

To Whom It May Concern:

My name is Ed Miller, and I am a co-author of the article, “The Curse Of Too Much Skill,” that appeared in *Sports Business Journal* and has now been widely cited during discussions of the DFS industry.

I’d like to applaud Massachusetts for putting together a common sense set of regulations for the DFS industry. And I especially like that the focus of most of the proposed regulations is right where it should be—consumer protection. The DFS industry needs regulation primarily to ensure that customer funds are treated appropriately, that customers are treated fairly and have a legal means to raise disputes with site operators, and so forth.

In general, I think the proposed regulations are very good. There are two areas of the proposal, however, that I have concerns with.

1. Contest Entry Limits

Simply put, I don’t think any language regarding contest entry limits belongs in the regulations. I believe that this entry limit issue has been raised by a subset of the DFS player community, and—quite frankly—some of the proponents of entry limits misunderstand the game itself and what effect multiple entries have on the game.

I have written an article for Daily Fantasy Talk (<http://dailyfantasytalk.com/massive-multi-top-attraction/>) that seeks to set the record straight on multiple entry contests. Most importantly, it’s an absolute myth that multiple entry gives an “unfair advantage” to certain player types or classes over others.

While the number of entries allowed in a contest definitely affects the experience a casual or recreational player will have, I don’t believe there is any public interest in favoring one experience over another. Furthermore:

1. The appropriate experience (and therefore entry limit rules) should vary widely from contest type to contest type. A \$0.25 entry contest aimed at beginners should have quite different rules from a \$1,500 contest aimed at experienced players.
2. The experience also varies on a day-to-day basis, from sport to sport, and even with how many games (of the sport) that the contest is based on. In other words, an MLB contest played on a 15 game slate should have different entry limits from an NBA contest played on a 3 game slate.
3. The sites themselves—rather than one-size-fits-all public regulations—are by far best positioned to optimize the entry limit rules for their own contests. There’s ample evidence that both FanDuel and DraftKings put considerable effort and attention into tweaking entry limits in their games even before any of these issues bubbled into the public sphere.

The bottom line? Entry limits should be the domain of site operators and not the public, as there is no true public interest in them, and the site operators have demonstrated considerable sensitivity to these matters on their own.

2. Scripting

The proposed scripting regulations are far too vague. DFS is a game played on a computer—specifically a web browser. A web browser is a script. Obviously the regulations aren't intended to ban the use of web browsers to play the game. This is why the regulations need a lot more specificity.

Beyond this trivial example, many people have set up their everyday computing environments with scripts that automate basic tasks. For example, I have remapped the buttons on my mouse to accomplish common tasks with a single click. Is a key or mouse-click macro considered a “script” under these regulations? What if I map the click of a mouse button to a script that types the name of a player I intend to use frequently in my DFS lineups? Is this infringement?

Must I turn these macros off or play DFS on a “clean” computer to comply with the regulations? Where is the line between acceptable and infringing use of automation for a game that's played on a computer?

In my opinion, the regulations should not attempt to define “script” (as anything that runs on a computer can be considered a script). Instead, they should focus on whitelisted and blacklisted behaviors. So the regulations should read something like:

Scripts, macros, or automated programs are permitted to do the following behaviors:

- Navigate to an operator's website
- Generate lineups
- Enter the name of a player into the website
- Enter limited entry, guaranteed contests
- Etc.

Scripts, macros, or automated programs are forbidden from the following behaviors:

- Join heads-up or ad-hoc contests or leagues
- Etc.

I have opinions about which behaviors should be permitted or and excluded, but my interest is more in ensuring that the regulations are explicit about what is and isn't allowed. The current proposed scripting regulations are far too vague. It's as if a sport attempted to ban Performance Enhancing Drugs without actually specifying which drugs were considered performance enhancing.

Thank you very much for consideration of my comments. If you have any questions or would like to reach me for any reason about these comments, you can contact me at:

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Thank you,
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