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June 16, 2017

The Honorable Eileen Donoghue  
Senate Chair, Special Commission  
State House, Room 405  
Boston, MA 02133

The Honorable Joseph Wagner  
House Chair, Special Commission  
State House, Room 42  
Boston, MA 02133

**Re: Special Commission on Online Gaming, Fantasy Sports Gaming, and Daily Fantasy Sports**

Dear Chairwoman Donoghue and Chairman Wagner,

Thank you for the opportunity to submit written comments as you begin to prepare the report of the Special Commission on Online Gaming, Fantasy Sports Gaming, and Daily Fantasy Sports. As you know, I serve on the Special Commission as the appointee of the Attorney General. Specifically, the Legislature charged the Attorney General with appointing a member of the Special Commission “who shall have expertise in fantasy sports gaming consumer protection.” 2016 Mass. Acts c. 219 § 137. It is thus with a focus on protecting consumers that our office has approached the work of the Special Commission.

Over the past two years, the Attorney General’s Office has closely examined the Daily Fantasy Sports (DFS) industry. During the course of our investigation, we met numerous times with representatives from DFS companies, requested and analyzed extensive information, and uncovered a number of concerns about their business practices and the ability of consumers to have a fair shot while playing these games. In response to these concerns, we promulgated regulations, effective July 1, 2016, to put in place consumer protections that include prohibiting play by minors, ensuring truthful advertising, and increasing the transparency of gameplay. Our regulations also require protection of players’ deposits as well as data and security safeguards, address problem gambling, and require changes to games to provide a more level playing field for all consumers. In Chapter 219 of the Acts of 2016, which legalized DFS through July 31, 2018, the Legislature provided that any DFS company operating in Massachusetts must abide by these regulations. Any legislative action with respect to DFS, including beyond July 31, 2018, should leave these regulations in place to assure a continuity of protection for DFS players.



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Based on our experience promulgating and enforcing these regulations, and my experience over the past several months serving on the Special Commission, we in the Attorney General's Office have serious concerns about the potential legalization and expansion of online gaming in Massachusetts. Online gaming would bring significant risks to our communities and our families, and these risks must be carefully weighed. These gaming options would allow individuals to bet real dollars on card games and other such games of chance, as easily as they play video games on their mobile devices. This would essentially create unfettered access to gaming opportunities at any time and any place—a situation which would pose a heightened risk of problem gambling, addiction, and unaffordable losses. And it would present significant concerns regarding prevention of minors from engaging in gaming activities.

We also have concerns about the problems of regulating and monitoring promoters of expanded types of gaming operations. Effective regulation of internet businesses is difficult, even given modern enforcement techniques. While the DFS industry is relatively well-developed, with much of it centered in Boston and New York, the Special Commission heard testimony about other new gaming businesses, many of which would (or could) be conducted from overseas, and some of which have been unresponsive to inquiries from American law enforcement. State law enforcement faces significant obstacles in regulating such businesses, particularly if overseas, to protect consumers, including problem gamblers and minors.

The Attorney General's Office believes that our state would be well-served taking a cautious approach towards any further expansion of gaming in Massachusetts, pending an evaluation of our ability to effectively oversee the three licensed casinos (two of which have yet to open) and an assessment of the social costs of expanded gaming. We also urge the Legislature to be mindful of federal statutes and case law which may impact the ability of states to sanction particular forms of gaming.

For these reasons we oppose any expansion of online gaming at this time. Thank you for your consideration. Should you have any questions, please do not hesitate to contact me.

Sincerely,



Dan Krockmalnic  
Assistant Attorney General