

Public Comments on SWARC Regulations

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Comment	Regulation	Reg. Name	Sub Section	Submitted By	Public Comment	SWARC Response	Change (Yes / No)	
1	36.11.01.01	Scope		Karen Senac	I have been approved for the temporary Principle license. Is there anything else I can do to prepare ahead of SWARC approval.	This is not a comment on the substance of the proposed regulations	No	
9	36.11.01.01	Scope		Robert	I think the faster that Maryland gets mobile sports betting up and running the more money they will have for infrastructure and schools in the Maryland area as for me I don't like going to the casino to place a bet because every time I go to the casino there is a chance that I could be robbed as to where if mobile sports betting was legal in Maryland I wouldn't have to leave my house to make sports bets	This is not a comment on the substance of the proposed regulations	No	
10	36.11.01.01	Scope		Kris Sankar	What in God's name is taking so long? I get that you're trying to help out the lil guy but this is a stupid battle. The major companies in mobile betting are the trusted ones, Noone will use an unknown book to wager because there's no credibility. So give the licenses out already and stop wasting time and money.	This is not a comment on the substance of the proposed regulations	No	
11	36.11.01.01	Scope		Ebeth Pretorius	Online betting is long overdue! I have been betting online for more than 15 years. I have used multiple apps. Currently I'm using William Hill, Bet Parx and STN (Stations Casino) in Las Vegas. Pros and cons: William Hill is very simple, but limited in what you can bet. For example, you can't parlay live matches with future matches. Still, it is a great betting app and odds are good. Now my favorite of all time is Bet Parx. You can mix and match different sports and live and future bets. Also, one great feature which nobody else has is special bets. They have 3-5 special bets everyday! I fall for them all the time! A great feature in favor of the casino most of the time. They also allow you to cash out during a bet. Please consider an app like them.	This is not a comment on the substance of the proposed regulations	No	
14	36.11.01.01	Scope		Robert R Kloss Jr	why is maryland always last to get these things done!!! get the sports betting app out NOW!!!!!!	This is not a comment on the substance of the proposed regulations	No	
13d	36.11.01.02	Definitions	15	Arthur Robinson - Full Circle	License fees for mobile applications should be refundable if the Applicant is not awarded a license. The \$500,000 fee for a mobile license should be \$100,000 if an applicant has under 50 employees and \$6 million in revenue.	This is a request for a statutory change that SWARC cannot address.	No	
5	36.11.02.02	General		Gresham - Bella Napoli	My restaurant is interested in obtaining a mobile betting license to operate betting slips from our carry-out area. We have the infrastructure and funds for application fees. What steps should we take from here? and would table side sports betting by our waiters and waitresses be allowed?	This is not a comment on the substance of the proposed regulations	No	
7	36.11.02.02	General		Karen Blinder	We do not need more betting of any variety. Gambling can impoverish participants (particularly those with an addiction to it), and it provides conditions conducive of crime.	This is not a comment on the substance of the proposed regulations	No	
13e	36.11.02.03	Separate Applications and fees		Arthur Robinson - Full Circle	License fees for mobile applications should be refundable if the Applicant is not awarded a license.	This is a request for a statutory change that SWARC cannot address.	No	
13f	36.11.02.04	Process for the Submission of Applications and Fees		Arthur Robinson - Full Circle	License fees for mobile applications should be refundable if the Applicant is not awarded a license.	This is a request for a statutory change that SWARC cannot address.	No	
13g	36.11.02.06	Submission of SWARC Application		Arthur Robinson - Full Circle	License fees for mobile applications should be refundable if the Applicant is not awarded a license.	This is a request for a statutory change that SWARC cannot address.	No	
13h	36.11.02.07	SWARC Application - Determination of Ineligibility		Arthur Robinson - Full Circle	License fees for mobile applications should be refundable if the Applicant is not awarded a license.	This is a request for a statutory change that SWARC cannot address.	No	
13n	36.11.02.12	Withdrawal of Applications		Arthur Robinson - Full Circle	License fees for mobile applications should be refundable if the Applicant is not awarded a license or if the Applicant withdraws their Application before being "granted" a license.	This is a request for a statutory change that SWARC cannot address.	No	
12c	36.11.02.08	Requirements for a Completed SWARC Application	B(3)	Mr. Hye Lee	If applicable, contain the information pertaining to the applicant's efforts to solicit and interview minority and women investors, as set forth in §F of this regulation; (If applicable must be removed; this is a requirement)	The statutory requirement is to provide the information IF the applicant sought investors.	No	
13i	36.11.02.08	Requirements for a Completed SWARC Application	B(3)	Arthur Robinson - Full Circle	(3) If applicable, contain the information pertaining to the applicant's efforts to solicit and interview minority and women investors, as set forth in §F of this regulation; This should be a requirement not "if applicable" and "efforts".	The statutory requirement is to provide the information IF the applicant sought investors.	No	
16a	36.11.02.08	Requirements for a Completed SWARC Application	B(3)	Malik Edwards - Bet On Black	Amend 36.11.02.08(B.)(3) on Page 7, by striking the words "If applicable" so that the section reads "Contain the information pertaining to the Applicant's efforts to solicit and interview minority and women investors, as set forth in Section F of this regulation."	The statutory requirement is to provide the information IF the applicant sought investors.	No	
12d	36.11.02.08	Requirements for a Completed SWARC Application	F	Mr. Hye Lee	Suggested edits: (1) As required by State Government Article, §9-1E-15(i), Annotated Code of Maryland, <u>for all mobile sports betting licenses</u> an applicant <u>must have</u> sought minority and women investors, the applicant shall have made serious, good-faith efforts to solicit and interview a reasonable number of minority and women investors, and submit with its SWARC application a statement that lists the names and addresses of all minority and women investors interviewed and whether or not any of those investors have acquired an equity share in the applicant. (2) Each applicant shall submit an acknowledgement that, if SWARC awards it a license, the awardee shall sign a memorandum of understanding with SWARC that requires the awardee to make serious, good-faith efforts to interview minority and women investors in <u>any current and future</u> attempts to raise venture capital or attract new investors to the entity awarded the license.	The statutory requirement is to provide the information IF the applicant sought investors.	No	
13l	36.11.02.08	Requirements for a Completed SWARC Application	F(1)	Arthur Robinson - Full Circle	(1) As required by State Government Article, §9-1E-15(i), Annotated Code of Maryland, if an applicant sought investors, Should be a requirement not an "if" or "good faith efforts"	The statutory requirement is to provide the information IF the applicant sought investors.	No	

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16b	36.11.02.13	Evaluation of Applications	(E)	Malik Edwards - Bet On Black	Amend 36.11.02.13(E) on Page 12, replacing the words "If an applicant sought investors," with "If any such evidence exists," so that the section reads "If any such evidence exists, evidence of Applicant's serious, good-faith efforts to solicit and interview a reasonable number of minority and women investors and whether or not any of those investors have purchased an equity share in the Applicant"	The statutory requirement is to provide the information IF the applicant sought investors.	No
12f	36.11.02.13	Evaluation of Applications	E	Mr. Hye Lee	Suggested edits: For all mobile sports betting licenses an applicant must have If an applicant (Must be removed; it is too weak) sought minority and women investors, evidence of applicant's serious, good-faith efforts to solicit and interview a reasonable number of minority and women investors and whether or not any of those investors have purchased an equity share in the applicant;	The statutory requirement is to provide the information IF the applicant sought investors.	No
13p	36.11.02.13	Evaluation of Applications	E	Arthur Robinson - Full Circle	The current requirement to make a serious, good faith effort to solicit and interview minority and women businesses only if an Applicant seeks investors is not sufficient. This should be a mandatory requirement.	The statutory requirement is to provide the information IF the applicant sought investors.	No
15	36.11.02.02	General		Cory Fox - FanDuel	The single concern that we would like to address is the use of a universal launch date for all mobile sports wagering operators	SWARC can only determine when licenses will be awarded, not when they will be issued for launch of wagering by the MLGCC.	No
8	36.11.02.07	Determination of Ineligibility		Saundra Taylor	Businesses like MGM, Maryland Live, and Horseshoe Casino that have a complaint or civil lawsuit for racism discrimination should be deny a license if a proposal of diversity is required with the submission of an application.	SWARC may consider pending complaints or lawsuits in its deliberations as to whether awarding a license is in the public interest. MLGCC will also consider them in determining if an applicant is qualified.	No
13j	36.11.02.08	Requirements for a Completed SWARC Application	E(14)(a)	Arthur Robinson - Full Circle	(14) (a) Experience in the operation of sports wagering; This should not be a criteria for rejection. No one in Maryland has experience in Maryland.	Lack of experience is not a disqualifying factor. Experience will be evaluated since this is a complex and inherently risky business.	No
13k	36.11.02.08	Requirements for a Completed SWARC Application	E(15)	Arthur Robinson - Full Circle	A business plan for 5 years should not be a criteria for rejection of an Application because the information can be very subjective and fiscally skewed.	Business plans are not a disqualifying factor. Plans will be evaluated to confirm that projections are reasonable.	No
13m	36.11.02.08	Required Documents	G(2)	Arthur Robinson - Full Circle	"Applicant recognizes that sports wagering is a competitive business and has an inherent risk of instability and unprofitability; and" - This seems condescending. All business is competitive and has an inherent risk of instability and unprofitability.	This is not a comment on the substance of the proposed regulations	
12e	36.11.02.13	Evaluation of Applications		Mr. Hye Lee	By not having any particular weight assigned to the evaluation selection criteria, this hurts the process of selecting Awardees. Having evaluation selection criteria standardize with scoring removes subjectivity from the process. Most importantly, having weighted evaluation criteria sets expectations, ensures high-quality responses and delivers fairness and transparency to the process. If, we had a true "Competitive license" sports wagering license awarding system then a weighted ranking system would be necessary and required.	SWARC will evaluate each application by applying the criteria set out in Regulation 36.11.02.13	No
13o	36.11.02.13	Evaluation of Applications		Arthur Robinson - Full Circle	A definitive point system with detailed explanations (like RFPs) and scoring on the criteria should be used to evaluate applicants.	SWARC will evaluate each application by applying the criteria set out in Regulation 36.11.02.13	No
13q	36.11.02.14	License Award Decision	F(3)	Arthur Robinson - Full Circle	"The awardee may not transfer the award to another person." Does that mean the license can't be transferred? For how long?	This subsection is based on SG 9-1E-07(i), which sets forth limitations on the sale or transfer of a license.	No
PM	36.11.02.14	License Award Decision	J	Arthur Robinson - Full Circle	"SWARC may.... offer unawarded, available licenses through a subsequent competitive process". We agree this is important, especially if SWARC creates a separate class and fee for smaller mobile licensees.	No change suggested	No
PM	36.11.02.19	Ownership Criteria		Charles Hopkins - Hamilton Hall	Seeking confirmation or clarification in the regulation that an agreement in which a party receives a revenue share from a mobile applicant, but is not an owner, is permissible and meets the intent of the regulation's requirement to have at least 5% ownership by an individual with personal net worth under \$1,847,000. {See comment 2}	A share of revenues or profits will be considered to meet the 5% ownership requirement. Ideally, the person or entity should have an active role in the operation of sports wagering. Entities with 5% or more of an applicant are considered owners and will undergo full investigations.	No
6	36.11.02.19	Ownership Criteria		Robert Moncrief Jr. Bet365	We would suggest that Section .19 be removed from the proposed regulations as it is beyond the scope of what was contemplated by the legislature and the Governor. We would suggest that if SWARC feels that Section .19 is vital it should add the concept of early access from the legislation for applicant's that satisfy that criteria. More specifically, Section .19 could be amended as follows, "SWARC may not award a license to an applicant that has not demonstrated direct or indirect ownership of not less than 5 percent by individuals with personal net worth of less than \$1,847,000 each, however applicants that can meet that ownership criteria may be entitled to early access to the mobile sports wagering market."	Regulation 19 will remain as proposed.	No
13r	36.11.02.19	Ownership Criteria		Arthur Robinson - Full Circle	The current requirement is that SWARC "may not" award a license unless the Applicant includes at least 5% ownership by individuals with personal net worth under \$1,847,000. This should be "shall" not "may".	The terms 'may not' and 'shall not' have the same meaning. Both establish a prohibition.	No
3	36.11.13	Evaluation of Applications		Richard Smith	Don't "artificially" limit the number of mobile licenses.	SWARC is not limiting the number of mobile licenses that it may award. The maximum number of mobile licenses is set by statute.	No
2	36.11.19	Ownership Criteria	A	Charles Hopkins - Hamilton Hall	Request to add bold text allowing participation without ownership. A. SWARC may not award a license to an Applicant that has not demonstrated either direct or indirect ownership of not less than 5%, or meaningful economic interests reasonably expected to be at least 5% of its revenue generated on an ongoing basis , by individuals with Personal Net Worth of less than \$1,847,000 each.	A share of revenues or profits will be considered to meet the 5% ownership requirement. Ideally, the person or entity should have an active role in the operation of sports wagering. Entities with 5% or more of an applicant are considered owners and will undergo full investigations.	No

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4	General	None		Tom Rothschild's	In November of 2020, Maryland voters voted to allow mobile sports betting. To this day SWARC has still has not approved mobile betting in the state of MD. How much money and time has SWARC caused MD residents of all ethnicities and income levels because they are forced to drive to a casino to make sports bets instead of being able to make sports bets over the mobile phone? I would guess this number is in the tens of millions of dollars!! Every day SWARC delays approving mobile betting puts an added burden on MD residents. When is SWARC going to do their job? Why has SWARC not approved mobile betting for companies such as Fan Duel, Draft Kings and other major casinos that are all ready to allow MD residents the right to make a mobile bet? Any other company that wants to operate a mobile betting site has had plenty of time to submit their application. When the other companies are ready to operate their mobile sports betting businesses, then they can get approved. Why are you penalizing MD residents for your slow process?	This is not a comment on the substance of the proposed regulations	No
12a	N/A	Assumptions		Mr. Hye Lee	Where are the Diversity and Inclusion requirements for 40 new positions? Maryland Lottery and Gaming Control Agency needs to have more Diversity and Inclusion, too. Economic opportunity and inclusion?	This is not a comment on the substance of the proposed regulations	No
12b	N/A	Economic Impact on Small Businesses		Mr. Hye Lee	What about the impact for minority equity investors for mobile sports betting licenses? Where is section on the Economic Impact on Minority Equity Investors? More details are needed.	This is not a comment on the substance of the proposed regulations	No
12g	N/A			Mr. Hye Lee	There should be a refund of the SWARC application fee for any unapproved mobile sports betting licenses especially if the requirements cannot be met. We do not want entities approved in advance if they cannot meet SWARC requirements. <u>Correction plans are unacceptable after the fact of any approvals and selections.</u>	This is a request for a statutory change that SWARC cannot address.	No
12h	N/A			Mr. Hye Lee	Attached is evidence and support from a letter by the Maryland 3 largest casinos sent to SWARC around November 15, 2021 for minority and women investors' involvement and participation in mobile sports betting licenses. Reflect these requirements in the Regulations, Applications, Evaluation of Applications and in the Awarding of the Licenses on all "Competitive license" sports wagering license that is not a sports wagering license described in State Government Article, §9-1E-15(f)(2), Annotated Code of Maryland, and is a: (a) Class B-1 or B-2 sports wagering facility license; or (b) Mobile sports wagering license.	Based on the available evidence, the State cannot, consistent with the United States Constitution, adopt race- and gender-conscious measures in connection with the award of sports wagering licenses.	No
13a	N/A	Statement of Purpose		Arthur Robinson - Full Circle	There is no way for an applicant to fix issues and establish procedures if they fall short of requirements. Applicants should be given time to address any issues.	This is not a comment on the substance of the proposed regulations	No
13b	N/A	Economic Impact		Arthur Robinson - Full Circle	There is no way for an applicant to fix issues and establish procedures if they fall short of requirements. Applicants should be given time to address any issues.	This is not a comment on the substance of the proposed regulations	No
13c	N/A	Economic Impact		Arthur Robinson - Full Circle	Nowhere does it say or encourage small or minority/women-owned businesses to be a mobile sportsbook or operator. It only talks about being an investor and/or doing support services which is good but why was being a mobile sportsbook or operator not specifically mentioned.	This is not a comment on the substance of the proposed regulations	No
16c	None Stated	None Stated		Malik Edwards - Bet On Black	I must also comment on the proposed regulation's lack of any meaningful provisions relating to diversity in awarding licenses. SWARC's August 26, 2022, letter to the Joint Committee on Administrative and Legislative Review (AELR) attempts to explain this omission by stating that: "The Consulting Economist and author of the analysis, Dr. Jon Wainwright, concluded that he could not "opine on whether the 2017 Disparity Study is sufficient to support any other type of race- and/or gender-conscious remedy in the SWEW Industry in Maryland." This means that based on the analysis, SWARC is not able to apply any race- and/or gender-conscious criteria in its evaluation of applicants." This justification appears to be disingenuous and misleading. HB940 called for "a study of the sports wagering industry and market to determine whether there is a compelling interest to implement remedial measures, ... to assist minorities and women in the sports wagering industry." HB940 was signed by the Governor over a year ago in May of 2021, providing ample time for a new study into the availability of minorities and women who are ready, willing and able to apply for sports wagering licenses. Instead, the SWARC asked Dr. Wainwright "to determine whether the State's 2017 Disparity Study provides an evidentiary basis for applying race- and/or gender-conscious remedial measures ... to the Sports Wagering and Event Wagering (SWEW) Industry in Maryland." Since the 2017 Disparity Study pre-dates the legalization of sports wagering in Maryland, it is simply not possible for it to have included any statistical evidence that speak directly to the SWEW industry. In short, by requesting an analysis of the 2017 Disparity Study instead of procuring a new study into race and gender availability in the SWEW industry, the SWARC essentially guaranteed the end result – that Dr. Wainwright did not have sufficient data to opine on whether race and/or gender-conscious measures could be applied to the evaluation of applications. Surely Dr. Wainwright, given his experience in the field, would have informed the SWARC of this fact at the outset. It begs the question of what motivated the decision to not commission a new analysis specific to the SWEW industry. (Cont. Below)	The State procured an industry analysis of the sports wagering industry. Based on the available evidence, which includes data from the industry analysis and the 2017 State Disparity Study, the State cannot, consistent with the United States Constitution, adopt race- and gender-conscious measures in connection with the award of sports wagering licenses.	No
					The SWARC conclusion that it "is not able to apply any race- and/or gender-conscious criteria in its evaluation of applicants," also appears overly conclusory. Both Dr. Wainwright's August 26, 2022, letter and the 2017 Disparity Study state that: "The statistical and anecdotal evidence presented in this Study is strong evidence that establishes Maryland's compelling interest in remedying race and gender discrimination. The evidence supports the conclusion that affirmative intervention is still needed to dismantle the exclusion of racial and gender groups from the private sector market. Maryland will likely be a passive participant in a discriminatory marketplace if it fails to continue to address the issue." In addition, the 2017 Disparity Study found significant statistical disparities for racial minorities and women in business formation, business owner earnings, and access to credit and capital markets. All of these facts could, and should, constitute a compelling government interest for the government to implement race and gender conscious measures in the evaluation of applications. The SWARC's view is that since the SWEW industry is new, there is no evidence of passed discrimination, therefore we must wait to see if discrimination does actually occur before we can address it. This is nonsensical. In fact, one could argue that by doing nothing, knowing from passed history that discrimination in the SWEW licensing market is about to occur, Maryland would become not just a passive participant in the discriminatory marketplace, but an active participant. I ask that the SWARC request from Dr. Wainwright an estimate of the time it would take to conduct an adequate analysis to determine whether race and/or gender-conscious measures would be justified in evaluating license applications. In my experience (I recently participated in a comprehensive disparity study of a city's contracting and procurement), this analysis could be completed in weeks given its limited scope in analyzing availability since no utilization data exists. (Cont. Below)		

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					<p>Finally, I add that implementation of sports gaming in Maryland should learn from the initial challenges experienced implementing cannabis grower licenses in 2016. The 2018 Cannabis Commission Reform Act and its corrective provisions is instructive on how sports gaming should be implemented in Maryland. The provisions in that Cannibus Reform Act should serve as a model for sports gaming regulations to ensure minority equity inclusion. Specifically, MD Code, Health - General, § 13-3305.3 states that:</p> <p>A person that applies for licensure under this subtitle shall submit with the application for licensure an affidavit attesting to:</p> <ul style="list-style-type: none"> (1) The number of minority and women owners of the applicant; (2) The ownership interest of any minority and women owners of the applicant; (3) The number of minority and women employees of the applicant; and (4) Any other information considered necessary by the Commission. <p>The SWARC regulations should require the same.</p>		

Comments 13a to 13r from Arthur Robinson were submitted in writing as well as during the public comment meeting