



22 N. Carroll Street
Madison, WI 53703

January 19, 2018

Dear Senator John Bonacic and members of the Senate Committee on Racing and Wagering:

The Fantasy Sports Trade Association appreciates that this committee values input from the fantasy sports industry as the state reviews its laws regarding skill gaming and sports betting. We appreciate how your committee and the state legislature has worked with our industry to keep fantasy sports thriving for citizens of New York.

Since 1998, the FSTA has been the leading representative of the fantasy sports industry. The FSTA represents over 200 member companies, which provide fantasy sports games and software used by virtually all of the 59.3 million players in North America. The FSTA's members include such major media companies as ESPN, CBS, Yahoo!, NBC, NFL.com, NASCAR Digital Media and FOX Sports, content and data companies such as USA Today, RotoWire, Sportradar US and STATS, long-standing contest and league management companies such as Head2Head Sports and MyFantasyLeague and almost every major daily fantasy sports contest company, including FanDuel, DraftKings and FantasyDraft.

Just a little over two years ago the legality of paid fantasy sports contests were being called into question in the state of New York and across the country. Thanks to this committee's leadership the state of New York passed a law that clarifies fantasy sports are legal games of skill and established important consumer protection measures that became a turning point for the fantasy sports industry.

Since then, the our industry has seen 15 operators licensed in the state. These companies have produced more than \$20 million in revenue in New York in 2017. Our industry has contributed more than \$3 million in tax revenue to the state in that period alone.

The FSTA and our member companies were encouraged by the New York State Gaming Commission preliminary Rules and Regulations that were issued last year and the Commission's openness to working with our industry.

The FSTA does have some concerns with the proposed regulations after talking with our member companies, especially concerning costs for smaller and startup companies and for game formats that are different than daily fantasy sports (DFS).

Several of our members currently offer or are preparing to offer real-time-fantasy contests that allow for transactions while games are underway. As a result, we would ask that the Commission strike rules prohibiting games with in-game transactions. [5602.1(a)(7) and 5603.3(c).]

Many of our members are large companies with areas of their business that are very different than fantasy sports. We're concerned that the proposed regulations have cybersecurity and investigation clauses would require compliance with all areas of their business beyond fantasy sports. We would ask that the scope of these regulations be limited to the relevant fantasy sports area of a company.

Regardless of the contest type, regulations that require pre-approval of new games or changes to current games will be very problematic for our industry [as required in 5602.2]. Fantasy sports games and contests are constantly changing based on the underlying sport league schedules and rules. Fantasy sports contests also have a strong seasonality with key signup periods before the season start and any delay in approval could cause the product to not be viable for the season. We would strongly suggest

that companies instead inform the Commission of new games and changes, with the Commission able to ask for changes.

The FSTA also represents many smaller companies and startups and we're concerned about the financial burden some of these regulations will have that may limit innovation and hurt long-standing contests. We would suggest creating exemptions for smaller businesses that allow the Commission to make requests when warranted rather than require large up-front costs. Such areas of concern include Game Testing in 5609.4, Anti-money laundering 5505.8, Data Security requirements 5606.2 and Audits in 5609.1.

The FSTA has been a strong proponent of segregated funds in fantasy contest providers, but the requirement of establishing trust funds in 5605.5 may cause undo costs on smaller businesses. An approach that allows for third-party controlled escrow funds or similar methods would be more economical for smaller companies and startups.

Lastly, the regulations don't make enough distinction for different formats of paid fantasy sports contests beyond DFS. In particular, the auto-pick limitations are very problematic for contests that utilize an auction or draft rather than the salary cap structure primarily used in DFS. Many of our member companies have contests where users are able to enter selections ahead of time and used in cases where a user is knocked offline or takes too long to make a selection. An auto-pick system can be created that represents the skill of the participant and allows for such cases so that the draft or auction does not come to a halt or have a lengthy delay.

Although the fantasy sports industry would like to see these improvements in the regulations, the current law gives the industry the legal certainty it needs to grow and flourish. If the state of New York would decide to change it's laws to allow for more sports skill gaming or sports gambling products, many of our member companies would likely explore those possibilities. However, at this time our industry is thriving under the law allowing fantasy sports products and our focus is accelerating growth with the improvements to the preliminary regulations.

Sincerely,

A handwritten signature in cursive script that reads "Peter Schoenke".

Peter Schoenke
Chairman, Fantasy Sports Trade Association