



October 23, 2023

Sent via email to dor_gaming_rulemaking@state.co.us
Division of Gaming
Colorado Department of Revenue

RE: Fantasy Contest Stakeholder Rulemaking Notification

Dear Division of Gaming:

In response to the proposed rules (“Rules”) related to Colorado’s Fantasy Contests Act (“Act”) identified in the October 12, 2023 email titled, “Fantasy Contest Stakeholder Rulemaking Notification,” DK Crown Holdings Inc. (“DraftKings”) submits the following comments to the Division of Gaming, Department of Revenue (“Division”) for consideration. As a leading Daily Fantasy Sports (“DFS”) provider in the United States, including in Colorado, DraftKings has first-hand experience with interactive fantasy sports regulatory frameworks, and submits these comments based on its operational knowledge in multiple regulated jurisdictions.

Rule 1.3 Authorized Fantasy Contests

Proposed Rule Language:

1.3 AUTHORIZED FANTASY CONTESTS:

*FANTASY CONTESTS OFFERED PURSUANT TO PART 16, ARTICLE 30 OF TITLE 44, C.R.S., SHALL COMPLY WITH **ALL OF THE FOLLOWING REQUIREMENTS RESTRICTIONS:***

- (1) FANTASY CONTESTS MUST REQUIRE AN ENTRY FEE, OFFER A PRIZE(S) TO THE PATRON(S), AND HAVE THE WINNING OUTCOME BASED ON THE UTILIZATION OF STATISTICS FROM MULTIPLE ATHLETES.*
- (2) FANTASY CONTESTS SHALL **ONLY** INCLUDE CONTESTS WHERE PATRONS COMPETE AGAINST OTHER PATRONS. **ANY** CONTESTS ~~THAT INCLUDE PARLAY STYLE WAGERS THAT ARE STACKED WAGERS ON SINGLE ATHLETES~~ AGAINST FANTASY CONTEST PROVIDERS SHALL BE PROHIBITED.*
- (3) FANTASY CONTESTS BASED ON PROPOSITION STYLE PICKS WHERE A PATRON SELECTS INDIVIDUAL ATHLETES, SPECIFIC POSITIONS ON A TEAM, OR A COMBINATION OF ATHLETES TO OUTPERFORM OR UNDERPERFORM A PREDETERMINED FANTASY POINT SCORE OR OTHER INDIVIDUAL ATHLETE(S), POSITION(S), OR COMBINATION OF ATHLETES MUST INCLUDE THE FOLLOWING:*
 - (A) THE SELECTION OF A MINIMUM OF TWO ATHLETES OR POSITIONS, OR THE UTILIZATION OF STATISTICS FROM A MINIMUM OF TWO ADDITIONAL ATHLETES OR POSITIONS.*



(B) THE ATHLETES OR POSITIONS SELECTED MUST BE FROM AT LEAST TWO DIFFERENT TEAMS.

(C) THE OUTCOME OF THE CONTESTS MUST BE BASED ON THE ACCUMULATION OF FANTASY POINTS FROM ALL ATHLETES OR POSITIONS SELECTED.

(4) FANTASY CONTESTS MAY BE OF ANY DURATION BUT MUST SPECIFY A BEGINNING AND END.

(5) FANTASY CONTESTS THAT ARE FREE TO ALL PARTICIPANTS AND DO NOT REQUIRE AN ENTRY FEE ARE NOT REGULATED AS FANTASY CONTESTS.

Reason for Change:

DraftKings respectfully requests the language of section 1.3 be clarified to ensure fantasy contest operators understand the requirements for authorized fantasy contests. The proposed amendments align with C.R.S. 44-30-1603(4)(b), C.R.S. 44-30-1607(1)(a) and C.R.S. 44-30-1603(5), among other sections of the Act, and would specifically clarify that an authorized fantasy contest must comply with all of the requirements found in 1.3(1)-(5) and that authorized fantasy contests must have patrons competing against other patrons, and a contest where a patron competes directly against a fantasy contest provider is prohibited.

Alternative Proposed Rule Language:

1.3 AUTHORIZED FANTASY CONTESTS:

FANTASY CONTESTS OFFERED PURSUANT TO PART 16, ARTICLE 30 OF TITLE 44, C.R.S., SHALL COMPLY WITH ALL OF THE FOLLOWING REQUIREMENTS RESTRICTIONS:

(1) FANTASY CONTESTS MUST REQUIRE AN ENTRY FEE, OFFER A PRIZE(S) TO THE PATRON(S), AND HAVE THE WINNING OUTCOME BASED ON THE UTILIZATION OF STATISTICS FROM MULTIPLE ATHLETES.

(2) FANTASY CONTESTS SHALL INCLUDE CONTESTS WHERE PATRONS COMPETE AGAINST OTHER PATRONS. CONTESTS THAT INCLUDE PARLAY STYLE WAGERS THAT ARE STACKED WAGERS ON SINGLE ATHLETES AGAINST FANTASY CONTEST PROVIDERS SHALL BE PROHIBITED.

(3) FANTASY CONTESTS BASED ON PROPOSITION STYLE PICKS WHERE A PATRON SELECTS INDIVIDUAL ATHLETES, SPECIFIC POSITIONS ON A TEAM, OR A COMBINATION OF ATHLETES TO OUTPERFORM OR UNDERPERFORM A PREDETERMINED FANTASY POINT SCORE OR OTHER INDIVIDUAL ATHLETE(S), POSITION(S), OR COMBINATION OF ATHLETES MUST INCLUDE THE FOLLOWING:

(A) THE SELECTION OF A MINIMUM OF TWO ATHLETES OR POSITIONS, OR THE UTILIZATION OF STATISTICS FROM A MINIMUM OF TWO ADDITIONAL ATHLETES OR POSITIONS.



(B) THE ATHLETES OR POSITIONS SELECTED MUST BE FROM AT LEAST TWO DIFFERENT TEAMS.

(C) THE OUTCOME OF THE CONTESTS MUST BE BASED ON THE ACCUMULATION OF FANTASY POINTS FROM ALL ATHLETES OR POSITIONS SELECTED.

(D) PATRONS COMPETE ONLY AGAINST OTHER PATRONS.

(4) FANTASY CONTESTS MAY BE OF ANY DURATION BUT MUST SPECIFY A BEGINNING AND END.

(5) FANTASY CONTESTS THAT ARE FREE TO ALL PARTICIPANTS AND DO NOT REQUIRE AN ENTRY FEE ARE NOT REGULATED AS FANTASY CONTESTS.

Reason for Change:

If the Division does not make the proposed changes above to Rule 1.3(2), DraftKings respectfully requests adding an additional sub-requirement to Rule 1.3(3) that makes it expressly clear that fantasy contests based on proposition style picks must be peer-to-peer, for similar rationale to our proposed comment to Rule 1.3(2). This language aligns with the Division's most recent draft of its fantasy contests rules, particularly Rule 1.3.

Rule 3.2 Discovery of Violations

Proposed Rule Language:

FANTASY CONTEST PROVIDERS MUST NOTIFY THE DIVISION WITHIN SEVENTY-TWO (72) HOURS OF THE TIME ANY VIOLATION OR SUSPECTED VIOLATION WAS DISCOVERED ~~OR SHOULD HAVE BEEN DISCOVERED~~ OF PART 16, ARTICLE 30, OF TITLE 44, C.R.S., OR THE RULES AND REGULATIONS PROMULGATED THEREUNDER, SECURITY BREACHES, UNINTENDED DISCLOSURE OF PATRON'S PERSONAL INFORMATION, SUSPICIOUS ACTIVITY, OR ANY OTHER CRIMINAL VIOLATION.

Reason for Change:

DraftKings respectfully requests removing the requirement of notification for violations or suspected violations that should have been discovered within 72 hours. This standard is burdensome for operators and creates subjective compliance requirements. Instead, we respectfully request the standard be within 72 hours of discovery of a violation or suspected violation to ensure all parties are operating with clear compliance guidelines.

Rule 3.7 Advertising

Proposed Rule Language:



A FANTASY CONTEST PROVIDER SHALL NOT ALLOW, CONDUCT, OR PARTICIPATE IN ANY FALSE OR MISLEADING ADVERTISING CONCERNING ITS OPERATIONS. (1) IN ADDITION, ALL OFFERS AND BONUSES MUST:

(C) NOT BE DESCRIBED AS FREE UNLESS THEY ABSOLUTELY ARE FREE. IF THE CUSTOMER HAS TO RISK OR LOSE THEIR OWN MONEY OR HAS CONDITIONS ATTACHED TO THEIR OWN MONEY, THEN THE OFFER OR BONUS MUST DISCLOSE THOSE TERMS;

Reason for Clarification:

DraftKings respectfully requests clarification to the above proposed rule to better understand a fantasy contest provider’s obligations. Specifically, would the proposed rules prohibit all use of the word “free,” or only permit the use of the word “free” if all terms are sufficiently disclosed.

Rule 5.1 Display of the Responsible Gaming Logo

Proposed Rule Language:

5.1 DISPLAY OF RESPONSIBLE GAMING LOGO.

EACH FANTASY CONTEST PROVIDER'S WEBSITE OR MOBILE APPLICATION SHALL DISPLAY A RESPONSIBLE GAMING LOGO IN A MANNER APPROVED BY THE DIRECTOR TO DIRECT A PATRON TO THE OPERATOR'S RESPONSIBLE GAMING WEBPAGE. THE RESPONSIBLE GAMING WEBPAGE SHALL BE ACCESSIBLE TO A PATRON THROUGHOUT A PATRON SESSION AND SHALL CONTAIN, AT A MINIMUM, THE FOLLOWING:

(2) A DIRECT LINK TO A WEBSITE AND OTHER REPUTABLE INTERNET RESOURCES DEDICATED TO HELPING PEOPLE WITH POTENTIAL GAMBLING PROBLEMS; AND,

Reason for Clarification:

DraftKings respectfully requests clarification on the “website” referenced in this requirement. We understand and agree with the intent of the regulation but want to be clear whether this is expected to link to a Colorado- or Division of Gaming-specific website, or a fantasy contest operator’s website hosting compulsive play resources. Our preference would be to have Colorado-specific/required language displayed on the DraftKings responsible gaming page. An example of how that has worked for other jurisdictions can be seen below.



The screenshot shows the DraftKings website header with navigation links: DAILY FANTASY, SPORTSBOOK, CASINO, MARKETPLACE, REIGNMAKERS, and DK SHOP. Below the header is a menu with links: Lobby, Lineups, Contests, Leagues, Pools, Social, Rewards, Promos, and a LOGIN | SIGN UP button. The main content area features a white box with the following text:

If you are in Pennsylvania, please see Pennsylvania specific responsible gaming resources below:

- For information on PA self-exclusion and treatment information, click [HERE](#).
- Pennsylvania Department of Drug and Alcohol Programs' gambling disorder treatment provider [LIST](#).
- Council on Compulsive Gambling of Pennsylvania click [HERE](#).
- National Council on Problem Gambling click [HERE](#).
- Gambler's Anonymous of Pennsylvania click [HERE](#).
- PGCB's Office of Compulsive and Problem Gambling click [HERE](#).
- PA or National Suicide prevention number and link- 1-800-273-TALK(8255) click [HERE](#).
- PGCB Signs, Rules, and Myths on Problem Gambling [HERE](#).
- GAM-ANON [HERE](#).
- PA Self-Exclusion Enrollment [HERE](#).

If you are in Arizona, please see Arizona specific responsible gaming resources below:

- If you have a gambling problem, help is available from the toll-free Arizona statewide helpline at 1-800-NEXT STEP or TEXT NEXT-STEP to 53342.
- You may also visit <https://problemgambling.az.gov/>.

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Thank you for your consideration of DraftKings' comments regarding the Division's Rules related to the Act. Please feel free to reach out should you have any questions about our submission.

Sincerely,

DK Crown Holdings Inc.