers, as they may lose more than a traditional bet if they are unsuccessful. PointsBet stated that whatever wagering options they offer, including promotions, will be configured to conform to the Commission's requirements.

Members of the Commission asked PointsBet to address its view of "risk free" or "free bet" language. In response, PointsBet stated that it previously used a combination of "risk free" and "free bet" language, but determined that it sent a negative message to customers such that PointsBet has stopped using such language and instead uses "bet credit."

Overall, there is substantial evidence that PointsBet has the experience and expertise required to develop and operate a Sports Wagering Platform. Therefore, PointsBet's proposal in the experience and expertise category meets expectations.

<b>SUMMARY OF EVALUATION BY CRITERIA</b>	
<b>Criteria</b>	<b>Finding</b>
PointsBet’s ability to offer Sports Wagering in the Commonwealth	<p>As of January 17, 2023, PointsBet operates in Australia, Canada, and 14 U.S. states.</p> <p>For the reasons stated above, the Commission unanimously agreed that PointsBet has sufficient ability to offer Sports Wagering in the Commonwealth.</p>
Description of PointsBet’s proposed Sports Wagering Platform	<p>PointsBet stated that it owns the source code and technology necessary to operate its Sports Wagering Platform.</p> <p>PointsBet further described its proposed Sports Wagering Platform on pages 26-29 of its Application and the Commission found it satisfactory.</p>
Technical features and operation of PointsBet’s proposed Sports Wagering Platform	<p>PointsBet described the technical features and operation of its proposed Sports Wagering Platform on pages 30-57 of its Application and the Commission found it satisfactory.</p>

**B. Economic Impact**

During its January 17, 2023, presentation, PointBet detailed its pre-launch and post-launch business models. PointsBet stated its pre-launch efforts would include deploying targeted social media advertisements, advertisements with affiliates, dedicated emails, and creating content through its internal content studio and team. During launch, PointsBet would partner with local media outlets, as well as professional sports leagues, including the NBA, NHL, and PGA. Post-launch, PointsBet would focus on retaining consumers and cultivating consumer loyalty. PointsBet stated that these efforts would be undertaken in accordance with its responsible gaming policies, and that its marketing team works closely with its compliance, legal, and responsible gaming teams. To that end, PointsBet stated that it plans to remove “risk free” language from all its promotions by 2023 Q3.

The Commission asked PointsBet to address its historical community engagement efforts in jurisdictions where it is operating. PointsBet stated that it views its responsibility to the community as “quite serious,” from its obligation to adhere to responsible gaming principles and to invest in the community. PointsBet stated that it is interested in long term partnerships and commitments and has initiated conversations with food banks and female owned businesses in the Commonwealth, modeling its Massachusetts outreach on its community engagement efforts in Denver where it partners with the local food bank, toy drives, meals program, and the MLK

Day parade. The Commission encouraged PointsBet to also work with the Commonwealth’s tourism bureau.

The Commission also asked PointsBet to address its stated plans to partner with a call center in Massachusetts. PointsBet stated it is still in the “nascent” stages of that plan, but that it appears that PointsBet will partner with a call center for brick-and-mortar operations, though PointsBet is still vetting the center’s capabilities.

The Commission also asked PointsBet to speak to its anticipated interactions with the Massachusetts Lottery. PointsBet stated that it does not believe its product and platform would directly compete with the Lottery and that it views its product and the Lottery as complementary. Despite those beliefs PointsBet stated that it would be willing to explore what it can do to partner with the Lottery.

The Commission heard from the Commission’s financial consultants in executive session on PointsBet’s projected market size and share and gross gaming revenue in accordance with G.L. c. 30A, § 21(a)(7) and G.L. c. 23N, § 6(i). The Commission was ultimately satisfied with PointsBet’s market projections and financial suitability.

The Commission also entered executive session to hear details regarding PointsBet’s prospective relationship with a local call center in accordance with G.L. c. 30A, § 21(a)(7) and G.L. c. 23N, § 6(i). The Commission was ultimately satisfied that PointsBet’s plans with the call center would support PointsBet’s economic impact plans.

Overall, there is substantial evidence that PointsBet’s proposal in the economic impact category meets expectations.

<b>SUMMARY OF EVALUATION BY CRITERIA</b>	
<b>Criteria</b>	<b>Finding</b>
Employment opportunities within the Commonwealth	PointsBet described the employment opportunities that would be offered if it was approved for licensure by the Commission on pages 58-59 of its Application and the Commission found this portion of the application satisfactory.
Projected revenue	PointsBet described its projected Sports Wagering revenue on pages 59-61 of its Application and the Commission found this portion of the application satisfactory.
Community engagement	PointsBet described its plans for community engagement on pages 62-65 of its Application and the Commission found this portion of the application satisfactory.

### C. Responsible Gaming

PointsBet reported that responsible gaming is at the forefront of its operations. PointsBet stated that it strives to promote responsible gaming by demonstrating awareness of problem gaming and utilizing prevention and mitigation measures. To that end, PointsBet stated that its responsible gaming team works with all its departments to ensure that each department is optimized to promote responsible gaming. The customer service team receives responsible gaming training at a “heightened” level, so they can escalate and flag customer communications and surveil customer behavior.

On the customer end, customers first experience responsible gaming when they first signup with PointsBet, during know-your-customer checks when they begin to receive responsible gaming messages from PointsBet. As the customer continues to engage and spend with PointsBet, eventually reaching a higher status based on their spend, PointsBet provides them with more customized onboarding messaging. Customers can also control how much marketing and advertising they receive from PointsBet by unsubscribing from such communications, though PointsBet emphasized that customers cannot unsubscribe from responsible gaming communications. Customers can also see their account history.

PointsBet reported that it has partnered with industry groups dedicated to responsible gaming, and in 2022, received a responsible gaming check accreditation from the Responsible Gaming Council.

The Commission asked PointsBet to elaborate on its ad hoc practice of pushing customers responsible gaming information if a customer exhibits a red flag indicative of problem gaming behavior. PointsBet stated that it conducts cross disciplinary sweeps and that its responsible gaming team frequently works with other PointsBet teams. Ad hoc responsible gaming information is pushed out when customer communication triggers a problem gaming concern, which is then escalated through the responsible gaming team.

Members of the Commission asked PointsBet to address a concerning practice of offering bets on unauthorized and prohibited events, particularly in Indiana. PointsBet stated that its offerings are integrated with data feed providers, and that PointsBet has implemented trading blockers. However, PointsBet stated that the data it receives is complex, and there can sometimes be a lag where the data goes live on its website before the trading blocker kicks in. PointsBet stated this issue is not unique to PointsBet and reiterated that it provides manual oversight over all authorized markets.

Members also asked PointsBet to describe its marketing relationships with universities and colleges. PointsBet stated that it has relationships with Colorado and Maryland, and that there is a “heavy” responsible gaming component in both relationships. PointsBet stated that its relationship with Colorado is focused on recruitment, and helping the university grow its programs around sports and sports technology. To that end, PointsBet has made donations to Colorado’s business school and has installed signage in Colorado’s stadium, though clarified that the signage is focused on celebrating PointsBet’s role in bringing technology jobs to the state. Its relationship with Maryland is limited to donating to Maryland’s athletic program. PointsBet

clarified for the Commission that it does display general branding advertisements on those colleges' stadiums, but that those advertisements are limited to PointsBet's logo and tagline and does not advertise a sports wagering offer. PointBet stated regulators in Colorado and Maryland have not raised any issues with PointsBet's activities marketing on college campuses in those states.

Overall, there is substantial evidence that PointsBet's proposal in the responsible gaming category meets expectations.

<b>SUMMARY OF EVALUATION BY CRITERIA</b>	
<b>Criteria</b>	<b>Finding</b>
Responsible gaming policies	PointsBet described its responsible gaming policies on pages 70-74 of its Application and the Commission found this portion of the application satisfactory
Advertising and promotional plans	PointsBet described its advertising and promotional plans on pages 75-78 of its Application and the Commission found this portion of the application satisfactory.
History of demonstrated commitment to responsible gaming	PointsBet described its history of commitment to responsible gaming on pages 78-86 of its Application and the Commission found this portion of the application satisfactory.

**D. Diversity, Equity, and Inclusion**

The Commission included Diversity, Equity, and Inclusion as stand-alone considerations to demonstrate the value it places on this category of an applicant's application.

As explained by PointsBet during the January 17, 2023, presentation, PointsBet focuses on diversity in its workforce, workplace, supplier network, and marketplace. PointBet stated it has also invested in underrepresented groups and in 2022, donating over \$725,000 to those groups.

The Commission asked PointBet to elaborate on its workforce diversity and diversity supplier spending numbers. PointsBet stated that its goals are largely programmatic. It continues to invest in diversity and wants to grow its workforce diversity and diversity supplier spending numbers year over year. The Commission asked PointsBet to describe its efforts to improve its workforce diversity, given that only 18.75% of its workforce is women and 73% of its workforce is white. PointsBet stated that it actively trying to recruit women, and further clarified that 23% of its workforce are women, 39% of its workforce are diverse, 26% of leadership are women, and 14% of leadership are diverse.

There is therefore substantial evidence that PointsBet's commitment to Diversity, Equity, and Inclusion meets expectations.

<b>SUMMARY OF EVALUATION BY CRITERIA</b>	
<b>Criteria</b>	<b>Finding</b>
Workforce	<p>As of January 17, 2023, 39% of PointsBet employees identified as diverse and 23% as women. Of leadership, 14% identified as diverse and 25% as women.</p> <p>The Commission was satisfied by PointsBet’s workforce composition and goals.</p>
Supplier spend	<p>PointsBet stated that it is increasing its diversity spend on an annual basis and is slated to spend \$1.89 million on minority, women, and veteran owned businesses in 2023. PointsBet stated that it aims to award contracts to diverse suppliers where it can, even if that means replacing expiring contracts. To increase its diversity spend, PointsBet stated that it plans to attend or co-host supplier diversity events, and to partner with local chambers of commerce and diversity councils.</p> <p>The Commission was satisfied by PointsBet’s supplier spending goals and plans.</p>
Corporate structure	<p>PointsBet further described its corporate structure on pages 69-70 of its Application and the Commission was satisfied by PointsBet’s corporate structure.</p>

**E. Technology**

As explained during the January 11, 2023, hearing, PointsBets owns the code and technology necessary to operate its sports wagering platform. PointsBet also has a global trading team to provide 24/7/365 direct coverage, and a team dedicated to ensuring the regulatory compliance of all wagers. PointsBet represented that when launching in a new market, its trading team works directly with its legal team and utilizes a combination of technology and manual monitoring to ensure that it only accepts bets on approved events in that jurisdiction.

PointsBet demonstrated its product to the Commission, including: sign-up, know-your-customer measures, setting responsible gaming limits, viewing account history, accessible responsible gaming resources, and placing a bet.

Overall, there is substantial evidence that PointsBet’s proposal in the technology category meets expectations.



<b>SUMMARY OF EVALUATION BY CRITERIA</b>	
<b>Criteria</b>	<b>Finding</b>
Geofencing	PointsBet described its geofencing measures on pages 86-88 of its Application and the Commission found it satisfactory.
Know your customer	PointsBet described its know your customer measures on pages 88-89 of its Application and the Commission found it satisfactory.
Technological expertise and reliability	PointsBet described its technological expertise and reliability on pages 89-92 of its Application and the Commission found it satisfactory.

**F. Suitability of PointsBet and Its Qualifiers**

The Commission asked PointsBet to elaborate on its withdrawal of its sports wagering application in Ohio. PointsBet stated that it had been pursuing a partnership with a retail sportsbook but given the availability to licenses and where Ohio regulators appeared to be trending, it did not appear likely that its retail partner would be successful in obtaining a license. PointsBet stated thereafter, it decided it would focus on obtaining a mobile sports wagering license and consequently withdrew its application in Ohio.

The Commission is satisfied with PointsBet’s suitability, and that of its qualifiers. It therefore found PointsBet preliminarily suitable, and concluded there is substantial evidence that PointsBet’s suitability meets expectations.

<b>SUMMARY OF EVALUATION BY CRITERIA</b>	
<b>Criteria</b>	<b>Finding</b>
Corporate integrity	PointsBet is suitable to hold a Sports Wagering license.
Individual qualifier integrity	The IEB’s investigative report prepared for the purposes of this License decision has not revealed any disqualifying information concerning PointsBet or its qualifiers’ integrity, honesty, good character, or reputation.
Financial stability, integrity, and background	PointsBet’s Independent Audit Report and Material Weakness Statement submitted pursuant to 205 CMR 139.07(1), and its quarterly spending reports, have not revealed any disqualifying information concerning PointsBet or its financial stability, integrity, or background.
History of compliance	See narrative description of Responsible Gaming, above.

#### **IV. Award**

**THE COMMISSION FINDS THAT THERE IS SUBSTANTIAL EVIDENCE IN THE RECORD THAT POINTSBET'S APPLICATION MEETS EXPECTATIONS IN ALL CATEGORIES AND THAT POINTSBET IS ELIGIBLE FOR A TEMPORARY UNTETHERED CATEGORY 3 SPORTS WAGERING LICENSE.**

On November 21, 2022, the MGC received PointsBet's request for a License, and an initial licensing fee of \$1,000,000 payable to the Commission. *See* 205 CMR 219.02(1). On December 20, 2022, the Commission deemed PointsBet ("Licensee") eligible to request a Temporary Untethered Category 3 Sports Wagering Operator License ("License") pursuant to the terms and conditions of this Agreement ("Agreement"). On January 19, 2022, the Commission voted to issue the requested License. *See* 205 CMR 219.02(3).

This License is subject to the following conditions:

1. Compliance with all of the requirements of G.L. c. 23N, as now in effect and as hereafter amended and 205 CMR, as now in effect and as hereafter amended.
2. Compliance with all applicable federal, state and local laws, rules and regulations, now in effect or as hereafter amended or promulgated.
3. Compliance with the license conditions required by 205 CMR 220, namely:
  - a. That the Licensee obtain an Operation Certificate before conducting any Sports Wagering in the Commonwealth;
  - b. That the Licensee comply with all terms and conditions of its license and Operation Certificate;
  - c. That the Licensee comply with G.L. c. 23N and all rules and regulations of the Commission;
  - d. That the Licensee make all required payments to the Commission in a timely manner;
  - e. That the Licensee maintain its suitability to hold a Sports Wagering license; and
  - f. That the Licensee conduct Sports Wagering in accordance with its approved system of internal controls, and in accordance with its approved house rules, in accordance with G.L. c. 23N, § 10(a) and with 205 CMR.

4. The Licensee post the License, in a form prescribed by the Commission, in a location continuously conspicuous to the public on the Licensee's Sports Wagering Platform and website at all times.
5. Payment of assessments made pursuant 205 CMR 221.00 in accordance with that regulation.
6. The Sports Wagering Operation shall substantially conform to the information included in the application filed by the Licensee and abide by all affirmative statements made in the Licensee's application.
7. The term of the License awarded to Licensee commences upon February 23, 2023, and shall expire as set out in 205 CMR 219.03.<sup>4</sup>

**SO ORDERED**  
**MASSACHUSETTS GAMING COMMISSION**



Cathy Judd-Stein, Chair



Eileen M. O'Brien, Commissioner



Bradford R. Hill, Commissioner



Nakisha L. Skinner, Commissioner



Jordan M. Maynard, Commissioner

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<sup>4</sup> PointsBet withdrew from Massachusetts prior to requesting the issuance of their temporary sports wagering license.