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May 16, 2022

**RECEIVED**

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**Independent Regulatory  
Review Commission**

*Via Email to [cwzimmerma@pa.gov](mailto:cwzimmerma@pa.gov)*  
Chad W. Zimmermann, Assistant Chief Counsel  
Attention: Regulation #125-240 Public Comment,  
Pennsylvania Gaming Control Board  
303 Walnut Street, 5<sup>th</sup> Floor  
Harrisburg PA 17101

**Re: FanDuel comments on Regulation #125-240.**

Dear Assistant Chief Counsel Zimmermann:

I write to provide comments on behalf of FanDuel Group, Inc. (“FanDuel”) regarding the Pennsylvania Gaming Control Board’s (“Board”) proposed “Regulation #125-240” (“Proposed Rules”). Based on our extensive experience as an operator in the online casino gaming, sports betting, and fantasy sports industries in Pennsylvania and throughout the United States, we offer constructive feedback on ways in which the Proposed Rules can be improved for effectiveness and consistency with other state regulations.

All changes will be shown as follows: proposed additional text will be bolded and underlined and all text to be deleted will be bolded, bracketed, and struck through. For the sake of clarity, FanDuel proposed edits will be shown in red, and Board proposed edits will be shown in black.

- ***Issue 1 – Request for clarification on modifications to internet games.***

In reviewing the Proposed Rules, it is our belief that the intent is to cover testing of significant platform changes (migrations or new casino games) for interactive gaming (including online sports wagering), and kiosks in the retail sports wagering context. However, it is unclear whether or not the Proposed Rules also apply to changes or modifications to interactive gaming, particularly with respect to software, which are currently governed by existing regulations on change management processes.

If the Board applied these testing regulations to every software change on a sports or interactive gaming platform whenever there was independent testing laboratory testing, it would adversely impact our ability to make changes to our platforms, both in Pennsylvania and in other jurisdictions where FanDuel operates, if we had to submit everything to the Bureau of Gaming Laboratory Operations and wait 30 days for approval. We believe the intent of the Proposed Rules is to ease the burden on the Bureau of Gaming Laboratory Operations by leveraging the comprehensive



testing performed by independent testing laboratories to expedite the kinds of submissions that are already taking place today. If the Proposed Rules are interpreted to cover a broader range of software changes for interactive gaming and online sports wagering, it would have the unintended consequence of significantly increasing the number of submissions that are made to the Bureau of Gaming Laboratory Operations given the nature and frequency with which interactive gaming and online sports wagering platform software changes. We strongly suggest to the Board that it make the following edit to clarify that the Proposed Rules do not apply to changes or modifications that are currently and more appropriately governed by the existing change management process:

Section 461a.4(a):

“(a) A slot machine, table game, table game device, interactive game, sports wagering device, video gaming terminal or all associated equipment identified in subsection (c) (collectively referred to as "products" or "equipment, device or software"), or a modification thereto, may not be offered for sale, lease or distribution for ultimate use by a [slot machine] licensee in this Commonwealth unless a prototype identical in all mechanical, electrical, electronic and other respects has been tested by the Bureau of Gaming Laboratory Operations and approved by the Board's Executive Director. The requirements of this section shall not apply to a change or modification to an interactive game adopted under the Change Management guidelines distributed pursuant to § 810.a.7.”

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We appreciate your time and consideration of our comments and would be happy to discuss at your convenience.

Sincerely,

Cory Fox  
Government Affairs and Product Counsel Vice President