

Maine Gambling Control Unit Takes Meaningful Steps Toward Sports Betting Rollout

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Gaming Alert

1.13.23

Roughly eight months after enacting legislation authorizing retail and online/mobile sports betting, Maine's Gambling Control Unit ("MGCU") is taking meaningful steps toward an official "launch." On January 11, 2023, MGCU released proposed sports betting regulations.

MGCU plans to hold a public hearing to discuss the regulations and accept feedback on January 31, 2023, and will accept public comments until March 5, 2023. Once the public comment period ends, MGCU will have roughly 120 days to respond to comments and approve a final set of regulations. Thereafter, the regulations will be sent to the Maine Attorney General's Office for review and approval. If approved, the regulations will be filed with the Secretary of State's office, taking effect shortly (roughly five days) thereafter.

The proposed regulations address, among other things, supplier licensing, advertising and operational requirements/restrictions.

Supplier Licensing Provisions

The proposed regulations require licenses for providers satisfying the definition of the term "supplier", which is defined as a "person or entity...that provides goods and/or services, directly or indirectly, to an operator in connection with sports wagering." Although it is unclear whether the "supplier" definition is meant to encompass non-gaming related service providers (such as advertisers), the proposed regulations state affiliate marketers qualify as "suppliers" and must be licensed.

The proposed regulations impose a \$40,000 license fee and \$10,000 background investigation fee upon suppliers. These costs exceed the typical fees imposed upon vendors and suppliers – and upon affiliate marketers in particular. In addition to the aforementioned fees, the proposed regulations require applicants to make disclosures that some may find onerous, including (i) an organizational chart listing all employee positions and their job descriptions; (ii) a copy of the final order of all civil judgments rendered against the applicant; (iii) copies of the applicant's state and federal tax returns for the past three years; and (iv) copies of the applicant's audited financial statements for the preceding three fiscal years.

In light of the above, affiliate marketers and other non-gaming related service providers may take issue with/suggest changes to the supplier licensing provisions during the public comment period.

Advertising Provisions

Maine's proposed sports betting regulations impose some of the strictest sportsbook advertising rules of any U.S. state. Notably, the proposed rules prohibit advertising that uses any "professional or Olympic athletes, celebrities or entertainers." The proposed rules also impose significant limitations on television advertising; the rules state explicitly that television advertising shall only take place during (and on the same channel) as sporting events upon which a Maine-licensed sportsbook operator is accepting wagers.

The proposed rules significantly restrict the advertising of promotions and bonuses; the rules state explicitly that (i) sportsbook operators shall not include promotions or bonuses in their television advertising; and (ii) promotions and bonuses shall "only be offered in [an operator's] app or on [their] website."

The proposed rules further require sportsbook operators provide electronic copies of all advertising, marketing, and promotional materials MGCU within ten business days prior to publication, distribution or airing to the public.

Other Notable Provisions

Like sports betting rules in several other states, Maine's proposed regulations require an operator's "primary" online/mobile betting servers (*i.e.*, the servers used to accept and store patron wagers) be physically located in Maine.

Notably, Maine's proposed regulations are among the first to impose an insurance requirement upon sportsbook operators. Specifically, the proposed regulations require operators maintain both cyber liability and errors and omissions insurance, with minimum coverage limits ranging from \$5-\$10 million for cyber liability and \$5-\$10 million for errors and omissions depending upon the operator's anticipated number of users and anticipated annual revenue.

Sports Betting "Launch" Details

MGCU Executive Director Milt Champion has expressed optimism the agency could be ready to begin licensing operators sometime between April 2023 and January 2024. Although MGCU has not offered a concrete sports betting "launch" date, at a January 11, 2023 press conference, Mr. Champion said the agency is interested in running a "soft opening" ahead of the official "launch." During this "soft opening" period, MGCU would allow licensed operators to accept wagers under the agency's observation. At a January 11, 2023 press conference, Mr. Champion indicated that he believes a "soft opening" would give MGCU an opportunity to identify and remedy compliance-related issues in advance of the full "launch," thus ensuring a smoother rollout.

White and Williams will continue to monitor the situation and provide updates regarding any significant developments.

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