

**Submission by  
The American Gaming Association (AGA) to  
Council of the District of Columbia  
Committee of the Whole**

**RE: Public Roundtable On: CA 23-168, Proposed multiyear contract CFOPD-19-C-041 with Intralot, Inc.  
Wednesday, June 26, 2019  
10:00 a.m.  
Room 120 – John A. Wilson Building  
1350 Pennsylvania Avenue, NW, Washington, D.C. 20004**

Mr. Chairman and esteemed Members of the Council,

The American Gaming Association (AGA) appreciates the opportunity to submit comments in conjunction with today's roundtable. As the national trade association whose membership includes stakeholders across the gaming industry, our goal is to help ensure the Council of the District of Columbia (hereinafter Council) makes informed decisions as it continues to move ahead with making legal sports betting a reality in the District.

The AGA applauds the Council for its efforts to provide District residents with the opportunity to access legal, regulated sports betting. That action represents a sound decision for a variety of public policy reasons – including the chance to offer enhanced consumer protection and generating economic opportunities for a variety of stakeholders. At the same time, the details regarding how legal sports betting is operationalized are critical to ensuring both consumer confidence and economic success.

While the AGA recognizes that there have been significant public concerns surrounding the process that has led to the selection of a vendor to offer sports wagering, it is not our role to comment directly on that process or the suitability and ability of that specific vendor to successfully provide sports betting in the District. What we can do is offer input on the critical areas that the District and every other governmental body should consider as they decide who is authorized to offer sports wagering within their jurisdiction.

In order to advance a safe, successful, legal sports betting market in the District, AGA urges the Council to focus on ensuring operators meet the following criteria:

**Robust Regulatory Structure to Ensure Integrity**

Any entity the Council selects to offer sports betting should be subject to the same rigorous licensing and suitability requirements and regulatory oversight with which current commercial and tribal casino operators comply in other jurisdictions.

In Nevada, New Jersey and other established gaming jurisdictions, the gaming industry is strictly licensed and regulated from end-to-end to ensure the integrity of gaming operations and suitability of all entities and individuals involved.

Prospective licensees are subject to extensive background checks. Licensing applications require a substantial amount of personal information including all names, addresses and employment information, financial records, brokerage accounts, real estate holdings and other assets. Applicants must also provide documentation, such as marriage certificates, employment verification letters, mortgage statements, banking and financial records, and brokerage statements, to support this information.

Additionally, as part of the licensing process, prospective licensees must demonstrate that they have sufficient controls in place to counter fraud, and also provide evidence that they have developed robust compliance and risk management programs. The ability of certain companies to earn licenses could be directly tied to their regulatory history. Licenses are ordinarily denied to applicants with a history of significant regulatory or legal violations, and may be revoked from licensees who commit comparable violations while licensed.

These rigorous requirements and oversight are in place to protect customers and ensure confidence in the gaming operations they patronize. This environment also serves to protect gaming jurisdictions' reputation.

Gaming jurisdictions have found that strict and thorough regulation, through a competitive process, is optimal for success. Nevada has had legalized sports betting for over fifty years. There, candidates for licensure file requests for licensure and thorough suitability investigations are conducted. Post-licensure, gaming jurisdictions have employed professionals with varied skills to regulate the conduct of a gaming operation, including sports betting. For example, the State of Nevada's Gaming Control Board has six divisions that all have a hand in gaming regulation.<sup>1</sup> With this structure, the GCB has been able to keep Nevada safe, collect taxes at a 99.99% rate, and enable Nevada's economy to flourish.

Employees of gaming operations and certain service providers to the gaming operation are also regulated. Gaming companies have compliance programs that require further due diligence and vetting of various other ancillary providers of goods and services that are not specifically required to be licensed by the GCB.

As part of this process, an open and competitive environment for gaming is critical. Nevada has a statute that mandates this and says that if the gaming industry is going to remain as important in Nevada as it has been, then it must be conducted "honestly and competitively," and that it must be regulated in a way to "preserve the competitive economy and policies of free competition" of the state.<sup>2</sup>

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<sup>1</sup> They are the Investigations Division (conducting investigations on entities and individuals who wish to have, or currently do have, gaming licenses), the Enforcement Division (sworn peace-officers with arrest capabilities), the Audit Division (accounting for the major gaming operators), a Technology Division (overseeing the testing and approval of all gaming technologies), the Tax and License Division (auditing smaller gaming companies and distributing licenses), and the Administration Division (human resources). Each division is specifically tailored to successfully regulate a segment gaming in Nevada.

<sup>2</sup> **NRS 463.0129 Public policy of state concerning gaming; license or approval revocable privilege.**

1. The Legislature hereby finds, and declares to be the public policy of this state, that:

(a) The gaming industry is vitally important to the economy of the State and the general welfare of the inhabitants.

(b) The continued growth and success of gaming is dependent upon public confidence and trust that licensed gaming and the manufacture, sale and distribution of gaming devices and associated equipment are conducted honestly and competitively, that establishments which hold restricted and nonrestricted licenses where gaming is conducted and where gambling devices are operated do not unduly impact the quality of life enjoyed by residents of the surrounding neighborhoods, that the rights of the creditors of licensees are protected and that gaming is free from criminal and corruptive elements.

(c) Public confidence and trust can only be maintained by strict regulation of all persons, locations, practices, associations and activities related to the operation of licensed gaming establishments, the manufacture, sale or distribution of gaming devices and associated equipment and the operation of inter-casino linked systems.

Such a policy has proven to be extremely important in the practice of regulation and in ensuring the state's economy has the added bonus of gaming revenues to draw from. Nevada has found what any economist will predict: competition is good. Not only is it especially crucial when a consumer-driven market is present, but it is crucial in gaming. Gaming patrons are interested in the best gaming experience available; having casinos that are operated by separate competitive entities is paramount, because not only the types of gaming that can be offered may vary, but the other products found in a casino will vary by operator. A sole-source provider does not lead to the maximization of revenues (and hence tax dollars) in the gaming industry.

Without a regulatory structure of the size and scale of those found in established gaming jurisdictions, it is imperative that the District engage in due diligence at the outset to demand the highest levels of suitability for each participant entering the marketplace and ensure there are sufficient gaming control and regulatory oversight resources in place to effectively monitor and enforce the regulated sports betting market.

### **Commitment to Responsible Gaming and Responsible Advertising**

It is also critical to ensure responsible gaming is a foundational component of legal and regulated sports betting, and that any entity offering sports betting should have robust policies in place – and preferably already have established a clear track record of success – with respect to consumer protection and promoting responsible play.

The AGA's Code of Conduct, which is applicable to both land-based and online sports betting, outlines the commitment of AGA members to maintain rigorous support for employee training programs, prevention, treatment and research initiatives, as well as public awareness programs surrounding responsible gaming and the prevention of underage gambling.<sup>3</sup>

The gaming industry currently invests an estimated \$300 million annually toward extensive responsible gaming programs across all jurisdictions where it operates.

The Code also ensures the industry adheres to responsible advertising and marketing principles. This means ensuring there are appropriate parameters around the frequency of gambling advertisements and that advertisements are not placed before an audience where the majority are expected to be below the legal age to participate in gambling or sports betting.

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(d) All establishments where gaming is conducted and where gaming devices are operated, and manufacturers, sellers and distributors of certain gaming devices and equipment, and operators of inter-casino linked systems must therefore be licensed, controlled and assisted to protect the public health, safety, morals, good order and general welfare of the inhabitants of the State, to foster the stability and success of gaming and to preserve the competitive economy and policies of free competition of the State of Nevada.

(e) To ensure that gaming is conducted honestly, competitively and free of criminal and corruptive elements, all gaming establishments in this state must remain open to the general public and the access of the general public to gaming activities must not be restricted in any manner except as provided by the Legislature.

<sup>3</sup> Please see, AGA Code of Conduct for Responsible Gaming (August, 2018), <https://www.americangaming.org/sites/default/files/AGA%20Code%20of%20Conduct%20for%20Responsible%20Gaming%202018.pdf>.

Additionally, in May of this year, the AGA released the first Responsible Marketing Code for Sports Wagering to address fresh concerns that might arise as legalized wagering on sporting contests is a relatively new activity in most states.<sup>4</sup> In this Code, AGA members pledge to adhere to certain practices in the marketing and advertising of sports wagering services. Specifically, that their advertising and marketing content will meet the following standards:

- **Respecting the legal age for sports wagering** – No sports betting message should be designed to appeal primarily to those below the legal age for sports wagering by depicting cartoon characters or by featuring entertainers or music that appeal primarily to audiences below the legal age. Nor should any message suggest or imply that underage persons engage in sports wagering. Sports wagering advertisements should not be placed in media outlets (including social media) that appeal primarily to those below the legal age for sports wagering, nor should they be displayed at an event venue where most of the audience at many of the events at the venue is reasonably expected to be below the legal age for sports wagering. No sports wagering messages – including logos, trademarks, or brand names – should be used or licensed for use on clothing, toys, games or game equipment intended primarily for persons below the legal age for sports wagering. To the extent that promotional products carry sports wagering messages or brand information, AGA members and their employees will use commercially reasonable efforts to distribute them only to those who have reached the legal age for sports wagering. Sports wagering should not be promoted or advertised in college or university-owned news assets (i.e. school newspapers, radio or television broadcasts, etc.) or advertised on college or university campuses.
- **Supporting responsible gaming** – Messages will not promote irresponsible or excessive participation in sports wagering. Each message will contain a responsible gaming message, along with a toll-free help line number where practical. No message should suggest that social, financial or personal success is guaranteed by engaging in sports wagering. Nor should any message imply or suggest any illegal activity of any kind. Messages should adhere to contemporary standards of good taste that apply to all commercial messaging, as suits the medium or context of the message. In addition to this Code, AGA members also have adopted an overall Code of Conduct and a statement of Best Practices for Anti-Money Laundering Compliance. Sports wagering advertising and marketing should be placed in broadcast, cable, radio, print or digital communications only where at least 71.6 percent of the audience is reasonably expected to be of legal gambling age (determined by using reliable, up-to-date audience composition data).
- **Controlling digital media and websites** – Messages placed in digital media – including third party internet and mobile sites, commercial marketing emails or text messages, social media sites, and downloadable content – shall comply with all applicable provisions of this Code concerning the content of such messages. Each AGA member-controlled website that includes advertising or marketing materials should include a responsible gaming message and a link to a site that provides information about responsible gaming and responsible gaming services. AGA member-controlled websites that include sports betting content, including social media pages and sites, shall include a reminder of the legal age for sports wagering. Age affirmation mechanisms, utilizing month, day and year of birth, will apply before a user can gain access to any page where individuals can engage in gambling. AGA will provide to managers of parent control software the names and website addresses of all member-company websites that

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<sup>4</sup> Please see, AGA Responsible Marketing Code for Sports Wagering (May, 2019), <https://www.americangaming.org/wp-content/uploads/2019/05/Responsible-Marketing-Code-for-Sports-Wagering.pdf>.

enable consumers to wager on sports. AGA member-controlled websites will include geolocation mechanisms on those pages where individuals can engage in gambling, in order to screen any individuals who reside in jurisdictions that have not legalized sports wagering. User-generated content on a site or web page controlled by an AGA member will be monitored and moderated on a regular basis for compliance with the provisions of this code. Digital marketing communications will respect user privacy and comply with all applicable legal privacy requirements including those governing consent. All such messages targeting an individual recipient will be clearly identified as originating from the AGA member or otherwise attributable to the AGA member. In addition, each such message sent via email or text message will provide the option therein of opting out or unsubscribing. AGA member websites shall disclose to users – in their terms of use or other policy statements – any practices of the website that involve sharing user information with third parties unrelated to the AGA member sponsoring the site.

- **Monitoring Code Compliance** – AGA will offer biannual training opportunities for members and employees of members involved in the advertising or marketing of sports wagering services. AGA members will provide training on the provisions of this Code, including periodic refreshers and updates, to all individuals involved in the advertising or marketing of sports wagering services. AGA members will deliver a copy of this Code to advertising agencies, media buyers, and other third parties involved in the member’s advertising or marketing. AGA members shall adopt an internal review process to evaluate whether promotional and marketing messages comply with this Code, and will conduct periodic reviews of promotional and marketing messages to evaluate compliance with this Code. The commitments in this code apply to persons or entities operating in partnership with or as agents of AGA members in conducting advertising and marketing activity related to sports betting.

The AGA strongly urges the Council to ensure that any entities offering or affiliated with sports betting operations in the District are prepared to adhere to the provisions of both of these Codes.

### **Conclusion**

Sports betting has occurred nationally on a massive scale for decades in an illegal market that provides zero consumer protections or sports integrity. The result of bringing betting activity into a legal market, under regulatory oversight, will be increased transparency, game integrity and consumer protections, while supporting jobs and generating tax revenues.

In order to eradicate illegal betting and realize the benefits of legal and regulated sports betting, it is imperative to set a sound foundation for the legal market. That includes ensuring any entity running a sports wagering operation meets strict licensing and suitability standards in addition to maintaining a deep commitment to responsible gaming, commensurate with those found in Nevada and other jurisdictions that currently permit legal sports betting. Demanding strong consumer protections and regulatory oversight that permits only the highest quality entities to offer sports betting is essential to distinguish the legal marketplace from illegal operators who are not subject to the same rigorous standards.