

**COMMONWEALTH OF MASSACHUSETTS
MASSACHUSETTS GAMING COMMISSION**

In the Matter of)
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Application of Wynn Interactive, d/b/a)
WynnBet, for a)
Category 3 Tethered Sports Wagering Operator License)
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**DECISION DEEMING WYNN INTERACTIVE, LTD. D/B/A WYNNBET
ELIGIBLE TO REQUEST A TEMPORARY CATEGORY 3
TETHERED SPORTS WAGERING OPERATOR LICENSE¹**

I. Introduction

Wynn Sports Interactive, Ltd. (d/b/a WynnBet) (“WynnBet”), applied to the Massachusetts Gaming Commission (“MGC” or “Commission”) for a Category 3 Tethered Sports Wagering License. WynnBet’s license would be tethered to the Category 1 Sports Wagering license granted to Encore Boston Harbor (“EBH”) on December 8, 2022. Under G.L. c. 23N, the Commission may issue a Category 3 Sports Wagering License (“License”) to any entity that offers sports wagering through a mobile or other digital platform that meets the requirements of c. 23N and the rules and regulations of the Commission and requests such a temporary license. For the following reasons, the Commission hereby deems WynnBet eligible to request a License.

II. Procedural History²

On November 21, 2022, the Commission received WynnBet’s application (the “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 Sports Wagering License Application for administrative sufficiency and determined that the application was sufficient. *See* 205 CMR 218.03.

On December 5, 2022, the Commission held a virtual public meeting in order to hear public comment on all Category 3 sports wagering applications. *See* 205 CMR 218.05 and 205 CMR 218.06.

On December 14, 2022, the Commission held a virtual public meeting in order to hear an informal presentation from WynnBet explaining its Application and receive comments from consultants hired by the Commission to review various elements of the Application. *See* 205 CMR 218.04(1)(a-b), 218.05(1)(b), 218.06(1). At that same meeting, the Commission deliberated on the license application, and as a result of the Commission’s findings at and after

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

² WynnBet is no longer operational in Massachusetts. Its request for cessation was approved by the Commission on February 28, 2024.

the meeting, the Commission found WynnBet durably suitable and deemed WynnBet eligible to request a License. *See* 205 CMR 215.01(2)(c)-(d), 205 CMR 218.06(4)-(5), 218.07(1)(a).

III. Findings and Evaluation

In evaluating whether to issue the Category 3 Tethered Sports Wagering License to WynnBet, the Commission considered: all information in the application submitted by WynnBet; the public comments made on December 5, 2022; the presentations made by WynnBet and the Commission's external consultants on December 14, 2022; and a written report prepared by the Investigations and Enforcement Bureau ("IEB") in accordance with 205 CMR 215.01(2)(b).

In accordance with 205 CMR 218.06(5), in determining whether to deem WynnBet eligible to request a 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) WynnBet's experience and expertise related to Sports Wagering, including:
 - 1. WynnBet's ability to offer Sports Wagering in the Commonwealth;
 - 2. A description of WynnBet's proposed Sports Wagering operation;
- b) The economic impact and other benefits to the Commonwealth if WynnBet is awarded a License, including:
 - 1. Employment opportunities within the Commonwealth;
 - 2. The projected revenue from wagering operations, and tax revenue to the Commonwealth;
 - 3. WynnBet's proposed plans for construction and capital investments associated with the License award;
 - 4. Community engagement;
- c) WynnBet's proposed measures related to responsible gaming, including:
 - 1. WynnBet's responsible gaming policies;
 - 2. WynnBet's advertising and promotional plans;
 - 3. WynnBet's history of demonstrated commitment to responsible gaming;
- d) A description of WynnBet's willingness to foster racial, ethnic, and gender diversity, equity, and inclusion, including:
 - 1. Within WynnBet's workforce;
 - 2. Through WynnBet's supplier spend;
 - 3. In WynnBet's corporate structure;
- e) The technology that WynnBet intends to use in its operation, including:
 - 1. Geofencing;
 - 2. Know-your-customer ("KYC") measures;

3. Technological expertise and reliability;
- f) The suitability of WynnBet and its qualifiers, including:
1. WynnBet’s corporate integrity;
 2. The integrity of WynnBet’s individual qualifiers;
 3. WynnBet’s financial stability, integrity, and background;
 4. WynnBet’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.

Further, the Commission decided whether each section of WynnBet’s Application failed to meet, met, or exceeded expectations. Ultimately, the Commission is satisfied that WynnBet’s proposed sports wagering operation meets the requirements set forth in G.L. c. 23N and 205 CMR 218.

The Commission adopts the following specific findings of fact and conclusions of law for WynnBet.

A. Experience and Expertise Related to Sports Wagering

WynnBet has demonstrated that it has the experience and expertise required to develop, operate, and maintain a successful digital Sports Wagering operation. Overall, WynnBet’s proposal in the experience and expertise category is satisfactory, and has therefore met expectations.

Wynn Resorts Holdings, LLC (“WRH”), EBH’s and WynnBet’s parent company, is an established entity in the casino industry that has earned recognition for its performance and track record from Forbes and other industry evaluators. As of December 2021, WRH was operating sports wagering in nine other states³ and had generated over \$460 million in revenue from all its operations in 2021, with nearly \$3 billion in total liquidity.

WynnBet has digital sports wagering operations in nine states, with licenses and approvals pending in others. WynnBet’s product demonstration showed that it has a robust and adaptive platform that can be modified as the Commission deems necessary either by future unique license conditions or through the promulgation of additional regulations. In addition to EBH, WynnBet’s retail gambling partners (analogous to Category 3 tethered operations in Massachusetts) include Caesars in New Jersey and Louisiana, Full House Resorts in Colorado, the Sault State Tribe of Chippewa Indians in Michigan, and the San Carlos Apache Tribe in Arizona. WynnBet also has untethered-equivalent sports wagering operations in New York, Virginia, Indiana, and Tennessee. The WynnBet platform accepts all major conventional payment methods, but can limit the allowable methods if required by the Commission.

SUMMARY OF EVALUATION BY CRITERIA
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³ As of September 2023, WRH is no longer operating in any states except Nevada and Massachusetts, exiting Arizona, Colorado, Indiana, Louisiana, New Jersey, Tennessee, Virginia, and West Virginia

Criteria	Finding
WynnBet’s ability to offer Sports Wagering in the Commonwealth	For the reasons described above, the Commission unanimously agreed that WynnBet has sufficient background in sports wagering and experience in licensure in other jurisdictions with sports wagering and has been fully vetted in that regard.
Description of WynnBet’s proposed Sports Wagering Operation	<p>At launch in Massachusetts, the WynnBet digital sports book will be available for use on both Apple iOS and Android, as well as web and personal desktop computer applications. The platform will be managed in part by GAN, a major technology platform, with a dedicated customer support and fraud protection service.</p> <p>New users will have to go through a series of personal verification prompts – any of which can be eliminated or changed based on Commission regulations or conditions – designed to ensure that WynnBet’s customers are all eligible.</p> <p>Once users have begun placing wagers, WynnBet’s platform will monitor general data about users to make sure that their responsible gaming risk remains low. These measures include ensuring that if a user places a bet and loses, leaving them with a negative balance in their account, the bet will be disallowed.</p> <p>The Commission was satisfied with how responsive and adaptive the WynnBet digital sports wagering platform could be. For example, the Commission asked how many credit cards a user could use to register or to fund their wagering, and were satisfied when WynnBet responded that it can tailor the number and variety of cards and other payment platforms (e.g., PayPal) depending on the rules and regulations of the jurisdiction.</p>

B. Economic Impact

WynnBet provided the Commission with a highly detailed look at its opportunities for a positive economic impact on the Commonwealth. The Commission found that their plans and potential for a more robust economic footprint in the Commonwealth made for a satisfactory showing under Section C of the application, and that the application has met expectations.

The Commission was particularly pleased with WynnBet’s plans for “field marketing with local and minority businesses.”

SUMMARY OF EVALUATION BY CRITERIA	
Criteria	Finding

Employment opportunities within the Commonwealth	WynnBet stated that it planned to hire full-time employees to work in their “field marketing” division. WynnBet defined field marketing as essentially a community and patron engagement team targeting venues and activities for people over the age of twenty-one. WynnBet mentioned the caveat that it would only do this “if permitted” by the Commission, considering it is in at least one jurisdiction that does not allow that kind of marketing.
Projected revenue	<p>The Commission heard a presentation by RSM, the firm hired to conduct financial investigations into sports wagering license applicants.</p> <p>RSM informed the Commission that the primary effect of WynnBet’s operation in the Commonwealth is that neighboring states will see a decrease in wagering because of the sportsbook, so WynnBet’s aggressive projections are not overly optimistic. RSM also explained to the Commission that digital sports wagering is a long-term growth market, where economies of scale are going to be important. The fact that WynnBet shares a corporate structure with WRH will be a major benefit to the former</p>
Construction plans	At this time, WynnBet has not stated an interest in building any Sports Wagering retail space outside of the areas designated in EBH’s construction plan for the sports bar area.
Community engagement	<p>WynnBet expects that field marketing will be a boon to local business, although the degree thereof will depend on the individual agreements and partnerships. WynnBet mentioned that it is conducting a study on Minority-Owned Business Entities to help target their outreach for a field marketing program.</p> <p>WynnBet mentioned that in other jurisdictions, their community engagement experience includes working with vendors and even local professional and amateur teams.</p>

C. Responsible Gaming

While reviewing Section E, of WynnBet’s application, the Commission focused on WynnBet’s marketing strategy and control; avoiding minors and children; and previous adverse disciplinary action based on self-exclusion. Much of the discussion under this section was conducted in Executive Session under the exception to the public meeting requirement in G.L. c. 23N § 6(i). Ultimately, after returning from Executive Session, the Commission found that Section E of the application, Responsible Gaming, met expectations.

SUMMARY OF EVALUATION BY CRITERIA	
Criteria	Finding
Responsible Gaming Policies	<p>During their product demonstration, WynnBet demonstrated how users will be “protected” from individuals and entities unaffiliated with WynnBet, including a 24-hour customer service help desk.</p> <p>Some of WynnBet’s specific RG tools are player limits (time- and money-based), self-exclusion, recorded history of RG actions on the account, cool-down period, and additional information and disclaimers pushed to the user through banners, pictures, and the RG logos on the interface.</p>
Advertising and Promotional Plans	<p>The Commission’s primary focus in this section was on WynnBet’s control over third-party output – meaning the ability for non-WynnBet or non-qualifier entities to use the WynnBet platform. WynnBet has a dedicated team tasked with monitoring, auditing, and reviewing all content published by third parties. Additionally, WynnBet requires all third-party marketing partners to sign contracts that include brand representation clauses.</p> <p>The Commission found that WynnBet retains sufficient control over its media, marketing, and third-party media and marketing affiliates to instill confidence in the Commission that marketing to individuals under the age of twenty-one will not occur.</p>
History of Dedicated Commitment to Responsible Gaming	<p>The Commission moved into Executive Session in order to discuss confidential details of a prior incident involving state- and third-party-controlled self-exclusion lists and databases.</p>

D. Diversity, Equity, and Inclusion

The Commission included Diversity, Equity, and Inclusion (“DEI”) as a stand-alone consideration to demonstrate the value it places on this category of an applicant’s application. WynnBet’s application demonstrated an increasing focus on DEI, although the Commission noted that there was still progress to be made. The proposal in the diversity and inclusion category was satisfactory, and although one Commissioner expressed some concern about

WynnBet’s DEI picture, and admonished WynnBet to focus on creating “true partnerships,” the Commission ultimately found that it met expectations.

WRH uses three pillars to address and emphasize the need for equitable practices. Those pillars are: the workforce, the marketplace, and the community. As part of this DEI campaign, WynnBet will be a part of WRH’s and EBH’s partnerships with the following local DEI-focused entities:

- Embrace Boston – an organization focused on rehabilitating racial inequities through the arts, culture, community, research and policy;
- The Partnership, Inc. – a professional and educational leadership organization focused on attracting, retaining, and developing professionals of color; and
- The Urban League of Eastern Massachusetts – the local chapter of the National Urban League, which engages all levels of the community to promote skills training and spur economic prosperity.⁴

SUMMARY OF EVALUATION BY CRITERIA	
Criteria	Finding
Workforce	WynnBet’s DEI efforts, like those of WRH and EBH, are spearheaded by WRH VP Glenda Swain. WynnBet’s current focus is on creating pathways for underrepresented employees to benefit from a pipeline from hiring to corporate leadership. The Commission acknowledged WynnBet’s recent success with these efforts.
Supplier Spend	When it comes to dealing with local and Minority Business Enterprises (“MBE”) vendors, WynnBet explained that although it does not have mandatory disclosures for when it seeks vendor contracts, it does make a concerted effort to identify vendors that would provide the most benefit to the local community and WRH’s DEI initiatives. WynnBet reiterated that it would be working closely with VP Swain on this issue. The Commission commented that WynnBet does not appear to have many vendors in general, but assumed that it was due to the nature of a digital or online sports wagering platform that does not require as many tangible goods or human capital.
DEI in corporate structure	The Commission commended WynnBet for its veteran hiring numbers, but also remarked that the numbers for hiring people of

⁴ More information about all three of these organizations can be found at: <https://www.embraceboston.org/> (Embrace), <https://www.thepartnershipinc.org/> (The Partnership), and <https://www.ulem.org/> (Urban League of Eastern Massachusetts).

	color were lower than desired, especially at the senior corporate level. WynnBet responded by referring back to its talent and management incubator program, and stated that it planned to lean on that to help create a more equitable hiring process for senior leadership.
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E. Technology

Overall, the Commission was satisfied with the technological portion of WynnBet’s application, and after discussing most of the section in Executive Session, found that it met expectations.

WynnBet’s technological and security measures include loss, theft, and unauthorized use protection, as well as customer-facing policies and warnings that add transparency to WynnBet’s role in its customers’ transactions.

SUMMARY OF EVALUATION BY CRITERIA	
Criteria	Finding
Geofencing	Please refer to Section F.1.a and F.1.b of the WynnBet, LLC Category 3 – Tethered Application for further details.
Know your customer measures	Please refer to Section F.2 of WynnBet, LLC Category 3 – Tethered Application for further details.
Technological expertise and reliability	Please refer to Section F.3 of WynnBet, LLC, Category 3 – Tethered Application for further details.

F. Suitability of WynnBet and Its Qualifiers

While reviewing Section G of WynnBet’s application, the Commission included in its evaluation the same adverse disciplinary action arising out of the compliance issue, as discussed in Executive Session. MGC General Counsel Todd Grossman outlined the topics for Executive Session, including: (1) a prior compliance-related incident with voluntary self-exclusion and geolocation; (2) one of WynnBet’s former employees; (3) active litigation in New Jersey. The Commission found that all three of these topics fell within the specific exception in c. 23N, § 6(i) for competitively sensitive information.

Upon returning from Executive Session, the Commission found that WynnBet’s application met expectations.

SUMMARY OF EVALUATION BY CRITERIA	
Criteria	Finding
Corporate Integrity	WynnBet is suitable to hold a Sports Wagering License.

Individual Qualifier Integrity	The IEB’s investigative report prepared for the purposes of this temporary license decision has not revealed any disqualifying information concerning WynnBet or its qualifiers’ integrity, honesty, good character, or reputation.
Financial stability, integrity, and background	WynnBet benefits from the corporate relationship it has with WRH and EBH, known entities and premier players in the retail casino and sports wagering space, with a high degree of stability and liquidity. Capital funding, where necessary, comes from WRH. As with EBH’s Category 1 Sports Wagering License, the Commission sought assurances that WynnBet would not be unduly influenced by any entity within the WRH corporate tree that were not listed as qualifiers.
Compliance	<p>At this time, the Commission has not been made aware of any disqualifying information concerning EBH’s business practices.</p> <p>As described in Experience and Expertise Related to Sports Wagering, above, EBH has the business ability to establish and maintain a successful sports wagering operation.</p> <p>As referenced above, WynnBet self-reported one compliance incident from another jurisdiction, and entered Executive Session in order to answer the Commission’s questions.</p>

IV. Award

THE COMMISSION FINDS THAT THERE IS SUBSTANTIAL EVIDENCE IN THE RECORD THAT WYNNBET’S APPLICATION MEETS THE EXPECTATIONS IN ALL CATEGORIES AND THAT WYNNBET IS ELIGIBLE FOR A CATEGORY 3 TETHERED SPORTS WAGERING LICENSE

On December 14, 2022, the Commission deemed WynnBet (“Licensee”) eligible to request a Temporary Category 3 Tethered Sports Wagering Operator License (“License”) pursuant to the terms and conditions of this Agreement (“Agreement”). On November 21, 2022, the Commission received WynnBet’s request for a temporary license, and an initial licensing fee of \$1,000,000 payable to the Commission. *See* 205 CMR 219.02(1). On December 14, 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 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 all terms and conditions of the Gaming License for the digital Sports Wagering Platform run by WynnBet dated February 23, 2023.
4. Compliance with the license conditions required to be inserted into all sports wagering licenses by 205 CMR 220, namely:
 - a. That the Licensee obtain an Operations 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;
 - 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; and
 - g. That that the License, in the form prescribed by the Commission, shall be posted in a location continuously conspicuous to the public within the Sports Wagering Facility or on the Sports Wagering platform at all times.
5. Payment of assessments made pursuant 205 CMR 221.00 in accordance with that regulation.
6. Compliance with any requirements to obtain federal, state and local permits and approvals required to construct and operate the sports wagering platform, and any conditions or requirements set forth therein.
7. The Sports Wagering Operation shall substantially conform to the information included in the application filed by the Licensee.
8. Compliance with any free play standards set by the Commission.
9. Other specific conditions:
 - a. WynnBet is required to identify their diversity expenditure goals – by *percentage* – and what their approach will be to solicit business from MBE vendors.⁵

⁵ WynnBet is already required to provide a list, but the Commission would like to see percentages as well. WynnBet will also be expected to identify Women-owned Business Entities and Veteran-owned Business Entities.

10. The term of the temporary license awarded to Licensee commences upon February 23, 2023, and shall expire as set out in 205 CMR 219.03.

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