July 14, 2023

*Via Electronic Mail*

State of Vermont Department of Liquor and Lottery

Attn: Commissioner Wendy Knight

Attn: Chair Martin Manahan

1311 Route 302, Suite 100 Barre, VT 05641

**RE: Sports Wagering Regulations for Comment**

Dear Commissioner Knight and Board Chair Manahan,

BetMGM would like to thank the Department for offering the opportunity to operators to review and provide comments on the proposed Vermont Sports Wagering regulations. Leveraging our extensive expertise as a sports betting operator and our collaborative efforts with regulators in numerous states during the formulation of their regulations, we aim to provide constructive input on enhancing the effectiveness and aligning the proposed procedures with the regulations of other states for consistency.

BetMGM submits the following comments for consideration.

# Part I Section 1.0 - Definitions

**Reason for Revision:**

BetMGM respectfully requests that the proposed definition of “collegiate sports tournament” be added to the definitions as this will clarify the definition of “Prohibited Sports Event” as it is used in Sec. 1. 31 V.S.A. chapter 25 § 1301 (10)(A) – (B). The VT Sports Wagering Procedures does not include a definition for “collegiate sports tournament,” as it is used in VT H0127. For further context, this is the same definition that Massachusetts uses to define “collegiate tournament.”

**Proposed Regulation Update:**

1.12 “Collegiate sports tournament” means a series of collegiate sports or athletic events involving four or more collegiate teams that make up a single unit of competition.

# Part II Section 1.0 - Authorized and Prohibited Sports Events and Types of Wagers

**Reason for Revision:**

BetMGM respectfully requests that the Department adopt a “knowing” standard with respect to acceptance of wagers on known results. Operators are incentivized from a business perspective to not accept wagers on known results and have designed its systems and controls to prevent these wagers. However, despite these efforts operators occasionally accept wagers on known results.

Prohibiting an operator “knowingly” (aka intentionally) accepting wagers on known results addresses the biggest integrity risk associated with wagers on known result without unnecessarily making a violation the unintentional acceptance of late bets that operators are actively working to prevent.

This “knowing” standard was first used in Michigan and has since been adopted by Wyoming and Kansas.

**Proposed Regulation Update:**

(h) ~~Any Sports Event or Type of Wager in which the outcome has already been determined and is publicly known;~~

1.3 An Operator shall not knowingly offer any Sporting Event or Type of Wager in which the outcome has already been determined and is publicly known.

# Part II Section 4.0 - Data Sources for Sports Wagering.

**Reason for Revision:**

BetMGM respectfully requests revisions to Section 4.0 to decrease the administrative burden on the Department and Operators. Operators would be responsible for ensuring compliance with the requirements. Operators are also incentivized from a business perspective to use the best data sources available to ensure fast and accurate odds and results.

**Proposed Regulation Update:**

A Sportsbook shall only use licensed Data Sources to resolve Sports Wagers ~~report to the Department the Data Source that it uses to resolve Sports Wagers.~~ The Department may request information on Data Sources and disapprove use of an unlicensed Data Source for any reason. The licensed Data Sources utilized by a Sportsbook must satisfy the following conditions:

# Part II Section 5 (i) – House Rules

**Reason for Revision:**

BetMGM respectfully requests that the Department remove subsection (i) as a requirement for Operators’ House Rules. House Rules are a customer facing document that typically does not include an Operator’s internal processes. The processes for handling incorrectly posted events, odds, Sports Wagers, or results would more appropriately documented in an Operator’s Internal Controls.

**Proposed Regulation Update:**

(i) ~~Description of the process for handling incorrectly posted events, odds, Sports Wagers, or results;~~

# Part II Section 8.1 (h) – Cancelled or Voided Wagers

**Reason for Revision:**

BetMGM respectfully requests that the Department consider this revision to treat obvious errors separate from other cancellations and voids in Section 8.1. This revision does not change that operators can void for obvious error (so long as it is defined properly in the operator’s house rules) but would make voiding discretionary instead of non-discretionary under 8.1. This change is to account for those situations where an operator wants to let wagers placed in error stand to avoid a poor customer experience of losing out on a winning wager because of the operator’s error.

**Proposed Regulation Update:**

(h) ~~Where the Sportsbook has reasonable basis to believe there was an obvious error in the placement or acceptance of the Wager, including, but not limited to:~~

~~(1) The Wager was placed with incorrect odds; or~~

~~(2) Human error in the placement of the Wager; or~~

~~(3) Any other obvious error defined in the Internal Control System~~

8.2. A Sportsbook may void a Sports Wager without prior authorization of the Department as set forth in the Sportsbook’s House Rules and where the Sportsbook has reasonable basis to believe there was an obvious error in the placement or acceptance of the Wager, including, but not limited to:

(a) The Wager was placed with incorrect odds; or

(b) Human error in the placement of the Wager; or

(c) Any other obvious error defined in the Internal Control System.

# Part III Section 2.0 – Testing and Certification of Mobile Sports Wagering Platform

**Reason for Revision:**

BetMGM respectfully requests that the Department consider this revision as Regulatory agencies and the test labs will have access to a screen share as opposed to direct system access. Results of the verification hash process can be recorded and maintained.

**Proposed Regulation Update:**

2.1. ~~Unless otherwise authorized by the Department, t~~The Operator shall provide the method to an independent testing laboratory or the Department to verify ~~must be provided access to~~ the Mobile Sports Wagering Platform’s critical controlled software ~~source code along with the means to verify compilation of such source code~~. The result of the ~~compiled source code~~critical controlled file hash must be identical to that in the software submitted to an ITL for evaluation.

# Part III Section 8.0 – System Security Testing

**Reason for Revision:**

BetMGM respectfully requests that the department remove this regulation. It is of our opinion that this is similar to 8.2 and 8.2 follows GLI 33 B.

**Proposed Regulation Update:**

8.1. At a minimum, such documented system security testing should include a review of network vulnerability, application vulnerability, application code review, wireless security, security policy and processes, security and privacy program management, technology infrastructure and security controls, security organization and governance, and operational effectiveness.

# Part IV Section 1.0 – Sports Wagering Account Requirements.

**Reason for Revision:**

BetMGM respectfully requests that the Department consider this revision. It is of our opinion that Operators have many ways to comply with this rule without requiring encryption. Hashing with a salt or seed can accomplish the same goal. Hashing is the same method for verifying the controlled components at an independent test lab.

**Proposed Regulation Update:**

1.5. The following information maintained as part of the electronic player file shall be stored in ~~encrypted form~~ a non-clear text format:

# Part IV Section 7.5 (d)(1) – Financial Transactions

**Reason for Revision:**

BetMGM respectfully requests removing the requirement to provide notice to the player of the nature of the investigation of the Sports Wagering Accounts. For pending or confirmed investigations into suspected fraudulent activity which would meet thresholds of reporting to a regulator, market access partner, and law enforcement. BetMGM does not disclose the nature of investigations into the potentially suspicious nature of a patron's activity as it may tip-off the patron to the fact that they are being monitored. Additionally, it is specifically prohibited through various FinCEN advisories, such as FIN-2010-a014 and FIN-2012-a002, among others.

**Proposed Regulation Update:**

(d) The Sportsbook may decline to honor a player's request to withdraw funds only if the Sportsbook believes in good faith that the player engaged in either fraudulent conduct or other conduct that would put the Sportsbook in violation of the Act and these Procedures. In such cases, the Sportsbook must do ~~all of~~ the following:

(1) Provide notice to the player of the nature of the investigation of the Sports Wagering Account ; and

# Part IV Section 13.0 – Dormant Accounts

**Reason for Revision:**

BetMGM respectfully requests that the requirement to send funds back to players within 5 business days of account closure due to dormancy be removed from this provision. We understand the intent of the provision to ensure players with dormant funds receive their money, however, giving only 5 days to return the funds would be impossible for operators to comply with based on the current volume of dormant accounts we see in other jurisdictions. Additionally, as the returning of funds is a manual process it would be a hardship for operators to ensure players receive funds within 5 days’ time. Removing the 5-day time frame will also align with other jurisdictions that allow operators to return the funds where possible upon closure due to dormancy.

**Proposed Regulation Update:**

Any Sports Wagering Account with no activity for at least three (3) years may be closed. When a Sports Wagering Account is closed the Sportsbook shall issue any funds, less processing fees~~, within five (5) business days~~ to the player.

# Part V Section 2.5 – Information Security Responsibilities

**Reason for Revision:**

BetMGM respectively requests the proposed reporting structure be revisited. As a part of the continued licensure, BetMGM has a continued obligation to report any regulatory violations regardless of the reporting structure.

Additionally, as required, BetMGM will submit third party network PEN Test on a yearly basis highlighting any risk or vulnerabilities with a proposed remediation plan to address any concerning findings.

**Proposed Regulation Update:**

The information security department shall report to no lower than executive level management ~~and shall be independent of the IT department with regard to the management of security risk.~~

# Part V Section 6.01 (b) – Reserve Requirements

**Reason for Revision:**

BetMGM respectfully requests that the Department clarify whether $25,000 or $50,000 is intended here.

**Proposed Regulation Update:**

* + 1. The reserve must be not less than the greater of twenty-five thousand dollars ($50,000.00) or the sum of the following amounts:

# Part V Section 13.2 – Complaints Pertaining to Sports Wagering

**Reason for Revision:**

BetMGM respectfully requests that the Department consider the below revision. In the event operators cannot locate or obtain certain records within 10 business days, operators should not be deemed to be in violation of this requirement so long as the operator provides notice within that 10-business-day period.

**Proposed Regulation Update:**

All complaints received by a Sportsbook from a player and the Sportsbook's responses to complaints shall be retained for three (3) years thereafter or for any period required by law for inspection by any authorized representatives of the State or Federal Government, provided that if any litigation, claim, or audit is started before the expiration of the three- year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved. Within ten (10) business days of any request by the Department, t~~T~~he Operator will produce such records to the Department or provide explanation as to why such records cannot be provided within that time period ~~within ten (10) business days of any request by the Department.~~

# Part V Section 13.4 – Complaints Pertaining to Sports Wagering

**Reason for Revision:**

BetMGM respectfully requests that the Department consider the below revision. In the event operators do not have sufficient information about a complaint in order to respond to it within 10 business days, operators should not be deemed to be in violation of this requirement so long as the operator provides notice within that 10-business-day period.

**Proposed Regulation Update:**

Within ten (10) business days, a ~~A~~ Sportsbook shall respond to such complaints in writing or provide explanation as to why a response cannot be provided within that time period ~~within ten (10) business days.~~ If the relief requested in the complaint will not be granted, the response to the complaint shall state the reasons with specificity.

# Part V Section 19.0 – Financial and Compliance Reports

**Reason for Revision:**

BetMGM respectfully requests that the Department specify that financial and compliance reports are limited to Sports Wagering activities taking place within the state of Vermont.

**Proposed Regulation Update:**

The Department may require financial and compliance reports from its Sportsbooks for activities within its jurisdiction at any time and may conduct audits of these reports to ensure that the State receives the contractual share of Adjusted Gross Sports Wagering Revenue.

# Part VII Section 1.0 – Advertising and Marketing Generally

**Reason for Revision:**

BetMGM respectfully requests that the Department consider the below revision. We propose broadening this rule so that the incidental depiction of anything listed in Section 1.1 would not be grounds for a violation.

**Proposed Regulation Update:**

Incidental depiction of nonfeatured persons, locations, settings, or organizations listed in Section 1.1 ~~Underage Persons~~ does not violate subsection 5.1.

# Part VII Section 1.0 – Advertising and Marketing Generally

**Reason for Revision:**

BetMGM respectfully requests that the Department consider the below revision. We propose limiting this prohibition to when inclusion of advertisements, logos, trademarks, or brands is done knowingly.

**Proposed Regulation Update:**

The knowing use of Sports Wagering advertisements, logos, trademarks, or brands is prohibited on products that are sold in Vermont and intended primarily for Underage Persons.

# Part VII Section 4.0 – No Promotional Activities at Schools or Colleges

**Reason for Revision:**

BetMGM respectfully requests that the Department consider the below revision. We propose limiting this prohibition to knowingly advertising in these areas.

**Proposed Regulation Update:**

An Operator shall not knowingly advertise in a manner that targets the area of a college or university campus.

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We again want to express our appreciation for your thoughtful consideration of BetMGM’s feedback on the Department’s proposed regulations. Should you have any questions about our submission or wish to discuss further, please feel free to contact us.

Sincerely,

BetMGM