



January 12, 2016

Dear Attorney General Healey:

Thank you for the opportunity to testify on 940 CMR 34.00 the proposed regulations for Daily Fantasy Sports Contest Operators. We have appreciated the opportunity to work with your office and applaud you for taking action to address negative consequences of excessive fantasy sports play. It is important to note NCPG is neutral on legalized gambling and takes no opinion on whether fantasy sports contests are, or should be, legal or illegal.¹ As we have discussed with your office, recent changes in fantasy sports contests have raised concerns about the addictive potential of fantasy sports. Our concerns center on two areas: the structural characteristics of the games and the demographics of the players.

Traditional fantasy sports contests are structured with small entry fees, long seasons and minimal prizes offer little risk of gambling problems. However, daily fantasy sports offer frequent contests that allow multiple entries with sizable entry fees and significant prizes. Increased event frequency, higher entry fees and larger prizes have all long been associated with an increased risk of gambling addiction.²

The reported demographic profile of fantasy sports participants—predominately young, male, skill-based sports enthusiasts—indicate they are at higher risk for gambling addiction. Reports from gambling operators that 40% of daily fantasy sports players play casino games (a significantly higher rate than the general population) indicate significant overlap between gamblers and DFS players.³ A recent study found college students who played fantasy sports were more likely to experience gambling problems.⁴

Fantasy sports players who become preoccupied, unable to stick to limits of time and money and therefore suffer harm to their emotional or financial health may meet gambling addiction criteria. Marlene Warner, Executive Director of the Massachusetts Council on Compulsive Gambling, provided an overview of the scope and consequences of gambling addiction in the Commonwealth in her testimony.⁵

However, there is still a great deal we do not know. We therefore urge government and operators themselves to fund reputable, independent researchers to provide additional

¹ NCPG Resolution on Daily Fantasy Sports, October 4, 2015.

² Griffiths, Mark. Gambling Technologies: Prospects for Problem Gambling. *Journal of Gambling Studies* 15(3) 1999.

³ Interview: Chris Sheffield, Managing Director of Interactive, Penn National Gaming. *iGaming Business North America*, Issue 21, October/November 2015.

⁴ Martin, R.J. & Nelson, S. Fantasy sports, real money: exploration of the relationship between fantasy sports participation and gambling-related problems. *Addictive Behaviors* 39 (10) October 2014.

⁵ See Testimony of Marlene Warner, Executive Director, Massachusetts Council on Compulsive Gambling.

information on these concerns specific to fantasy sports.⁶ DFSOs could provide a valuable contribution to this research by making de-identified data (e.g., demographic, session, game and transaction data) available.⁷ Analyzing actual player behavior leads to better understanding of gambling and problem gambling.⁸

NCPG worked with many stakeholders, including fantasy sports operators themselves, to develop and release our Fantasy Sports Consumer Protection Guidelines on December 7, 2015. This framework is a work in progress and it is expected to evolve in response to changes in legislation, regulation, operator practice and technology. The major sections of the guidelines are Policy; Staff Training; Informed Decision Making; Assisting Customers; Timeouts & Self Exclusion; Advertising and Website Features. We believe these guidelines are a good baseline and urge their incorporation into your proposed regulations as appropriate.

We would like to comment on several specific provisions of the proposed guidelines.

34.04(4) Gameplay by Minors: Parental Controls

The requirement for “parental control procedures that allow parents or guardians to exclude minors from access to DFS platforms” appears to be similar to third-party exclusion and raises similar issues that will be addressed in that section below.

34.07(4) Truthful Advertising; Limitations on Advertising Content: Advertisements to Include Information to Assist Problem Gamers

NCPG supports this section but notes that given the massive number of DFS participants and extensive advertising a requirement to include “assistance for problem gam[b]lers...” may significantly increase calls to the helpline which will place additional burdens on operators. NCPG therefore recommends DFSO operators be encouraged to provide voluntary contributions to organizations running the promoted helplines and that a portion of any DFSO fine, tax or regulatory fee be devoted to programs to assist problem gamblers such as those operated by the Massachusetts and National Councils. NCPG also recommends that as DFS operations, advertising and players are nationwide, important for DFSO to promote a number that is available and accessible across the country.

34.10(5) Protections for Problem Gamers: Requests for Exclusion Made by Third Parties

NCPG is strong supporter of the concept of self-exclusion and helped create the first programs almost twenty years ago. Exclusion programs are a fairly limited tool and unlikely to be effective unless buttressed by comprehensive prevention and treatment

⁶See NCPG GRADE Social Casino Consumer Protection Guidelines. “Play data from social games sites should be made available to qualified independent researchers. Data must be de-identified to remove personally identifying information, consistent with Federal and state privacy, intellectual property and freedom of information laws. Research will help determine how to tailor policy and practice to minimize harm.”

⁷ Statement of Keith S. Whyte, Executive Director, National Council on Problem Gambling. Internet Gaming: Is There a Safe Bet? United States House of Representatives, Energy & Commerce Committee, Commerce, Manufacturing & Trade Subcommittee. Tuesday, October 25, 2011

⁸ See The Transparency Project “The Transparency Project aims to collect and archive high quality addiction-related privately-funded data from around the world. The purpose of this project is to make data available to scientists so that they can advance the available empirical evidence and knowledge base about addiction.”

services and adequate enforcement. It is important to keep in mind is that these programs are 1) primarily designed for problem gamblers and 2) grounded in the therapeutic concept of relapse prevention. Therefore special care needs to be taken with the development of these programs and a defined “duty of care” to clarify the rights and responsibilities of each stakeholder.

While the responsibility for exclusion programs lies on a continuum between the individual and the DFSOs it is widely agreed important that the primary responsibility remains with the self-excluder.⁹ Third party exclusion in other countries is usually restricted to first-degree family members. Singapore comes closest to the proposed regulation by creating an automatic exclusion from its casinos for any citizen who has filed for bankruptcy or who receives public assistance.¹⁰ Such restrictive provisions seem unlikely to be adopted in other jurisdictions.

NCPG notes the Massachusetts Legislature recently created a third party exclusion program through the Expanded Gaming Act. The approach of the Massachusetts Gaming Commission is a model of excellence and their Responsible Gaming Framework which will likely become best practice as well.¹¹ Briefly the process allows the third party to petition district court for an order and a hearing is scheduled allowing both parties to present evidence. If the court approves the petition the MGC adds the individual to the list of excluded persons. The MGC regulations also provide a removal process.

As DFSOs operate across the nation they will likely implement consumer protection measures for all players, rather than state by state. Gamblers often participate in multiple types of gambling and cross state and tribal boundaries. As discussed in Warner’s statement, problem gamblers are particularly likely to participate in multiple forms of gambling.¹² Most self-exclusion programs are limited to a specific industry and/or jurisdiction, which may dramatically reduce the effectiveness of the program since gamblers can simply go to another property, a different form of gambling, or a neighboring state. So we hope required programs are sensitive to, or at least able to encompass sharing participants and information across state lines.

Some advocates have proposed that DFSOs allow non-customers to exclude themselves as a preventative measure. NCPG supports the concept but notes that currently the individual would have to open an account, going through the age and ID verification process, before they could access the exclusion options. They would then

⁹ Briefing note on the national self exclusion scheme. UK Gambling Commission, May 2015 “Self-exclusion is widely accepted as an important harm minimisation tool for some people who have recognised that they have a problem with their gambling and have made a commitment to dealing with it and for others who wish to use measures such as this to better manage their gambling activities. One of the principal benefits of self exclusion is the formal acknowledgement by the individual that they are experiencing problems with their gambling and wish to take steps to address these problems. The individual is expected to make a serious commitment to abide by their self-exclusion agreement.”

¹⁰ Government of Singapore, Casino Control Act, §33A EXCLUSION FROM CASINO — SOCIAL ASSISTANCE PROGRAMME AND SUBSIDY SCHEME (2013)

¹¹ MA GL 23K section 45(1)(1). See also *Responsible Gaming Framework, Version 1*. Massachusetts Gaming Commission (March 3, 2014)

¹² Warner, *ibid*

have to repeat each step with each unique DFSO. This is inefficient and exposes the individual to the very activity they wish to avoid. It is hard to envision how "preventive" self-exclusion can be effective within the regulations as proposed.

While NCPG has extensive self-exclusion provisions in our Fantasy Sports Consumer Protection Guidelines we did not include third party exclusion in part due to the issues raised above. We look forward to working with advocates, regulators, operators and vendors to provide consumers with better options for exclusion. DFS and gambling participation appears to have a great deal of overlap. Therefore it would be beneficial for a DFSO exclusion program to harmonize with existing exclusion programs for other forms of legal gaming.

34.12(7) Fairness of DFS Contests: Onboarding Procedures for New Players
Include in procedures for new players explanation of the consumer protection features available on the site and how to use them. In general, the graphical and interactive structure of DFSO sites provides an opportunity to create informed consumers with access to a variety of information designed to encourage safe choices and discourage unsafe behavior.

I would like to thank you for the opportunity to submit my remarks for the record and I would be happy to respond to any questions.

I have been Executive Director of NCPG since October 1998. My prior public policy experience includes positions at the American Gaming Association, American Bar Association and the U.S. Department of Health and Human Services. I am a graduate of Hampden-Sydney College.

NCPG's mission is to lead state and national stakeholders in the development of comprehensive policy and programs for all those affected by problem gambling. Our purpose is to serve as the national advocate for programs and services to assist problem gamblers and their families in order to improve health and wellness by reducing the personal, social and economic costs of problem gambling. NCPG is neither for nor against legalized gambling.

A handwritten signature in blue ink, appearing to be the initials 'RAA' with a stylized flourish.