



sports wagering -MLGCA- &lt;sports.wagering@maryland.gov&gt;

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**Mobile Sports Wagering Comment | 36.11.01.01 - Scope**

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**Karen Senac** <msla.microsite@maryland.gov>

Sun, Aug 28, 2022 at 1:40 PM

To: swarc@mlis.state.md.us

From: Karen Senac &lt;karensenac@verizon.net&gt; (Bookmakers LLV | Brick-and-mortar)

Chapter:  
36.11.01.01 - ScopeComment:  
I have been approved for the temporary Priviple license. Is there anything else I can do to prepare ahead of SWARC approval.--  
This e-mail was sent from a contact form on SWARC ([https://urldefense.com/v3/\\_\\_https://www.swarc.org\\_\\_](https://urldefense.com/v3/__https://www.swarc.org__));!!  
BE8q0vBWmvix!ONA3QfByPJoGV\_v5LCKHACr8JUjwPLuqZbJaw4ggLV15vZEkwXLVENtg60vSjhLKKYrFpfrgm  
D48HJZWFmuDv2YYrNUDJfkA\$ )



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## Comment on SWARC Regulations

1 message

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**chopkins** <chopkins@hamiltonhallre.com>  
Reply-To: chopkins <chopkins@hamiltonhallre.com>  
To: "swarc@mlis.state.md.us" <swarc@mlis.state.md.us>  
Cc: James Butler -MLGCA- <jbutler@maryland.gov>

Thu, Sep 1, 2022 at 6:17 PM

Good evening,

Please see enclosed a public comment submitted by Hamilton Hall Real Estate Partners, LLC, related to the SWARC Regulations recently promulgated for public review.

Kind regards,

Charles Hopkins  
Managing Partner  
Hamilton Hall Real Estate Partners, LLC

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 **SWARC Reg Public Comment \_ Hamilton Hall.pdf**  
113K

I am the founder and managing partner of Hamilton Hall Real Estate Partners, LLC, a Maryland Department of Transportation Certified Minority Business Enterprise (“Hamilton Hall”). I would like to thank the SWARC for the diligent work it has done to ensure minority certified firms have a real seat at the sports betting table, and I look forward to my participation in this important and exciting commercial activity. As this Commission is aware from its review and approval of the Maryland Class A-1 Sports Wagering Facility License Application (the “Facility License”) of Maryland Stadium Sub, LLC (“MSS”), Hamilton Hall has entered into an agreement with MSS pursuant to which Hamilton Hall will participate meaningfully in all revenue realized by MSS from the Facility License – in an ongoing amount which Hamilton Hall expects to be 25%. I believe this arrangement fully delivers upon the intent of the Maryland Legislature in encouraging meaningful economic participation by Maryland MBEs in the activities of licensees pursuant to the sports wagering licensing statute, Md. Code State Govt. § 9-1E-01 et seq. (the “Licensing Act”). Based upon my experience in partnering with MSS in seeking and obtaining the Facility License, I believe the Licensing Act thus far has functioned substantially as the Legislature intended.

I write now to advise the SWARC that the proposed regulation COMAR 36.11.19 (the “Proposed Regulation”), as drafted, will prevent MSS, and therefore Hamilton Hall, from securing a Mobile Gaming License. This unforeseen deprivation will occur because of the inclusion of a requirement for “direct or indirect ownership of not less than 5%” by individuals with Personal Net Worth of less than \$1,847,000 in the Proposed Regulation (the “PNW Requirement”) without also including meaningful economic participation in all revenue realized by a licensee. As a certified MBE, Hamilton Hall is precisely the type of entity that the Proposed Regulation seeks to have participate. However, the difference in requiring “ownership” in the Proposed Regulation versus the Legislature’s stated intent of securing meaningful economic participation by Maryland MBEs is a difference that will prevent MSS, pursuant to National Football League policy, from granting Hamilton Hall the ability to participate with MSS in a Mobile Sports Wagering License – and consequently, will prohibit the SWARC from granting MSS a Mobile Sports Wagering License. Any such grant of an ownership interest in MSS would, pursuant to NFL policy, require a parallel percentage sale or grant to Hamilton Hall of ownership in the Washington Commanders and its stadium – a requirement that would be impractical and could not be the intent of the Legislature and the SWARC.

As such, I respectfully submit that modifying the language of the Proposed Regulation to add the words below **that appear in green, bold text** will maintain the substantive requirements that the Proposed Regulation intends, while averting a definitional issue that would prevent any participation by MSS and consequently Hamilton Hall.

Proposed COMAR 36.11.19 (REVISED):

***Ownership Criteria.***

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.

B. Owners of the Applicant intended to satisfy this ownership criteria shall provide to the Applicant a signed, notarized certification stating that the individual's Personal Net Worth is less than \$1,847,000 and such certifications must be submitted with the Applicant's SWARC application.

For these reasons, I respectfully request that the Proposed Regulation be supplemented to add the **green, bold text** proposed above.

Alternatively, should the Commission find it impracticable for any reason to supplement the Proposed Regulation in the manner requested, I respectfully request that MSS and Hamilton Hall be granted an individual exemption from the ownership requirement found in the Proposed Regulation for the reasons stated herein.

I look forward to responding to any questions that members of the Commission might have regarding this comment during the forthcoming September 9 SWARC hearing.



sports wagering -MLGCA- <sports.wagering@maryland.gov>

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## Mobile Sports Wagering Comment | 36.11.02.13 - Evaluation of Applications

1 message

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**Richard Smith** <msla.microsite@maryland.gov>  
To: swarc@mllis.state.md.us

Tue, Sep 6, 2022 at 11:30 PM

From: Richard Smith <rsmith67843@outlook.com> (Betting Consumer | Mobile)

Chapter:  
36.11.02.13 - Evaluation of Applications

Comment:

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This e-mail was sent from a contact form on SWARC ([https://urldefense.com/v3/\\_\\_https://www.swarc.org\\_\\_!!BE8q0vBWmvix!LcaLRB7lvmofK4Mpu2RMeWsyZl5vcj2KbrraJw9WCAsE3B-6lzw6c0HJ2Y99jUBqUnqjB6DvBCRTD50WR-dy31nMECTzyS\\_W0A\\$](https://urldefense.com/v3/__https://www.swarc.org__!!BE8q0vBWmvix!LcaLRB7lvmofK4Mpu2RMeWsyZl5vcj2KbrraJw9WCAsE3B-6lzw6c0HJ2Y99jUBqUnqjB6DvBCRTD50WR-dy31nMECTzyS_W0A$) )

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27K

## **“.13 Evaluation of Applications”**

Maryland legislation currently allows for up to sixty mobile sports wagering licenses. While our state will likely receive less than sixty applications, I urge the SWARC to avoid artificially limiting the number of licenses from otherwise qualified candidates because of a perceived minimal impact on “public interest.” For a tax-paying Maryland citizen who responsibly wagers on sports, a “unique market...in the public interest” is undoubtedly a competitive market that encompasses a wide range of operators.

### **How is one operator different from another?**

There are certainly tangible differences between apps and loyalty programs, however, mobile sportsbook operators primarily differentiate themselves to consumers through their odds and their range of betting markets. This topic is succinctly discussed in a recent study by the Consumer Choice Center, which used the number of sportsbooks in a state as a key metric for being “consumer-friendly.”

*“In a market that is fighting against a shadow economy of offshore betting websites and bookies, it is important to have competition because it makes the betting lines more aggressive. For example, if a state gave all of its betting rights to the state lottery and they had a monopoly on the sports betting industry in that state, the lottery would have no incentive to give consumers better lines to entice them to bet with them. On the other hand, if consumers have a choice of 10 different sportsbooks, each sports book would have to offer more competitive lines, benefiting the consumer by giving them more freedom to choose their preferable sports book as well as getting more favorable betting odds.”<sup>a</sup>*

Our neighbor in DC is an excellent case-study on this subject, though not in a flattering manner. During the pandemic in 2020, players waited in hour-long lines at the William Hill retail kiosks for access to industry-standard odds. They did this instead of conveniently wagering on their phones on the DC Lottery’s sole-supplier mobile app, which used its monopoly to post terrible odds even in highly efficient markets like NFL spreads (-110 versus -130). Regular sports wagering consumers are not overwhelmed by large numbers of sportsbooks; they will shop around for the best place to place their bets in a competitive market and, in doing so, bet more responsibly.

### **Risk Management**

While a more niche subject affecting a small but growing minority of bettors, risk management is another area that sportsbooks can differentiate themselves to consumers.

The risk management approach for many well-known sportsbooks is to simply restrict potential winning bettors from wagering at standard limits. These sportsbooks include but are not limited to DraftKings, Barstool, BetFred, SI Sportsbook, Betway, Bet365, BetRivers, BallyBet, Pointsbet, FanDuel, Unibet, and BetMGM. These entities shower losing bettors with tax-deductible promotions, entice VIP bettors with deposit bonuses, and promote the idea of “winning money” in their constant stream of advertisements. If a bettor, however, shows the potential for winning long-term, his or her betting limits are quickly reduced to negligible amounts (5 dollars on the Super Bowl, for example). Jason Robins, the CEO of DraftKings, told investors in December 2021, “People who are doing this for profit are not the players we want.”<sup>b</sup> While this practice is predatory when placed side-by-side with the “reload” bonuses given to losing bettors chasing their losses, these selective wagering restrictions are absolutely within the rights of sportsbooks based on their own broadly worded terms and conditions.<sup>c</sup> In the absence of regulations

mirroring international “Minimum Bet Liability” rules, this risk management model will remain the preferred approach for most operators.<sup>def</sup>

Several regulated American sportsbooks adopt a different risk management model that is focused on maximizing betting handle at the expense of a lower hold percentage. Examples include Circa (Colorado, Nevada, Iowa, Illinois), PlayUp (Colorado, NJ, Ohio), Elys (NJ, DC, Ohio), and Out the Gate (Ohio). These sportsbooks have transparent publicly posted maximum wagers that apply to all customers. Similarly, sportsbooks such as Caesars, Superbook, and Hard Rock will restrict certain customers but are far more reasonable in their approach than those mentioned in the prior paragraph. Sports exchanges represent a slight twist to this model, one more akin to a traditional stock exchange. Here, the odds are set by individual bettors/market makers and the exchange, itself, collects a small percentage on all profits (Smarkets, Prophet Exchange, Sporttrade).<sup>g</sup>

From a consumer perspective, risk management and transparency are critical factors in judging one sportsbook from another. If companies in this industry have decided to restrict winning bettors as their preferred approach to risk management (rather than invest in the technology and staff to make better odds), then Maryland citizens should have the ability to choose legal regulated sportsbooks that do not practice this type of bookmaking model.

#### **“Unique market...in the public interest”**

All in all, as states have regulated sports wagering, policymakers and licensing agencies have often overlooked the perspective of the individual sports wagering consumer. I hope that the SWARC will take this perspective into account as the committee strives to establish a “unique market...in the public interest.” When evaluating applications for the state’s sixty mobile sports wagering licenses, I strongly encourage the SWARC to confirm licensure applications from as many qualified entities as possible in order to create a competitive and consumer-friendly sports wagering market in the state of Maryland.

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<sup>a</sup> <https://consumerchoicecenter.org/wp-content/uploads/2022/07/US-Sports-Betting-Index.pdf>

<sup>b</sup> <https://www.legalsportsreport.com/60240/draftkings-ceo-players-betting-for-profit/>; <https://sportshandle.com/sportsbooks-draftkings-dont-want-profitable-bettors/>; <https://wsw.com/webcast/canaccord66/dkng/2437032>

<sup>c</sup> <https://www.usbets.com/pointsbet-catching-heat-tactics/>

<sup>d</sup> <https://anj.fr/limitation-des-mises-des-parieurs-lautorite-nationale-des-jeux-rappelle-les-regles-aux-operateurs>;

<sup>e</sup> [https://data.oireachtas.ie/ie/oireachtas/committee/dail/33/joint\\_committee\\_on\\_justice/reports/2022/2022-05-17\\_report-on-pre-legislative-scrutiny-of-the-general-scheme-of-the-gambling-regulation-bill\\_en.pdf](https://data.oireachtas.ie/ie/oireachtas/committee/dail/33/joint_committee_on_justice/reports/2022/2022-05-17_report-on-pre-legislative-scrutiny-of-the-general-scheme-of-the-gambling-regulation-bill_en.pdf)

<sup>f</sup> <https://www.yogonet.com/international/news/2021/07/30/58610-spain-courts-rule-against-betfair-and-bet365-for-suspending-accounts-of-customers-on-a-streak>

<sup>g</sup> <https://www.usbets.com/sporttrade-exchange-betting-future/>



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**Opportunity for Public Comment; 30-day period from Aug. 26, 2022 through Sept. 26, 2022**

1 message

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**Tom Rothschilds** <t\_rothschilds@yahoo.com>  
To: "swarc@mlis.state.md.us" <swarc@mlis.state.md.us>

Wed, Sep 7, 2022 at 3:53 PM

9/7/2022

Dear SWARC,

Yesterday, it cost me \$7 in gas and 1 hour and 20 minutes of my time to drive to the nearest casino to make a sports bet. 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?

Why has SWARC not moved at a faster pace? MD voters approved mobile betting in November of 2020. Who gives you the right to delay democracy?

Sincerely,

Tom Rothschilds

[108 Brandywine PI](#)[Bel Air, MD 21014](#)





sports wagering -MLGCA- &lt;sports.wagering@maryland.gov&gt;

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**Mobile Sports Wagering Comment | 36.11.02.02 - General**

1 message

**Christopher Gresham** <msla.microsite@maryland.gov>

Thu, Sep 8, 2022 at 2:06 PM

To: swarc@mllis.state.md.us

From: Christopher Gresham &lt;cgresh322@gmail.com&gt; (Bella Napoli Italian Restaurant | Mobile)

Chapter:  
36.11.02.02 - General

Comment:

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?

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This e-mail was sent from a contact form on SWARC ([https://urldefense.com/v3/\\_\\_https://www.swarc.org\\_\\_;!!BE8q0vBWmvix!!\\_Ubm8EsAjXymCo7Zek2ONN2dgfKV76kJI5tE\\_Eu2SOCclvBKKW3FPs7dgvWXSUR8kvtkMe7DzAv1w2upvPLiopgZFYWbN-\\_g\\$](https://urldefense.com/v3/__https://www.swarc.org__;!!BE8q0vBWmvix!!_Ubm8EsAjXymCo7Zek2ONN2dgfKV76kJI5tE_Eu2SOCclvBKKW3FPs7dgvWXSUR8kvtkMe7DzAv1w2upvPLiopgZFYWbN-_g$) )



sports wagering -MLGCA- &lt;sports.wagering@maryland.gov&gt;

**Mobile Sports Wagering Comment | 36.11.02.19 - Ownership Criteria**

1 message

**Robert Moncrief Jr.** <msla.microsite@maryland.gov>

Thu, Sep 8, 2022 at 3:15 PM

To: swarc@mllis.state.md.us

From: Robert Moncrief Jr. &lt;bob.moncrief@bet365.com&gt; (bet365 | Mobile)

Chapter:  
36.11.02.19 - Ownership Criteria

Comment:

bet365 is thankful for the opportunity to participate in this public comment period and interested to follow the development of the mobile sports wagering market in Maryland. As we read Section .19 entitled "Ownership Criteria" of the Sports Wagering Application Review Commission's regulations we respectfully submit that it departs from the plain language and the intent of the enabling legislation.

The legislation that was passed and signed by the Governor authorizing mobile sports wagering in Maryland, had no mention of a personal net worth limitation on those that may participate in sports wagering. Section .19 however, has a rather inflexible limitation in that regard. By requiring that only entities with individual(s) that have 5% ownership interest of that entity have a personal net worth of under \$1,847,000, SWARC risks severely restricting who may participate in the market without having a corresponding benefit to Maryland and its citizens. Any limitations on what operators can participate in the industry that aren't driven by suitability or experience considerations, run the risk of adversely impacting the tax revenue generated by the state, as well as limiting customer choice in what would otherwise be a robust and competitive industry.

Alternatively, this requirement may result in having an applicant that is otherwise disqualified, simply find a qualifying entity that has no actual participation in the operation of sports wagering to be their shell license holder simply to meet the ownership criteria while the would be disqualified entity becomes a licensed supplier, but the functional equivalent of the mobile license holder. Either of these scenarios result in regulatory limitations that fail to achieve the intent of the legislation.

The legislation signed by the governor, and passed by the legislature, had language that would give preference for early access to the mobile sports wagering market for entities that had a meaningful partnership with certain local stakeholders. 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.

Alternatively, If SWARC feels that Section .19 is a crucial requirement, but it is unable to adopt a standard that mirrors the legislative language that said it should "consider allowing early access to the mobile sports wagering market to entities with a meaningful partnership with minorities, women, and minority- and women-owned businesses," there is another alternative that could achieve the legislative goal. 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."

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sports wagering -MLGCA- <sports.wagering@maryland.gov>

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## Mobile Sports Wagering Comment | 36.11.02.02 - General

1 message

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**Karen Blinder** <msla.microsite@maryland.gov>

Sat, Sep 10, 2022 at 2:05 PM

To: swarc@mlis.state.md.us

From: Karen Blinder <kblinder@verizon.net> ( | Brick-and-mortar)

Chapter:  
36.11.02.02 - General

Comment:  
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.

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## Mobile Sports Wagering Comment | 36.11.02.07 - Eligibility Determination

1 message

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**Sandra Taylor** <msla.microsite@maryland.gov>  
To: swarc@mlis.state.md.us

Sun, Sep 11, 2022 at 7:28 AM

From: Sandra Taylor <washstaylor@aol.com> (None | Vendor)

Chapter:  
36.11.02.07 - Eligibility Determination

Comment:  
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.

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sports wagering -MLGCA- <sports.wagering@maryland.gov>

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## Mobile Sports Wagering Comment | 36.11.01.01 - Scope

1 message

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**Robert** <msla.microsite@maryland.gov>  
To: swarc@mlis.state.md.us

Fri, Sep 16, 2022 at 3:49 PM

From: Robert <bobbylilly19@gmail.com> ( | Brick-and-mortar)

Chapter:  
36.11.01.01 - Scope

Comment:

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

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This e-mail was sent from a contact form on SWARC ([https://urldefense.com/v3/\\_\\_https://www.swarc.org\\_\\_!!BE8q0vBWmvix!LQAGVgFTAVlcxj-0TOMrrUfMporqX0ZpoGkL6GR3XCnHN6rM6A6BJWiWlwgyyqLXPle391XApXnQKwX5MVI2izu7ubblfBwm9Q\\$](https://urldefense.com/v3/__https://www.swarc.org__!!BE8q0vBWmvix!LQAGVgFTAVlcxj-0TOMrrUfMporqX0ZpoGkL6GR3XCnHN6rM6A6BJWiWlwgyyqLXPle391XApXnQKwX5MVI2izu7ubblfBwm9Q$) )



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**Mobile Sports Wagering Comment | 36.11.01.01 - Scope**

1 message

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**Kris Sankar** <msla.microsite@maryland.gov>  
To: swarc@mllis.state.md.us

Wed, Sep 21, 2022 at 1:01 AM

From: Kris Sankar &lt;krishjamessankar@yahoo.com&gt; (Wth | None)

Chapter:  
36.11.01.01 - Scope

Comment:

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.

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This e-mail was sent from a contact form on SWARC ([https://urldefense.com/v3/\\_\\_https://www.swarc.org\\_\\_](https://urldefense.com/v3/__https://www.swarc.org__));!!  
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rGAY7gZK2kqxOjBDiZZ4rrVu\_aTvqDOwSX\_6HVrMkTwg\$ )



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**Mobile Sports Wagering Comment | 36.11.01.01 - Scope**

1 message

**Ebeth Pretorius** <msla.microsite@maryland.gov>

Fri, Sep 23, 2022 at 8:39 AM

To: swarc@mllis.state.md.us

From: Ebeth Pretorius &lt;terrifics@yahoo.com&gt; ( | None)

Chapter:  
36.11.01.01 - Scope

Comment:

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.

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This e-mail was sent from a contact form on SWARC ([https://urldefense.com/v3/\\_\\_https://www.swarc.org\\_\\_!!BE8q0vBWmvix!JZEYtUwPhXqIR3pBPZ2xPc490isqick4V3c4ahmZV3FeCEPBwvoarP9rfMgGxHh-zRa-AloS\\_eoLG-ngaRE7UYmR7VvFg6abOQ\\$](https://urldefense.com/v3/__https://www.swarc.org__!!BE8q0vBWmvix!JZEYtUwPhXqIR3pBPZ2xPc490isqick4V3c4ahmZV3FeCEPBwvoarP9rfMgGxHh-zRa-AloS_eoLG-ngaRE7UYmR7VvFg6abOQ$) )



sports wagering -MLGCA- &lt;sports.wagering@maryland.gov&gt;

## Here are our comments and requests on SWARC's proposed regulations.

1 message

Hye Lee &lt;pastlessons.futurejumps@gmail.com&gt;

Mon, Sep 26, 2022 at 12:18 PM

To: swarc@mlis.state.md.us

Cc: editor@marylandmatters.org

Here are our comments and requests in **red for additions and cross-out-for-removal or Questions since more details are needed plus Comments for you to consider** on SWARC's proposed regulations.

>Pg. 847 III. **Assumptions.** (Identified by Impact Letter and Number from Section II.)

A. The Agency will incur costs to implement and regulate this new Sports Wagering Program. The Agency estimates that there is a need for 40 new positions as the Program rolls out. Staff is needed in the Agency's Licensing, Compliance, Auditing, and Financial Sections to regulate up to potentially 107 sports wagering licensees.

**Questions: 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?**

<https://www.mdgaming.com/wp-content/uploads/2022/01/Organizational-Chart-Jan-2022.jpg>

>Pg. 847 **Economic Impact on Small Businesses**

Although an exact impact is indeterminable at this time, there may be a positive benefit to small, minority and women-owned businesses entering into the sports wagering program either through minority equity ownership or MBE participation.

The proposed action could have a meaningful impact for minority equity investors, as potential applicants for Class B Sports Wagering Facility licenses.

**Questions: 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.**

>**36.11.02 All Applicants and Awardees**

>On Pg. 850 **08 Requirements for a Completed SWARC Application.**

**(3) If applicable, (Must be removed; this is a requirement)** 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;

>Pg. 851 **F. Requirements for Applicants Seeking Investors.**

(1) As required by State Government Article, §9-1E-15(i), Annotated Code of Maryland, **for all mobile sports betting licenses** an applicant **must have** 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 **any current and** future attempts to raise venture capital or attract new investors to the entity awarded the license.

>Pg. 852 **.13 Evaluation of Applications.**

In evaluating an application for the award of a license, SWARC will consider all information concerning the applicant, including information concerning its officers, principals, affiliates, online sports wagering operator, or other representatives, based upon the following criteria, in no particular order and with no particular weight assigned:

**Comments: 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.**

>Pg. 852 E. **If an applicant sought investors,**

**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;**

#### **Our General Comments:**

**1. 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. Correction plans are unacceptable after the fact of any approvals and selections.**

**<https://www.marylandmatters.org/2022/09/03/sports-betting-commission-adds-diversity-requirement-for-applicants-to-receive-mobile-sports-betting-licenses/>**

**2. 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. See below.**

**To: Thomas Brandt, Chair, Sports Wagering Application Review Commission (SWARC)**

**From: Horseshoe Baltimore**

**Live! Casino and Hotel**

**MGM National Harbor**

**Re: Sports Wagering Application Approval**

When HB940 passed in April 2021, it was the culmination of more than four legislative sessions worth of debate in Maryland about whether the State should legalize sports wagering within its boundaries. Since the Maryland legislature first began debating this issue in 2018, Maryland voters passed by a 2-to-1 margin a referendum supporting sports betting legalization, and every jurisdiction surrounding Maryland has passed a sports wagering law and permitted sports wagering to launch. Finally, in 2021, the legislature passed, by an overwhelming margin, a bill that many legislators called "historic" and "ground breaking." The structure of this bill was very complex but it explicitly mandated that 17 named entities in the State receive "Class A" retail sports wagering licenses as long as they pass the scrutiny of the Maryland Lottery and Gaming Control Commission (MLGCC).

The resulting statute is State Gov't § 9-1E-15. Its subsection (f), entitled "Duties," states:

"The Sports Wagering Application Review Commission:

(1) Shall review applications for Sports Wagering Licenses submitted in accordance with 9-1E-06 of this subtitle;

(2) Shall award:

(I) A Class A-1 or A-2 facility license to any applicant that meets the requirements for licensure under this subtitle..."

Each of the "Class A" applicants signing this letter has passed the rigorous scrutiny of the MLGCC and satisfied the conditions for licensure established by HB940(F). Yet, the Sports Wagering Application Review Commission (SWARC) has delayed approval of these licenses for several weeks with no clear explanation for the delay.

In preparation for the enactment of this statute, the casino industry has hired hundreds of Marylanders to begin working. However, these new employees have not enjoyed their first day, nor have they been given a starting date for their employment, which includes critical health benefits for themselves and their families during a global pandemic.

While there has been no formal correspondence to the applicants about a justification for these delays, we understand from media reports that the delays are due to a desire to conduct a second disparity study, under the authority of § 9-1E-15(h)(3), to "determine whether there is a compelling interest [to] implement remedial measures...to assist minorities and women in the sports wagering industry .However, the statute is clear that the provisions of § 9-1E-15(h) do not apply to Class A retail sports wagering license applicants: "This subsection [(h)] applies only to Class B-1 or B-2 Sports Wagering Facility Licenses, other than licenses issued to an applicant described under 9-1E-06(A)(2)(I) of this subtitle, and mobile sports wagering licenses." In other words, while the undersigned acknowledge SWARC's statutory authority under subsection (h) to conduct a second disparity study and to undertake any attendant evaluation for purposes of awarding Class B licenses, SWARC's exercise of that statutory authority is not a valid basis to delay the prompt award of licenses to Class A applicants.

**As Maryland casino operators, we are good faith, proven partners with Maryland residents, the State of Maryland, and the Maryland Legislature. We have provided the State of Maryland more than \$12.47 billion dollars since beginning operations in 2010. The casino industry has hired thousands of Marylanders and wish to continue to be partners in good faith with the State and stand ready to bring hundreds more Marylanders into our workforces as soon as permitted.**

**We ask SWARC to give speedy consideration to the applicants who have met the requirements of this statute, and award "Class A licenses" to those applicants found suitable by the MLGCA.**

**Cc: Governor Lawrence Hogan**

**Senate President Bill Ferguson**

**Speaker Adrienne Jones**

**Rosie Allen-Herring, Member SWARC**

**Laura Gamble, Member SWARC**

**Bert Hash, Jr., Member SWARC**

**E. Randolph Marriner, Member SWARC, Chair, MLGCC**

**Cassandra Stevenson, Member SWARC**

**The Honorable Frank Turner, Member SWARC**

**John Martin, Executive Director, ML**

Sincerely,

Mr. Hye Lee  
et al.

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 **Casino-Industry-Letter-to-SWARC-11\_15\_21.docx**  
34K



Live!



To: Thomas Brandt, Chair, Sports Wagering Application Review Commission (SWARC)

From: Horseshoe Baltimore  
Live! Casino and Hotel  
MGM National Harbor

Re: Sports Wagering Application Approval

When HB940 passed in April 2021, it was the culmination of more than four legislative sessions worth of debate in Maryland about whether the State should legalize sports wagering within its boundaries. Since the Maryland legislature first began debating this issue in 2018, Maryland voters passed by a 2-to-1 margin a referendum supporting sports betting legalization, and every jurisdiction surrounding Maryland has passed a sports wagering law and permitted sports wagering to launch. Finally, in 2021, the legislature passed, by an overwhelming margin, a bill that many legislators called “historic” and “ground breaking.” The structure of this bill was very complex but it explicitly mandated that 17 named entities in the State receive “Class A” retail sports wagering licenses as long as they pass the scrutiny of the Maryland Lottery and Gaming Control Commission (MLGCC).

The resulting statute is State Gov't § 9-1E-15. Its subsection (f), entitled "Duties," states:

“The Sports Wagering Application Review Commission:

- (1) Shall review applications for Sports Wagering Licenses submitted in accordance with 9-1E-06 of this subtitle;
- (2) Shall award:
  - (I) A Class A-1 or A-2 facility license to any applicant that meets the requirements for licensure under this subtitle...”

Each of the “Class A” applicants signing this letter has passed the rigorous scrutiny of the MLGCC and satisfied the conditions for licensure established by HB940(F). Yet, the Sports Wagering Application Review Commission (SWARC) has delayed approval of these licenses for several weeks with no clear explanation for the delay.

In preparation for the enactment of this statute, the casino industry has hired hundreds of Marylanders to begin working. However, these new employees have not enjoyed their first day, nor have they been given a starting date for their employment, which includes critical health benefits for themselves and their families during a global pandemic.

While there has been no formal correspondence to the applicants about a justification for these delays, we understand from media reports that the delays are due to a desire to conduct a second disparity study, under the authority of § 9-1E-15(h)(3), to “determine whether there is a compelling interest [to] implement remedial measures...to assist minorities and women in the

sports wagering industry .However, the statute is clear that the provisions of § 9-1E-15(h) do not apply to Class A retail sports wagering license applicants: “This subsection [(h)]applies only to Class B-1 or B-2 Sports Wagering Facility Licenses, other than licenses issued to an applicant described under 9-1E-06(A)(2)(I) of this subtitle, and mobile sports wagering licenses.” In other words, while the undersigned acknowledge SWARC's statutory authority under subsection (h) to conduct a second disparity study and to undertake any attendant evaluation for purposes of awarding Class B licenses, SWARC's exercise of that statutory authority is not a valid basis to delay the prompt award of licenses to Class A applicants.

As Maryland casino operators, we are good faith, proven partners with Maryland residents, the State of Maryland, and the Maryland Legislature. We have provided the State of Maryland more than \$12.47 billion dollars since beginning operations in 2010. The casino industry has hired thousands of Marylanders and wish to continue to be partners in good faith with the State and stand ready to bring hundreds more Marylanders into our workforces as soon as permitted.

We ask SWARC to give speedy consideration to the applicants who have met the requirements of this statute, and award “Class A licenses” to those applicants found suitable by the MLGCA.

Cc: Governor Lawrence Hogan  
Senate President Bill Ferguson  
Speaker Adrienne Jones  
Rosie Allen-Herring, Member SWARC  
Laura Gamble, Member SWARC  
Bert Hash, Jr., Member SWARC  
E. Randolph Marriner, Member SWARC, Chair, MLGCC  
Cassandra Stevenson, Member SWARC  
The Honorable Frank Turner, Member SWARC  
John Martin, Executive Director, MLGCA



sports wagering -MLGCA- <sports.wagering@maryland.gov>

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**Arthur C. Robinson of Full Circle Solutions, Inc. written comments on SWARC's proposed regulations published in the Maryland Register on Aug. 26, 2022**

1 message

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**arobin@full-circle-solutions.com** <arobin@full-circle-solutions.com>

Mon, Sep 26, 2022 at 1:21 PM

To: swarc@mlis.state.md.us

Cc: James Butler -MLGCA- <jbutler@maryland.gov>

Good Afternoon:

Attached is a .pdf file containing our (Arthur C. Robinson of Full Circle Solutions, Inc.) written comments on SWARC's proposed regulations published in the Maryland Register on Aug. 26, 2022.

I can always be reached at this email address: [arobin@full-circle-solutions.com](mailto:arobin@full-circle-solutions.com) or by cell phone at: (443) 463 5787.

Thank You

Arthur C. Robinson CEO

Full Circle Solutions, Inc.

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 **ACR FCS written public comments 9 25 22.pdf**  
143K



**Date:** September 25, 2022

**To:** Sports Wagering Application Review Commission (SWARC)

**From:** Arthur C. Robinson Owner/CEO of Full Circle Solutions, Inc. (Mobile)

**Via Email:** swarc@mlis.state.md.us

**Subject:** Our written comments on SWARC's proposed regulations published in the Maryland Register on Aug. 26, 2022 (Mobile)

**Legend/Key:**

N/C – no comment

I – Issue(s) noted

S – Proposed solution(s)

C - Comment(s)

**Title 36 MARYLAND STATE LOTTERY AND GAMING CONTROL AGENCY Subtitle  
11 SPORTS WAGERING APPLICATION REVIEW COMMISSION**

**Notice of Proposed Action**

N/C

**Statement of Purpose**

I - No way for mobile applicants to fix issues and establish procedures that fall short.

S - Mobile applicants should have time to fix issues and establish procedures.

C – Maryland for Marylanders...This is GREAT opportunity for Maryland, Home grown innovation: Maryland could be home to the NEW fanduel or draftkings.

**Comparison to Federal Standards**

N/C

**Estimate of Economic Impact**

I - No way for mobile applicants to fix issues and establish procedures that fall short.

S - Mobile applicants should have time to fix issues and establish procedures.

C – Maryland for Marylanders...This is GREAT opportunity for Maryland, Home grown innovation: Maryland could be home to the NEW fanduel or draftkings.

**Economic Impact on Small Businesses**

I – Nowhere does it say or encourage small or minority/women-owned businesses the 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.

C - Small or minority/women-owned businesses are the backbone of the Maryland economy and this reads as though we are an afterthought to be a mobile sportsbook or operator.

S - We are willing to partner and work with anyone but the State should not make it hard for us to try it on our own. The choice should not be taken away from small or minority/women-owned businesses the to be a mobile sportsbook or operator.

**Impact on Individuals with Disabilities**

N/C

**Opportunity for Public Comment**

N/C

**36.11.01 General Provisions**

**.01 Scope.**

N/C



**.02 Definitions.**

**C. Terms Defined**

**(15) “SWARC application fee” means the nonrefundable application fee specified in State Government Article, §9-1E-06(b), Annotated Code of Maryland, that is:**

- (a) \$250,000 for a Class B-1 facility license;**
- (b) \$50,000 for a Class B-2 facility license; and**
- (c) \$500,000 for a mobile license.**

I – \$500,000 not refundable

I - \$500,000 for all mobile

S – Fees should be refunded if license not granted.

S – If class B-2 fees are 1/5 of Class B-1 the same should be true for a mobile license this seems very unfair.

S- Mobile should have 2 classes based Class B-1 vs Class B-2 difference in fees:

Mobile-Class 1: Businesses with 50 or more equivalent full-time employees; or any business that has more than \$6 million in annual gross receipts.

Fees should be: \$500,000

Mobile-Class 2: Businesses with 49 or fewer equivalent full-time employees; or any business that has less than \$6 million in annual gross receipts.

Fees should be: \$100,000

**36.11.02 All Applicants and Awardees**

**.01 Scope.**

N/C

**.02 General.**

N/C

**.03 Separate Applications and Fees.**

I – \$500,000 not refundable

S – Fees should be refunded if license not granted.

**.04 Process for the Submission of Applications and Fees.**

I – \$500,000 not refundable

S – Fees should be refunded if license not granted.

**.05 Submission of Commission Application.**

N/C

**.06 Submission of SWARC Application.**

I – \$500,000 not refundable

S – Fees should be refunded if license not granted.

**.07 SWARC Application — Determination of Ineligibility.**

I – \$500,000 not refundable

S – Fees should be refunded if license not granted.

**.08 Requirements for a Completed SWARC Application.**

**B. A completed SWARC application shall:**

**(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;**

I/S - This should be a requirement not “if applicable” and “efforts”.

**E. Required Information. A completed SWARC application shall include documents that verify information about the applicant, including the:**

**(14) (a) Experience in the operation of sports wagering;**

I/S – This should not be a criteria for rejection. No one in Maryland has experience in Maryland.

Once you get a license then you can recruit out of state talent with experience.

**(15) Business plans for 5 years for the proposed sports wagering operations,**

I/S – This should not be a criteria for rejection. A business plan can be highly subjective and may be fiscally skewed.

**F. Requirements for Applicants Seeking Investors.**

**(1) As required by State Government Article, §9-1E-15(i), Annotated Code of Maryland, if an applicant sought investors,**

I – “if an applicant sought investors”...”good faith efforts”

S – Should be a requirement not an “if” or “good faith efforts”

**G. Required Documents. When submitted, a completed SWARC application shall include:**

**(2) (c) Applicant recognizes that sports wagering is a competitive business and has an inherent risk of instability and unprofitability; and**

I – This seems condescending.

C – All business is competitive and has an inherent risk of instability and unprofitability.

**.09 Required Submission of Additional Documents.**

N/C

**.10 Limitation on Changing a SWARC Application — Changed Circumstance.**

N/C

**.11 Limitation on Changing a SWARC Application — Omission or Mistake.**

N/C

**.12 Withdrawal of Application.**

I – \$500,000 not refundable

S – Fees should be refunded if application is withdrawn prior to be granted.

**.13 Evaluation of Applications.**

I - “...based upon the following criteria, in no particular order and with no particular weight assigned:”

S – A definitive point system with detailed explanations (like RFPs) and scoring on the criteria should be used to evaluate applicants.

**E. If an applicant sought investors, evidence of applicant’s serious, good-faith efforts**

I – “if an applicant sought investors”...”good faith efforts”

S – Should be a requirement not an “if” or ”good faith efforts”

**.14 License Award Decision.**

**F. If SWARC awards the applicant a license, SWARC’s notice of award to the successful applicant shall include notice that:**

**(3) The awardee may not transfer the award to another person.**

I – Are licenses non-transferable, is this forever or after a time period they are transferable?

**.15 Surrender of License Award.**

N/C

**.16 License Awards — Surrendered, Lapsed, or Revoked Licenses.**

N/C

**.17 Continuing Obligations.**

N/C

**.18 Burden of Proof**

N/C

**.19 Ownership Criteria.**

**A. 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.**

I – “may not award a...”

S – Should be a requirement...use the word “shall” not “may”



sports wagering -MLGCA- <sports.wagering@maryland.gov>

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## Mobile Sports Wagering Comment | 36.11.01.01 - Scope

1 message

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**Robert R Kloss Jr** <msla.microsite@maryland.gov>  
To: swarc@mllis.state.md.us

Mon, Sep 26, 2022 at 1:32 PM

From: Robert R Kloss Jr <burwooddoc1@yahoo.com> ( | Mobile)

Chapter:  
36.11.01.01 - Scope

Comment:  
why is maryland always last to get these things done!!! get the sports betting app out NOW!!!!!!

--  
This e-mail was sent from a contact form on SWARC ([https://urldefense.com/v3/\\_\\_https://www.swarc.org\\_\\_!!BE8q0vBWmvix!OBQkNsJW9TKh-YtDr\\_N9LcpXjpbKQy8vJ71LDkJ4VcvLeTv-8cBXC5VUDovEloluLMfHLVV82KF97Ykn-DAk4To6BX9h03i36Q\\$](https://urldefense.com/v3/__https://www.swarc.org__!!BE8q0vBWmvix!OBQkNsJW9TKh-YtDr_N9LcpXjpbKQy8vJ71LDkJ4VcvLeTv-8cBXC5VUDovEloluLMfHLVV82KF97Ykn-DAk4To6BX9h03i36Q$) )



sports wagering -MLGCA- <sports.wagering@maryland.gov>

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## Mobile Sports Wagering Comment | 36.11.02.02 - General

1 message

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**Cory Fox** <msla.microsite@maryland.gov>  
To: swarc@mllis.state.md.us

Mon, Sep 26, 2022 at 2:30 PM

From: Cory Fox <cory.fox@fanduel.com> (FanDuel | Mobile)

Chapter:  
36.11.02.02 - General

Comment:

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This e-mail was sent from a contact form on SWARC ([https://urldefense.com/v3/\\_\\_https://www.swarc.org\\_\\_!!BE8q0vBWmvix!M9fitEzzRoCzVnM5awXfKOEIwmqnYH4A6QgK7Fb7ryZegigGt0J1IcrF1QxT8m-RDVuBDJ3UwMv47deaFW4theevA3I8toUN0A\\$](https://urldefense.com/v3/__https://www.swarc.org__!!BE8q0vBWmvix!M9fitEzzRoCzVnM5awXfKOEIwmqnYH4A6QgK7Fb7ryZegigGt0J1IcrF1QxT8m-RDVuBDJ3UwMv47deaFW4theevA3I8toUN0A$) )

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 **FanDuel-Comments-on-SWARC-Draft-Application-Regulations-9.26.22.pdf**  
151K



Cory Fox  
[cory.fox@fanduel.com](mailto:cory.fox@fanduel.com)

September 26, 2022

*Via email to [swarc@mlis.state.md.us](mailto:swarc@mlis.state.md.us)*

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

**Re: FanDuel comments on “Proposed SWARC Application Regulations”**

Dear Assistant Deputy Director Butler:

I write to provide comments on behalf of FanDuel Group, Inc. (“FanDuel”) regarding the Maryland Sports Wagering Application Review Commission’s (“SWARC”) proposed “Application Regulations.” (“Proposed Regulations”). Based on our extensive experience as an operator in the online casino gaming, sports betting and fantasy sports industries and collaborator with regulators of sports betting in many states in the development of their regulations, we would like to offer constructive feedback on improving the application review process.

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-seven (27) brick-and-mortar sportsbooks in fifteen (15) states and Washington D.C., as well as online sports wagering in sixteen (16) states and Ontario.

FanDuel greatly appreciates the time and effort that SWARC and Maryland Lottery and Gaming (“Lottery”) has devoted to considering the structure of the market and allowing operators like FanDuel to be a part of the discussion. The single concern that we would like to address is the use of a universal launch date for all mobile sports wagering operators. This issue was raised at the SWARC meeting on September 22, 2022, where SWARC adopted a motion to approve licenses on a rolling basis, presuming less than the statutory maximum number of licenses were applied for. While the licensure process itself may best be accomplished on a rolling basis, we believe that the integrity of the Maryland sports wagering market is best served by a universal launch date for mobile sports wagering.



In states which did not have a universal start date, operator(s) who launched first have enjoyed significant, and sustained, advantage in market share versus operators who may have launched only a few weeks, or even days, later. Our experiences from 2019 in Pennsylvania and Indiana highlight this advantage. In Pennsylvania FanDuel launched mobile sports betting approximately 3 months prior to DraftKings, whereas in Indiana DraftKings launched mobile sports betting approximately 3 weeks before FanDuel. Based on publicly available data, FanDuel has maintained our position as market leader in Pennsylvania ever since (36% to 25% market share of handle for August 2022) and similarly based on publicly available data, DraftKings has continued to benefit from their early launch, maintaining 31% to 29% market share of handle for August 2022. Use of a universal start date ensures fairness for all operators to compete on the quality of their product offering and improves the customer experience by allowing them access to try out all of the products available at the same time.

Additionally, use of a universal start date removes undue pressure on SWARC and Lottery staff to make decisions and issue approvals more expeditiously than is responsible due to the “race” mentality which exists among operators when there is not a universal start date. This also removes any questions of favoritism on behalf of the SWARC or Lottery staff for allowing one mobile operator, or group of mobile operators to launch before others. It has been highly successful in states such as Arizona, Colorado, Kansas, Michigan, and New York and will be utilized in Ohio for their universal launch date of January 1, 2023.

\*\*\*\*\*

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

Sincerely,

Cory Fox

Vice President for Product and New Market Compliance





sports wagering -MLGCA- <sports.wagering@maryland.gov>

## Mobile Sports Wagering Comment | 36.11.02.08 - SWARC Application Requirements

1 message

**Malik Edwards** <msla.microsite@maryland.gov>  
To: swarc@mllis.state.md.us

Mon, Sep 26, 2022 at 2:48 PM

From: Malik Edwards <malik@betonblackllc.com> (Bet on Black, LLC (MBE/DBE/SBE #21-414) | Mobile)

Chapter:  
36.11.02.08 - SWARC Application Requirements

Comment:  
I propose the following amendments to Subtitle 11 Sports Wagering Application Review Commission

1. 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." and;
2. 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"

### Comments

Making the above listed amendments would make Subtitle 11 consistent with HB940, which requires ALL applicants for a wagering license to provide information on the applicant's efforts to solicit minority and women equity partners, not just those seeking investors. Specifically, Section 9-1E-07 of HB940 states:

- (a) an applicant for a license under this subtitle shall submit to the commission
  - (2) if the applicant is applying for a sports wagering license, an affidavit attesting to:
    - (i) the number of minority and women owners of the applicant;
    - (ii) the ownership interest of any minority and women owners of the applicant;

It makes no sense that the Sports Wagering Application Review Commission (SWARC), which was given the statutorily mandated task to "seek to achieve racial, ethnic, and gender diversity when awarding licenses" would not even ask questions regarding the racial, ethnic, and gender make up of all applicants, even if only for information gathering purposes.

The casinos currently operating in Maryland, and any other international gaming company likely to apply for wagering license, do not need capital assistance to launch a mobile app, and therefore are not likely to seek investors. So the current regulation's request for diversity efforts only from those seeking investors is really a request from no one.

The need for transparency dictates that all applicants be required to submit information regarding their efforts (or lack thereof) towards diversity equity inclusion. As long as the efforts are not part of the evaluation criteria, requesting such information would not constitute a race-conscious measure. In other words, an applicant could simply state that they have made no such efforts, and that would have no bearing on whether the applicant is granted a license or not. But the public should have access to such information, as it may inform individual decisions on where one might want to spend their entertainment dollars.

In addition, collecting such data could prove valuable information to future studies of the industry and may inform decision making on whether remedial measures are justified at some later date.

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.

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 an 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.

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:

A person that applies for licensure under this subtitle shall submit with the application for licensure an affidavit attesting to:

- (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.

The SWARC regulations should require the same.

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This e-mail was sent from a contact form on SWARC ([https://urldefense.com/v3/\\_\\_https://www.swarc.org\\_\\_;!!BE8q0vBWMvix!JfndTaVc1622yliHuh0EkoIT-1kasm4\\_4GPwwS3sEofKQgy1gr1n5kidiJ2I4Udb95K\\_Kp7gwahkJQHR1mxo9s\\_hUUejPZdQkg\\$](https://urldefense.com/v3/__https://www.swarc.org__;!!BE8q0vBWMvix!JfndTaVc1622yliHuh0EkoIT-1kasm4_4GPwwS3sEofKQgy1gr1n5kidiJ2I4Udb95K_Kp7gwahkJQHR1mxo9s_hUUejPZdQkg$))



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I propose the following amendments to Subtitle 11 Sports Wagering Application Review Commission

1. 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." and;
2. 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"

### **Comments**

Making the above listed amendments would make Subtitle 11 consistent with HB940, which requires ALL applicants for a wagering license to provide information on the applicant's efforts to solicit minority and women equity partners, not just those seeking investors. Specifically, Section **9-1E-07** of HB940 states:

- (a) an applicant for a license under this subtitle shall submit to the commission
  - (2) if the applicant is applying for a sports wagering license, an affidavit attesting to:
  - (i) the number of minority and women owners of the applicant;
  - (ii) the ownership interest of any minority and women owners of the applicant;

It makes no sense that the Sports Wagering Application Review Commission (SWARC), which was given the statutorily mandated task to "seek to achieve racial, ethnic, and gender diversity when awarding licenses" would not even ask questions regarding the racial, ethnic, and gender make up of all applicants, even if only for information gathering purposes.

The casinos currently operating in Maryland, and any other international gaming company likely to apply for wagering license, do not need capital assistance to launch a mobile app, and therefore are not likely to seek investors. So the current regulation's request for diversity efforts only from those seeking investors is really a request from no one.

The need for transparency dictates that all applicants be required to submit information regarding their efforts (or lack thereof) towards diversity equity inclusion. As long as the efforts are not part of the evaluation criteria, requesting such information would not constitute a race-conscious measure. In other words, an applicant could simply state that they have made no such efforts, and that would have no bearing on whether the applicant is granted a license or not. But the public should have access to such information, as it may inform individual decisions on where one might want to spend their entertainment dollars.

In addition, collecting such data could prove valuable information to future studies of the industry and may inform decision making on whether remedial measures are justified at some later date.

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.”*

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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.”*

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The SWARC regulations should require the same.

*Malik Edwards*

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