



January 22, 2016

Dear Counsel Johnston:

I am taking this opportunity to respond to your office's request for comments on the proposed regulations, 940 C.M.R. 34.00: Daily Fantasy Sports Contest Operators in Massachusetts. I am writing solely as an individual; these comments are my opinions only, and in no way reflect opinions of the Gaming Commission or other Commissioners. Where I reference Gaming Commission experience, I am using my own judgment as to how this experience might apply to your regs.

As I reviewed these proposed regs, I've identified a few issues that have mostly grown out of experience I've had in developing regulations for the casino industry. My thoughts are as follows:

- 34.04 Gameplay by Minors

Casino gameplay is limited by statute to people 21 years of age or older, in substantial part because of the wide availability of alcohol in the gaming area. Obviously, that constraint does not apply in the DFS environment. For what it is worth, I have a hard time understanding the logic of considering people old enough to join the military, to vote, to get married and to live alone and yet consider them insufficiently responsible to play Daily Fantasy Sports.

I think the age 18 standard is more appropriate.

- 34.07(4) Truthful Advertising

Historically, most industry and government initiatives to address the abuse of gambling have been focused exclusively on *problem gamblers*, as is this proposed reg. At the Gaming Commission, we are attempting to change that focus to include not only established problem gamblers, but also "at risk" gamblers, who over time may have a propensity to become problem gamblers. Therefore we define our initiative as promoting "responsible gaming," rather than addressing problem gaming (or gambling). This focus broadens our efforts and our licensees' efforts to dramatically expand education and prevention efforts, rather than simply focus on intervention with people who are already in trouble. It would be constructive if this section were altered to say "Advertisements to Include Information to Promote Responsible Gaming" rather than the proposed, more limited focus.

It might also be useful to direct the DFSOs to coordinate their responsible gambling advertising and other programs with other responsible gaming programs run by the Mass Gaming Commission, the Lottery, and the Mass Council on Problem Gambling.

- 34.10(1) and (2) Protections for Problem Gamers

As best as I can understand it, these two sections do not make it clear whether a DFS consumer can change her self-imposed deposit limits or loss limits. This is a complicated issue; the Gaming Commission decided that we would not use "hard" limits in our "play management" program.



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Rather, we believe that it is the government's job to provide tools to help problem and potential problem gamblers, but not to decide for them what their limits should be, and not to force them to adhere to even their chosen limits.

It might be helpful to include in this reg a direction that DFSOs coordinate their self-exclusion and self-limitation programs (at MGC, we refer to the self-limitation programs as a "play management system") run by other gaming agencies in the Commonwealth such as the Gaming Commission.

The one exception to this slightly more laissez-faire approach is in the area of voluntary self-exclusion programs. Our voluntary self-exclusion program offers alternative lengths of time for self-exclusion; once a self-exclusion time frame is set, it is binding on the player. Only after the selected time is lapsed, and then an application for a lifting of the ban is filed, may a player play again.

- 34.10(6) Limitations on Consumer Deposits

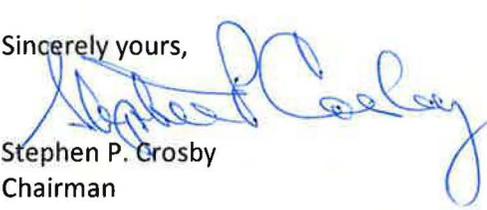
Again, as previously discussed, the Gaming Commission decided that it is not the government's role to impose arbitrary deposits or loss limits on gaming players. We offer the opportunity for players to limit themselves, but do not impose any hard limits. Even though the proposed regulations propose a mechanism for increasing the limit, there is a degree of arbitrariness, bureaucracy, and government intervention in personal behavior that might be worth reconsideration.

An alternative approach would be to mandate that DFSOs have some kind of internal credit check on players whose play (or losses) exceeds some substantial number.

I have attached some collateral materials to demonstrate a different way to approach limit-setting (or "budgeting," as we call it). Such a system could be adapted to DFS. And of course we would be happy to demonstrate this system if you were interested.

Thank you for your consideration of these issues. And thank you and your office for your leadership position on trying to rationally regulate this emerging industry.

Sincerely yours,

  
Stephen P. Crosby  
Chairman



Massachusetts Gaming Commission