

June 8, 2022

VIA EMAIL

Senator Eric Lesser
24 Beacon Street
Room 410
Boston, MA 02133
Eric.Lesser@masenate.gov

Dear Senator Lesser,

The iDevelopment and Economic Association (iDEA Growth) is grateful for your ongoing commitment to the legalization and regulation of sports betting for the benefit of your constituents and the entire Commonwealth of Massachusetts.

By way of background, iDEA Growth was founded to advocate for responsible internet gaming policies that spur economic growth and protect consumers. Our membership -- 33 companies and growing -- represents every segment of this industry and has vast experience in regulated jurisdictions across the United States. Thus, our association is uniquely positioned to provide a 360-degree perspective on the many sports betting policy issues the Conference Committee will need to consider.

As you work towards unifying H.3977 and S.2862, we believe it will be beneficial for you to consider best practices that have been adopted in the 35 jurisdictions that have come before Massachusetts, as well as the collective experience and insights of the online gaming businesses currently licensed and operating in those jurisdictions. iDEA Growth provides the recommendations herein, drawing from the successes of other laws that have built a strong foundation for a sports betting market that is competitive, and that will have positive benefits for consumers and the Massachusetts economy.

Today, sports betting is actively occurring in the Commonwealth through illegal and unregulated channels and on sites that already have a firm grip on consumers. These illegal operators provide little in the way of consumer protections, have a deleterious impact on the Commonwealth's legal gaming industry, and deprive Massachusetts of substantial tax revenues.

Massachusetts' legislation should be considered in the context of competing with the illegal offshore market. Successful regulation will help migrate customers away from the illegal market and provide them with an industry that is accountable to Massachusetts regulators, and to consumers.

Competition is Critical

The most successful regulatory programs are those that cultivate a market that is as open and competitive as possible, subject to appropriate gaming regulation. iDEA Growth members' experience in the U.S. and around the world has shown that competition is vital to developing a thriving industry that maximizes customer engagement and tax revenue.

We appreciate that both the House and Senate bills authorize existing entities to offer retail and mobile sports betting and that each bill also permits for mobile sportsbook operators to be directly licensed from the Commission. However, we favor the approach contained in H.3977 which allows casinos to operate their own online sportsbook and up to two sub-licenses, extends sportsbook licenses to simulcasting facilities, and does not cap the number of "direct" mobile licenses.

Increasing the number of potential mobile operators isn't just good for Massachusetts consumers and businesses, but it will mean more money to the Commonwealth in the way of up-front licensing fees and long-term tax revenues.

Recommendation: *We encourage the Conference Committee to recognize in-state stakeholders while also promoting competition and an open, consumer driven market through its enabling legislation. To that end, we urge the Committee to adopt the market access provisions outlined in H.3977.*

Tax Rates Matter

Tax rates are a key to success or failure in any gaming jurisdiction. Land-based gaming operations have not faced the same level of competition that exists today for online sports betting. For instance, land-based competition spans across borders from neighboring states because of proximity to facilities. Mobile sports wagering markets can face similar cross-border challenges; however, they must also compete with illegal websites operating outside of the country. Off-shore, illegal websites operate in the shadows of legal markets, while enjoying the benefit of not paying taxes to any jurisdiction.

To successfully attract consumers away from illegal gambling operators, legal sports betting should provide odds that are competitive with illegal markets and be accessible and appealing to bettors. Operators in new and emerging jurisdictions must compete with these operations while paying taxes to the jurisdiction in which they operate, along with the increased costs required for player acquisition and compliance.

Taxes represent a significant operating cost for legal operators. Therefore, if tax rates are too high the business becomes unsustainable. Over the long-term the illegal market will continue to prevail while licensed operators will have to reduce spending in all areas of their business. This will hinder successful legal sports betting in Massachusetts, as additional expenses in the form of taxes will cut into an operator's ability to reinvest in the market and grow business in the state.

In addition, if operators are not incentivized to offer compelling bonuses and promotions, it can be hard to eradicate the illegal market. Legislation should tax operators on real revenue and not on bets placed that produce no revenue, especially when considered the competition with the illegal market that does not pay any tax nor offers any consumer protections.

Recommendation: We encourage the Conference Committee to adopt the retail and mobile tax rates proposed in H.3977. We also request that lawmakers eliminate the possibility of double taxation of their federal sports wagering excise tax obligations and can exclude the full amount of this excise tax from their taxable GGR in Massachusetts. Finally, we ask that the compromise legislation create an environment that encourages licensed operators to offer promotional credits and free bets that are necessary to migrate players from the illegal market to Massachusetts' regulated industry. This includes not treating those promotions or free bets the same as money wagered by players in terms of taxation.

Ensure Collegiate Transparency

iDEA opposes the prohibition against bets on sports events involving any collegiate teams. The ban will not prevent Bay Staters from placing such bets in jurisdictions like Rhode Island, New Hampshire, Connecticut or even New York, which permit such bets. Even worse, it will continue to push consumers to illegal sportsbooks that operate without transparency or regulatory oversight, making college sports teams and players more susceptible to fraud, corruption and game-fixing. The best way to counteract this reality, is to regulate collegiate sports betting and utilize proven technologies that proactively monitor suspicious activity to ensure the integrity of games.

Make no mistake: avid sports fans and bettors will still bet on events involving collegiate sports teams, and Massachusetts sports betting revenues will suffer while purportedly harmful types of gaming continue beyond the reach of the Commonwealth's regulators. According to independent research conducted by Eilers and Krejcik¹, if Massachusetts banned all collegiate betting it would result in a **25% to 50% reduction in handle** (the amount wagered) and would have "high" negative impact on the overall sports wagering market. Even an in-state collegiate betting ban would have serious negative consequences with an estimate of a 15% reduction in market size. Given the overall popularity for wagering on collegiate athletics (in-state or all collegiate sports), restrictions to this type of gambling will significantly curtail growth in Massachusetts without any corresponding benefit to player or game integrity.

***Recommendation:** The most efficient way to avoid these negative impacts is for the Conference Committee to legalize and regulate bets on college sports. Only then will Massachusetts be able to truly protect college athletes and consumers in the Commonwealth, as well as recapture money flowing to the illegal market and neighboring states that allow bets on college sports.*

Permit Reasonable Advertising

One of the most proven and effective ways to channel sports bettors away from the illegal market is to allow the legal market to responsibly advertise to consumers. As highlighted already, even in the face of widespread legalization, there continues to be a large unregulated sports wagering market that unfairly competes with legal and regulated operators. The advantages these unscrupulous operators have in the market place -- such as not paying taxes and minimal consumer protection obligations -- will be exacerbated if regulated sports books in Massachusetts are faced with overly proscriptive advertising rules.

Advertising not only helps inform existing and would-be bettors about legal and regulated sportsbooks that are authorized by the state, it is also a vehicle to deliver responsible gaming messages directly to consumers. iDEA Growth has published its [Responsible Gaming Pillars](#) that outline best practices for protecting consumers, along with our continued commitment to industry-wide responsibility in online gaming. Specifically, Pillar 7 highlights how regulated operators voluntarily engage in responsible marketing to age-appropriate consumers.

¹ U.S. Collegiate Betting Restrictions: Assessing Their Prevalence and Modeling Their Impact on Market Performance; Eilers & Krejcik; March 2021.

Additionally, our members are on the leading edge of promoting responsible gaming by proactively promoting responsible gaming messages and features so players can track and manage their spending. Some of the tools our members implement include providing limits on the amount of money and time players can spend on gaming, and also providing players with the ability to set financial limits on their own accounts. Players are also given the option to self-exclude, not just from individual gaming sites, but a blanket self-exclusion across all gaming sites within a specific jurisdiction. On top of these tools, iDEA members provide players with resources that are prominently displayed on their sites should they exhibit risky behaviors or develop a problem gambling issue.

Recommendation: We urge the Conference Committee to not impose statutory advertising restrictions or overly prescriptive responsible gaming measures. Rather, as has been the approach in most well-regulated U.S. jurisdictions, the legislature should direct the Gaming Commission to establish rules and an operator code of conduct that promotes a common-sense approach to responsible marketing, advertising and responsible gaming.

Appropriate Supplier Licensing

A critical component to the operation of sportsbooks is the integration of live odds and data-feeds. Therefore, our organization strongly supports the licensure of data suppliers, and all such entities which are involved in the creation of betting markets and determination of bet outcomes, so that those businesses are accountable to the state for the use of their products and services. To be clear, the licensing of suppliers and vendors should be commensurate with how closely their services interact with the business of sports betting. The further away a service is from the actual wagering activity, lessens the licensing standards that should be imposed on these companies.

Paramount to the success of the sports betting industry is the accuracy and timeliness of data used to settle wagers, therefore we encourage an approach whereby the legislature provides statutory guidance to the Commission on the licensing of data suppliers in order to ensure the validity and efficacy of their pre-match and live data services.

Recommendation: We urge the Conference Committee to include language that defines a sports betting supplier license. Establishing a supplier licensing framework in statute provides unambiguous direction to the Commission, including clear guidelines and expectations on which entities involved in the business of sports betting will need regulatory approval prior to offering B2B services in the Commonwealth.

iDEA Growth recognizes that there are distinct differences between H.3977 and S.2862. However, we firmly believe that a compromise is achievable in all areas. Your legislative leadership has placed you in an important role to achieve an outcome that benefits consumers and the Commonwealth.

We welcome the opportunity to provide the Conference Committee with additional information, data and research that will help you and your colleagues find common ground and ultimately, legislation that creates a safe alternative for consumers and generates new revenues for Massachusetts. Thank you for your continued efforts.

Sincerely,



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