



March 25, 2022

James B. Butler,
Assistant Deputy Director, Chief of Staff
Maryland Lottery and Gaming Control Agency
1800 Washington Blvd., Suite 330,
Baltimore, MD 21230

VIA EMAIL ONLY

Re: Penn Commentary to Maryland's Sports Wagering Regulations

Penn National Gaming, Inc., Hollywood Casino Perryville, LLC, and Penn Sports Interactive, LLC, the wholly owned subsidiary and digital arm of Penn National Gaming, Inc. (collectively, "Penn"), appreciate the opportunity to provide suggestions and comments on the Maryland Sports Wagering Regulations (the "Regulations") posted to the Maryland Register. For the consideration of the Maryland Lottery and Gaming Control Agency ("MLGCA"), please find below Penn's proposed comments and amendments to the Regulations, tracked in red text. Penn looks forward to the continued partnership with MLGCA and the future launch of mobile sports wagering in Maryland. Please do not hesitate to reach out if there are any questions.

Penn's proposed changes to MLGCA's Regulations:

36.10.17 Sports Wagering Equipment

.04 Change Management.

The Sports wagering licensee licensed party ultimately responsible for the sports wagering equipment and/or system shall adhere to a Change Management Plan issued by the Commission.

36.10.18 Sports Wagering Technical Standards

.06 Information Security.

A. The A sports wagering licensee licensed party ultimately responsible for the sports wagering equipment and/or system shall:

(1) Implement, maintain, regularly review and revise, and comply with a comprehensive information security system that [takes reasonable steps to protect] *reasonably protects* the confidentiality, integrity, and availability of a bettor's personally identifiable information; and

(2) Ensure that the security system set forth in §A(1) of this regulation [shall contain] *includes* administrative, technical, and physical safeguards which [are]:

(a) [Appropriate] *Are appropriate* to the size, complexity, nature, and scope of the operations; and

(b) [Sensitive of] *Protect* the personal information owned, licensed, maintained, handled, or otherwise in the possession of the ~~sports wagering licensee~~ licensed party ultimately responsible for the sports wagering equipment and/or system.

B. ~~The A sports wagering licensee~~ licensed party ultimately responsible for the sports wagering equipment and/or system shall:

(1) *Within 90 days of commencing operations, and annually thereafter, conduct a vulnerability assessment, penetration testing, and operational security control review against ISO 27001 standard, or other similar standards such as CIS or NIST CSF;*

[(1)] (2) Perform vulnerability assessments and penetration testing of the sports wagering platform, associated equipment, and networks to assess the effectiveness of security controls; and] *at multiple layers, including:*

(a) *Internal and external network;* (b) *Mobile and web application;* (c) *Database;*
(d) *Firewall;*

(e) *If applicable, wireless; and*

(f) *Any additional security testing that the Commission requires;*

[(2)] (3) [Have the testing set forth in §B(1) of this regulation conducted by a Commission approved third party as set forth in Regulation .03B of this chapter.] *Ensure that a Commission approved third party described in Regulation .02B of this chapter conducts the testing required in §B(1) and (2) of this regulation; and*

(4) *Perform internal quarterly vulnerability scans, and retain documentation of the scan results and the actions taken to resolve identified vulnerabilities.*

C. ~~The A sports wagering licensee~~ licensed party ultimately responsible for the sports wagering equipment and/or system shall [create a report that:] *submit to the Commission the assessment report issued by the third party and the licensee's* licensed party's *report.*

D. *The combined reports in §C of this regulation shall:*

(1) *Provide details for all vulnerabilities identified;*

[(1)] (2) [Assesses] *Assess* the adequacy and effectiveness of the ~~sports wagering licensee's~~ licensed party's information technology security controls and system configurations; and

Reason for change:

In accordance with industry standard, Penn recommends amending this rule to permit the licensed party ultimately responsible for the sports wagering equipment and/or system to implement and maintain change management policies and procedures and adhere to the required technical standards. In many instances, the sports wagering equipment and system will be maintained by sports wagering contractors. The number of these contractors present in Maryland will exponentially grow when mobile sports wagering becomes available in the state. As the definition of “sports wagering licensee” (MD Code §36.10.01.02(82)) does not include sports wagering contractors, the proposed amendments ensure that the party with direct control over the sports wagering equipment and/or system is responsible for compliance with these Regulations. As these entities have developed and maintain these systems on an ongoing basis, they are in the best position to comply with these responsibilities. In twelve of the other thirteen jurisdictions where Penn operates sports wagering, the licensed party ultimately responsible for the sports wagering equipment and/or system is able to handle sports wagering technical and change management procedures for the equipment or system that they provide to the sports wagering operation.

Additionally, the proposed edits align with guidance that MLGCA has communicated to Kambi, Penn’s risk management and event wagering software provider. According to MLGCA’s communication in late-February, Kambi is permitted to provide this information to MLGCA directly. Penn’s proposed amendments align the language of the Regulations with the MLGCA’s guidance.

Best Regards,



Rhea P. Loney
VP of Compliance
Penn Interactive Ventures, LLC

cc: Josh Pearl, Director of New Market Operations, Penn Interactive, *via email only*
Chris Soriano, VP, Chief Compliance Officer, Penn National Gaming, Inc. *via email only*
Timothy Shea, VP of Operations, Hollywood Casino Perryville, *via email only*
Caitlin McDonough, Member, Harris Jones & Malone, LLC, *via email only*

Kambi

Comments on Maryland Emergency Action on Regulations - Title 36
MARYLAND STATE LOTTERY AND GAMING CONTROL AGENCY
25 March 2022

On behalf of Sports Information Services Ltd d/b/a Kambi, I would like to express gratitude for the opportunity to submit comments to the Maryland Lottery and Gaming Control Agency (the **MLGCA**) in relation to the Emergency Action on Regulations - Title 36 MARYLAND STATE LOTTERY AND GAMING CONTROL AGENCY due March 28, 2022 (the **Emergency Regulations**).

Area	Rule Reference	Existing Rule Language	Proposed Language	Reason for Change
Change Management	Rule 36.10.17.04 Change Management.	Sports wagering licensees shall adhere to a Change Management Plan issued by the Commission.	Sports wagering licensees Licensees shall adhere to a Change Management Plan issued by the Commission	<p>Kambi proposes that the language set forth in Rule 36.10.17.04 is amended to include that a “licensee” shall adhere to a Change Management Plan issued by the Commission, instead of restricting the obligation to only a “sports wagering licensee”.</p> <p>Whilst Kambi appreciates that a sports wagering licensee is the party ultimately responsible for the operations of sports wagering, we would also like to stress the fact that within those operations, there are situations in which another licensee is the responsible party.</p> <p>The Change Management Plan issued by the Commission applies to GLI-CMP. Kambi is a technology supplier under GLI-CMP and have the obligation to comply with requirements set forth therein related to the sportsbook software Kambi supplies.</p> <p>The existing rule language puts an obligation solely on the sports wagering licensee to provide the MLGCA what is required by the Change Management Plan. In practice, Kambi is the party ultimately providing what is required related to such sportsbook software Kambi supply. This results in that each sports wagering licensee using Kambi sportsbook will need to furnish the same set of documentation to the MLGCA rather than the MLGCA receiving this directly from Kambi.</p>

				<p>We understand there is awareness about the above-mentioned situations and would therefore like to propose that the language is changed in accordance with our proposed language, to reflect the operational set-up in many sports wagering operations. This will give the possibility for the licensee that is ultimately responsible to submit what is required directly to the MLGCA and would further result in more effective sports wagering operations as well as reduce the workload for the MLGCA.</p>
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Yours Faithfully,

Tommaso Di Chio

Tommaso Di Chio
SVP Regulatory Affairs and Compliance
Sports Information Services Limited D/B/A Kambi

Document Information

Document

Title	Emergency Action on Regulations comment
ID	c3815841-2d5d-4ff2-b60a-3e0b2c0636e4
Status	Signed
Sender	Aleksandar Gajic (aleksandar.gajic@kambi.com)
Dept/business	Kambi Legal
Dept/business ID	kambi-legal
PDF Certified	True

Signers

Name	Authentication
Tommaso Di Chio <tommaso.dichio@kambi.com>	Email

History

Event	Email	IP address	Date/Time
Emergency Action on Regulations comment created by Aleksandar Gajic	aleksandar.gajic@kambi.com	38.32.41.178	Mon, 28 Mar 2022 13:15:44 +0000
Emergency Action on Regulations comment emailed to Tommaso Di Chio	aleksandar.gajic@kambi.com		Mon, 28 Mar 2022 13:15:45 +0000
Aleksandar Gajic downloaded draft document Emergency Action on Regulations comment	aleksandar.gajic@kambi.com	38.32.41.178	Mon, 28 Mar 2022 13:16:00 +0000
tommaso.dichio@kambi.com opened email for document Emergency Action on Regulations comment	tommaso.dichio@kambi.com		Mon, 28 Mar 2022 15:14:00 +0000
Emergency Action on Regulations comment visited by Tommaso Di Chio <tommaso.dichio@kambi.com>	tommaso.dichio@kambi.com	82.26.43.36	Mon, 28 Mar 2022 15:14:04 +0000
Ticked checkbox for statement: I confirm that I am authorised to accept the terms and conditions of this document.	tommaso.dichio@kambi.com	82.26.43.36	Mon, 28 Mar 2022 15:14:07 +0000
Ticked checkbox for statement: I understand that accepting the terms conditions of this document creates a legally binding obligation.	tommaso.dichio@kambi.com	82.26.43.36	Mon, 28 Mar 2022 15:14:08 +0000
Signature applied (page 3)	tommaso.dichio@kambi.com	82.26.43.36	Mon, 28 Mar 2022 15:14:37 +0000



March 28, 2022

Via E-Mail to jbutler@maryland.gov

Attn: James B. Butler, Assistant Deputy Director/Chief of Staff
Maryland Lottery and Gaming Control Agency
1800 Washington Boulevard, Suite 330
Baltimore, Maryland 21230

Re: Notice of Proposed Action – COMAR Chapter 36, Subtitle 10

Dear Mr. Butler,

In response to the sports wagering regulations proposed by the Maryland Lottery and Gaming Control Commission (“Commission”), DraftKings Inc. (“DraftKings”) submits the following comments and questions for consideration. As a leading sports wagering operator in the United States, DraftKings has first-hand experience with sports wagering regulatory frameworks, and submits these comments based on its operational knowledge in multiple regulated markets.

36.10.12.03 Obligation to Pay.

Rule Reference: 36.10.12.03(D)

Rationale: DraftKings respectfully requests the punishment for sports wagering licensees failing to submit a properly completed sports wagering tax return with the prescribed timeframe be changed from an automatic license suspension to a fine that would be determined by the Commission, up to 25% per month of the tax payment ultimately found to be due by the sports wagering licensee. Further, DraftKings also requests that the timeframe for when properly completed sports wagering tax returns must be filed be extended from “*the seventh calendar day of the month*” to “*the tenth business day of the month.*”

As to the first suggested request, an automatic license suspension for not submitting tax returns is an unprecedented and unreasonable punishment that no other jurisdiction that regulates sports wagering employs. Other jurisdictions mostly rely on fines as a means to punish sports wagering operators for failing to submit their tax returns in a timely manner, while in certain cases, also allowing for remedial measures and an opportunity for resolution prior to any type of summary punishment. As opposed to an automatic suspension, Michigan’s sports wagering regulations call for a fine for the failure to remit a timely tax payment, “*as determined by the board of up to 25%*



per month of the amounts ultimately found to be due,”¹ which could be the punishment contemplated by the Commission for Maryland sports wagering licensees. Illinois’ sports wagering regulations provide for a full provision that outlines what may occur when a sports wagering license fails to comply with timely tax payments requirements, no measure of which contemplates automatic suspension.²

As to the second suggested request, it is important for the tax return submission timeline to be aligned with banks being open to process payments. Thus, having the timeline be drawn to “*business days*” as opposed to “*calendar days*” is the most reasonable approach to ensure that sports wagering licensees are not being punished due to payments being delayed by bank processing, which does not occur on weekends and bank holidays. For this reason, DraftKings respectfully requests the following amendment to this provision.

Existing Rule Language/Proposed Rule Language:

*D. If, by the ~~seventh~~**tenth** ~~calendar~~**business** day of the month, a sports wagering licensee fails to submit a properly completed sports wagering tax return and all taxes due to the Commission, the sports wagering license ~~is automatically suspended~~ **is liable for payment of a fine, as determined by the Commission of up to 25% per month of the amounts ultimately found to be due, to be recovered by the Commission.***

Rule Reference: 36.10.12.03(G)(1)

Rationale: DraftKings respectfully requests clarification as to whether sports wagering licensees will only be permitted to subtract the difference between the amount wagered and the amount returned to bettors for up to 3 months, in the event a sports wagering licensee returns to successful bettors more than the amount of money wagered on a sporting event, despite the provision in 36.10.13.30(B), which provides that sports wagering tickets expire 182 days after the date of the sporting event. Specifically in a retail setting, sports wagering licensees may not be able to fully reconcile whether they have returned more than the amount wagered on any one sporting event until the ticket expiration deadline has passed for that sporting event. For this reason, DraftKings respectfully requests the following amendment to this provision.

Existing Rule Language/Proposed Rule Language:

¹ [R 432.767\(3\)](#) (See page 76).

² [Ill. Admin. Code tit. 11, § 1900.1040\(j\)](#).



*(1) If a sports wagering licensee returns to successful bettors more than the amount of money wagered on a sporting event, the sports wagering licensee may subtract the difference between the amount wagered and the amount returned to bettors **or remitted to the Commission** from its proceeds ~~of up to 3 months~~.*

* * * * *

Thank you for your consideration of DraftKings' comments regarding the Commission's proposed sports wagering regulations. Please feel free to contact us should you or anyone else at the Commission have any questions about our submission or our experience in other regulated jurisdictions.

Sincerely,

DraftKings Inc.



Cory Fox
cory.fox@fanduel.com

March 28, 2022

Via Email to jbutler@maryland.gov
James B. Butler, Assistant Deputy Director, Chief of Staff
Maryland Lottery and Gaming Control Agency
1800 Washington Blvd.
Suite 330
Baltimore, MD 21230

Re: FanDuel Comments on “Proposed Sports Wagering Regulation Changes”

Dear Managing Director Butler:

I write to provide comments on behalf of FanDuel Group, Inc. (“FanDuel”) regarding the Maryland Lottery and Gaming Commission’s (“Commission”) “Proposed Sports Wagering Regulation Changes” (“Proposed Regulation Changes”). Based on our extensive experience as an operator in the sports betting industry and collaborator with regulators of sports betting in many states in the development of their regulations, we offer constructive feedback on ways in which the Proposed Regulations can be improved for effectiveness and consistency with other state regulations.

Following the Supreme Court’s decision to strike down the Professional and Amateur Sports Protection Act (PASPA) in May of 2018, FanDuel has now become the leading sports wagering operator, and the largest online real-money gaming operator, in the United States. FanDuel currently operates twenty-five (25) brick and mortar sportsbooks in fourteen (14) states and online sports wagering in fifteen (15) states. We appreciate the opportunity to share our perspective on sports betting regulation with you.

While we do not have any comments on the Proposed Regulation Changes, we would like to take this opportunity to reiterate our concerns with the language found in COMAR 36.10.13.39(F)-(H), whereby the Commission has imposed a limit on the amount of free promotional play a sports wagering licensee may issue after their first year of operation to no more than 20 percent of the total sports wagering proceeds that the licensee generated in the prior year. These provisions appear to be intended to mimic the limit on free play issued by video lottery facilities under COMAR 36.03.10.36(F)-(H).

However, the provisions related to limiting free play issued by video lottery facilities derive their statutory authority from State Government Article, Title 9, Subtitle 1A – Video Lottery Terminals. §9-1A-01(u) of that subtitle provides a definition for “proceeds” which explicitly authorizes the

Commission to limit, by regulation, the amount of free promotional play issued by a video lottery facility after the first fiscal year of operations¹:

“(u) (1) “Proceeds” means the part of the amount of money bet through video lottery terminals and table games that is not returned to successful players but is otherwise allocated under this subtitle.

(2) (i) “Proceeds” may be reduced consistent with regulations adopted by the Commission in accordance with subparagraph (ii) of this paragraph.

(ii) If a video lottery operation licensee returns to successful players more than the amount of money bet through video lottery terminals or table games on a given day, the video lottery licensee may subtract that amount from the proceeds of up to 7 following days.

(3) (i) Subject to subparagraph (ii) of this paragraph, “proceeds” does not include money given away by a video lottery operation licensee as free promotional play and used by players to bet in a video lottery terminal or at a table game.

(ii) After the first fiscal year of operations, the exclusion specified in subparagraph (i) of this paragraph may not exceed a percentage established by the Commission by regulation of the proceeds received from video lottery terminals and table games in the prior fiscal year by the video lottery operation licensee under § 9-1A-27(a)(2), (c)(1)(ii), and (d)(1) of this subtitle.” (Emphasis added)

By contrast, no such authorization for the Commission to establish a limit was included in the definition of “proceeds” for purpose of sports wagering under State Government Article, Title 9, Subtitle 1E – Sports Wagering²:

“(h) “Proceeds” means the amount of money wagered on a sporting event, less:

- (1) the amount returned to successful bettors;
- (2) the cash equivalents of any merchandise or thing of value awarded as a prize to successful bettors;
- (3) ***free bets and promotional credits redeemed by bettors***; and
- (4) all excise taxes paid by a sports wagering licensee in accordance with federal law.” ***(Emphasis added)***

¹ State Government Article, §9-1A-01(u)(3)(ii), Annotated Code of Maryland

² State Government Article, §9-1E-01(h), Annotated Code of Maryland



The Maryland General Assembly made the deliberate decision not to place a cap on the amount of free promotional play that sports wagering licensees may issue and acknowledged the vital role that free promotional play holds in converting sports bettors from the illegal, offshore sports wagering market to legal, regulated market. We strongly urge the Commission to follow the intent of the legislature and reconsider COMAR 36.10.13.39(F)-(H).

We appreciate your time and consideration of our comments and would be happy to discuss at your convenience.

Sincerely,

A handwritten signature in blue ink, appearing to read "Cory Fox", written over a light blue horizontal line.

Cory Fox
Government Affairs and Product Counsel Vice President