CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Ohio Casino Control Commission ("Commission")

Regulation/Package Title: Ohio Adm. Code 3772-10, -11, -13, and -14

Rule Number(s): 3772-10-22 (amendment); 3772-10-29 (rescind); 3772-11-01 (amendment); 3772-11-11 (amendment); 3772-11-18 (rescind); 3772-11-21 (amendment); 3772-11-25 (amendment); 3772-11-35 (amendment); 3772-11-42 (rescind); 3772-11-43 (rescind); 3772-13-01 (amendment); 3772-13-02 (amendment); 3772-13-03 (amendment); 3772-14-01 (new); 3772-14-02 (new); 3772-14-03 (new)

Date: February 27, 2019

Rule Type:

X New

X Amended

□ 5-Year Review

X Rescinded

The Common Sense Initiative was established by Executive Order 2011-01K and placed within the Office of the Lieutenant Governor. Under the CSI Initiative, agencies should balance the critical objectives of all regulations with the costs of compliance by the regulated parties. Agencies should promote transparency, consistency, predictability, and flexibility in regulatory activities. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

Regulatory Intent

1. **Please briefly describe the draft regulation in plain language.**
   Please include the key provisions of the regulation as well as any proposed amendments.

The amendments contained within this package relate directly to the introduction of the new umbrella term "player against player contests," which encompasses poker, poker tournaments, table games tournaments, and slot tournaments – wherein the only stake the casino operator has is a rake, which includes commissions and entry fees. Because of this new designation, the amendments seek to distinguish three separate items that require different levels of regulatory scrutiny: advertisements, promotions, and player against player contests. Of those three, player against player contests merit the most regulatory scrutiny but, by their very nature, still generally require less than standard table game or slot machine play. One additional consistent change, a

reflection of present practice, is codifying the Executive Director's approval authority throughout the rules, given that role's responsibility to administer casino gaming pursuant to R.C. 3772.06. This will allow for day-to-day casino operations to generally be more dynamic, without sacrificing regulatory oversight.

- **3772-10-22 (amendment)** – titled "Tips and gratuities." This rule prescribes procedures for how casino operators handle tips and gratuities. The amendment is intended to provide consistency with the new concept of player against player contests. Under this concept, poker is generally coupled with tournaments. Thus, the only amendment to this rule replaces the term poker with player against player contests, allowing for separate tips and gratuity procedures in the casino operators' internal controls for all those events.

- **3772-10-29 (rescind)** – titled "Slot machine tournaments." Presently, this rule governs casino operators' conduct when running slot machine tournaments. Subject to the proffered amendments, this rule would be rescinded, and the new governing structure appears in the player against player contest rules found in Ohio Adm.Code Chapter 3772-14.

- **3772-11-01 (amendment)** – titled "Definitions." Presently, this rule defines certain table game-related terms, applicable throughout the rules adopted by the Commission. The amendments move terms and definitions related to "promotions" to Ohio Adm.Code 3772-13-01 and specify that the Executive Director is delegated the authority to determine what a table game mechanism is, for the reasons noted above. Other amendments are largely intended to clarify and streamline rule language to align with rest of the amendments contained herein related to player against player contests.

- **3772-11-11 (amendment)** – titled "Chip specifications." The amendments to this rule are designed to streamline language and ensure that all chips, value and non-value, used by casino operators meet the same casino facility identification specifications and are designed to prevent counterfeiting. The purpose of the rule is to specify the shape, size, and markings of all chips used in casino gaming.

- **3772-11-18 (rescind)** – titled "Tournament chips and tournaments." This rule, currently governing tournament procedures and chips, would be rescinded. Subject to the proffered amendments, this rule would be rescinded, and the new governing structure appears in the player against player contest rules found in Ohio Adm.Code Chapter 3772-14.

- **3772-11-21 (amendment)** – titled "Dice and card receipt, storage, and use." This rule prescribes the responsibilities of casino operators, and the appropriate procedures for the receipt, storage, and use of Commission-approved dice and cards. The only amendment would eliminate the requirement that casino operators change poker cards at least every thirty days. Other regulatory requirements, including the prohibition of use of flawed, tampered, or otherwise defective cards already ensure that risk is mitigated. The purpose of this amendment is to remove an arbitrary and sometimes wasteful mandate on casino operators; however, casino operators will still be required to have internal control procedures for changing out cards.

- **3772-11-25 (amendment)** – titled "Patron exchanges." This rule governs patron exchanges of cash and chips at gaming tables. The amendment to this rule would delete a clause referencing procedures related to cash exchanges at poker tables, currently in Ohio Adm.Code 3772-11-25(A)(2). Poker, and the monetary controls related to poker and all player against player contests, will be governed under the new rule scheme governing player against player contests in Ohio Adm.Code Chapter 3772-14. The nature of player against player contests, including poker, and specifically the imprest tables, mitigates the risk that this rule otherwise seeks to protect against.

- **3772-11-35 (amendment)** – titled "Table game pit areas and supervision." This rule regulates pit areas, staffing of table game supervisors, areas for full-size baccarat tables, and the separation of poker games into specified rooms or areas and the operations within. The amendments would rescind the two provisions that govern supervision of poker games and poker rooms. These two provisions are rearticulated under the new rule scheme governing player against player contests in Ohio Adm. Code Chapter 3772-14.

- **3772-11-42 (rescind)** – titled "Poker room transactions." Presently, this rule regulates poker room transactions, including requirements regarding poker table banks and procedures for transfers and transportation of chips or cash between poker room table banks and poker room cashier's cages. Subject to the proffered amendments, this rule would be rescinded, and the new governing structure appears in the player against player contest rules found in Ohio Adm.Code Chapter 3772-14.

- **3772-11-43 (rescind)** – titled "Poker room; poker promotional fund." This rule governs how casino operators may operate a poker promotional fund. Subject to the proffered amendments, this rule would be rescinded, and the new governing structure appears in the player against player contest rules found in Ohio Adm.Code Chapter 3772-14.

- **3772-13-01 (amendment)** – titled "Definitions." This rule defines certain terms related to advertisements and promotions. The amendments largely provide terms and definitions related to promotions, previously conceptualized in the definitions concerning table games in Ohio Adm.Code 3772-11-01, and further delineate and clarify the distinctions between advertisements and promotions.

- **3772-13-02 (amendment)** – titled "Advertisements." Presently, this rule articulates the standards casino operators must meet when advertising to patrons, such as what may and may not be included in advertisements, what must be included in all casino gaming advertisements, and standards of practice for direct advertisements. The amendments to the rule are primarily stylistic edits for readability. Substantive amendments to this rule include prohibiting advertisements depicting individuals under the age of twenty-one, lessening the number of opt-out methods required to be displayed on each direct advertisement, and delegating the option to order a casino operator to cease public dissemination of an advertisement that fails to comply with the rules of this section to the Executive Director, for the reasons described above. All the amendments are intended to clarify the level of

regulatory oversight necessary for advertisements, as opposed to promotions or player against player contests.

- **3772-13-03 (amendment)** – titled "Promotions." Presently, this rule describes the requirements to which each casino operator must comply regarding promotions. Apart from formatting and stylistic edits, the amendments are intended to articulate the requirements for casino operators to have policies and procedures governing promotions, rather than the rule mandating casino operators submit such governing procedures to the Commission in their internal controls. One substantive change is that casino operators no longer must submit promotions to the Commission for approval prior to implementation. Rather, they must keep all written rules, as specified in this rule, available for Commission audit. This will allow the casino operators to operate with more flexibility while remaining subject the appropriate level of regulatory oversight for promotions, as opposed to advertisements or player against player contests.

- **3772-14-01 (new)** – titled "Player against player contests." Presently, poker, poker tournaments, table game tournaments, and slot machine tournaments are primarily governed by separate administrative rules. To better articulate the Commission's expectations and promote compliance, the appropriate level of scrutiny is best achieved by implementing one set of rules that govern all these activities. Once again, all those activities fall into the concept of player against player contests, wherein a casino operator has no stake other than a rake, which includes commissions and entry fees. This rule maintains provisions from previous rules designed as consumer protections and to help the Commission ensure the integrity of casino gaming, including requiring casino operators, except for events designated as perpetual, to record the names of all entrants, prizes awarded, and prize winners for each player against player contest. Like promotions, casino operators generally need not seek approval prior to conducting a player against player contests, if they use Commission-approved poker games, table game, or slot machines. Finally, player against player contests are not generally subject the electronic gaming equipment or table game rules (Ohio Adm.Code Chapters 3772-9 and -11), except for those specified in the rule and to the extent necessary to comply with the required use of Commission-approved equipment, unless otherwise approved by the Executive Director.

- **3772-14-02 (new)** – titled "Monetary controls for player against player contests." This new rule unifies the provisions from Ohio Adm.Code 3772-10-19, 3772-11-18, 3722-11-42, and 3772-11-43, regarding monetary controls, into one section governing all player against player contests. While intending to provide casino operators more flexibility and discretion in the business operations of such contests by removing the mandate that rules governing tournaments be included in a casino's internal controls; the rule is also designed to continue to ensure the integrity of casino gaming. This rule would sustain current rule mandates that casino operators have written procedures governing the collection of a rake and procedures for conducting transfers between all player against player contest banks and casino cages. Further the rule would still require that chips and cash be transported in a manner that allows surveillance to continuously observe their progress.

- **3772-14-03 (new)** – titled "Player against player contest progressive fund." The rule creates the option for casino operators to create a player against player progressive fund. It replaces Ohio Adm.Code 3772-11-43. While each casino operator has the discretion to create their own procedures governing progressive funds, such procedures must be approved by the Executive Director, and they must include procedures articulating how funds will be collected and counted daily as well as how funds will be recorded and held. Lastly, this rule dictates that an updated, current balance in a progressive fund must be prominently displayed to reflect the amounts collected and distributed over the previous gaming day.

2. **Please list the Ohio statute authorizing the Agency to adopt this regulation.**

   R.C. 3772.03; 3772.033.

3. **Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program?**
   If yes, please briefly explain the source and substance of the federal requirement.

   Not applicable.

4. **If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.**

   This question is not applicable to these amendments because the federal government does not regulate casino gaming in this state. Rather, casino gaming is permitted pursuant to Article XV, Section 6(C) of the Ohio Constitution and is controlled by Ohio's Casino Control Act (i.e., R.C. Chapter 3772).

5. **What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?**

   Article XV, Section 6(C) of the Ohio Constitution and R.C. Chapter 3772 require the Commission to ensure the integrity of casino gaming by prescribing rules for how casino gaming shall be conducted, including rules governing the marketing materials for casino gaming. These rules and the proposed amendments are designed to continue to effectuate this constitutional and statutory mandate by streamlining requirements for player against player contests, promotions, and advertisements based on over six years of casino gaming operations in Ohio, and by allowing for more flexibility in casinos' daily operations without sacrificing necessary regulatory oversight.

6. **How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?**

Overall, the Commission will measure the success of the amendments in terms of whether they help to ensure the integrity of casino gaming while recognizing the limited practical concerns casino operators face. This can be done in two ways: First, through evaluating whether the administrative cost of implementing and enforcing the proposed amendments outweighs their public benefit. Second, through analyzing the regulated community's comments about requests for waivers or variances from the rules once the amendments are implemented.

Development of the Regulation

7. **Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.**
If applicable, please include the date and medium by which the stakeholders were initially contacted.

Casino Operators

- Penn National Gaming, Inc. ("Penn"): Hollywood Casinos Columbus and Toledo
- JACK Entertainment, LLC ("JACK"): JACK Cincinnati and Cleveland Casinos

Casino operators were provided an opportunity to comment on the amendments via e-mail on January 18, 2019. (Exhibit 1.) Comments were requested to be submitted, in writing, by 5:00 PM on February 4. Additionally, Commission staff conducted multiple phone calls with both JACK and Penn prior to the comment deadline to answer questions and discuss the structure and intent of the amendments. Finally, stakeholders had the opportunity to comment during the Commission's public meeting on February 20, 2019.

8. **What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?**

As stated above, Commission staff participated in several phone calls with JACK and Penn prior to their submission of written comments. This package of rules and amendments was sent to stakeholders with several other unrelated amendments and the phone calls covered all of them, although most of the discussions focused primarily on the ones in this business impact analysis. After these phone calls, both JACK and Penn submitted written comments, which largely mirrored stakeholders' comments made during phone conversations. (Exhibit 2).

9. **What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?**

This question does not apply to these amendments because no scientific data was necessary to develop or measure their outcomes. Instead, Commission staff reviewed how other jurisdictions approached rules regarding poker, tournaments, advertisements, and promotions. Further, Commission staff considered past practice under the rules as presently written, whether the existing rules were the most efficient means by which to maintain the integrity of

casino gaming in this context, and whether any waivers or variances had been requested and granted to the regulated community, all with an eye on its pivot towards regulatory oversight primarily by audit rather than prospective review and approval. In so doing, the Commission was able to use, as much as possible, rules the regulated community is accustomed to within the industry, with minor adaptations to remain in compliance with Ohio law.

10. **What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives?**

    Commission staff reviewed the rules adopted in other jurisdictions and the suggestions provided by stakeholders and other members of the industry and considered any waivers or variances to existing rules that had been requested and granted. Further, after over six years of experience regulating casino gaming operations in Ohio, the rules and amendments in this package are an attempt to more narrowly tailor the regulations governing certain activities and items related to casino gaming. The amendments are a conglomeration of the rules used in other jurisdictions with adaptations made for Ohio and are, in some cases, the result of discussions between Commission staff and the regulated community, including reflections of existing waivers or present practice.

11. **Did the Agency specifically consider a performance-based regulation? Please explain.** ***Performance-based regulations define the required outcome, but don't dictate the process the regulated stakeholders must use to achieve compliance.***

    These rules largely include a performance-based component wherein they set the floor for compliance but do not completely dictate how the casino operators are supposed to achieve compliance. Additionally, Ohio Adm. Code 3772-1-04 allows stakeholders to seek waivers and variances from these rules, which the Commission will evaluate on a case-by-case basis and may grant if it determines that doing so is in the public's best interest. Past performance of a casino may be considered in determining whether a request for exemption under these rules or a waiver from any specific provisions of these rules should be granted. As the Commission slightly pivots to regulatory oversight primarily by audit rather than prospective review and approval, the casinos receive an opportunity to have more control in the development of the items governed by these rules, even as the Commission upholds its responsibility to ensure the integrity of casino gaming.

12. **What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?**

    This question does not apply to these amendments because no other regulations in these areas currently exist with respect to casino gaming in this state, over which the Commission has sole authority.

13. Please describe the Agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.

At each casino facility, there are gaming agents and financial auditors observing, evaluating, and investigating the operations. In addition, the Commission's Regulatory Compliance personnel conduct regular audits to ensure compliance with Ohio law. Any issues that arise will be funneled to the Commission's central office in Columbus, Ohio, where the Executive Director and the division directors can coordinate a consistent response and conduct outreach to the regulated community.

Adverse Impact to Business

14. Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:

a. **Identify the scope of the impacted business community;**

The casino operators and management companies (described above in response to Question 7) are the impacted business community with respect to these rules and amendments.

b. Identify the nature of the adverse impact (e.g., license fees, fines, employer time for compliance); and

The nature of the potential adverse impact from the amendments include fines for noncompliance, costs for employee time and payroll for, among other things, developing internal control procedures, training, and sending notifications and reports to the Commission, as well as the potential for other monetary costs to the casino operators, as described more fully below.

c. Quantify the expected adverse impact from the regulation.
The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a "representative business." Please include the source for your information/estimated impact.

Each casino operator in Ohio already operates a poker room, holds slot machine and table game tournaments and has various advertisements and promotions in its name. The main purpose of these amendments is to combine and reorganize existing activities and their regulations into a better system that more accurately reflects the appropriate level of scrutiny that each item merits. Among these amendments, significant regulatory burdens have been eliminated or reduced but very few new responsibilities were proposed.

As noted above, one consistent change throughout the amendments, which is also a reflection of present practice, is codifying the Executive Director's approval authority

throughout the rules, given that role's responsibility to administer casino gaming pursuant to R.C. 3772.06. The Commission anticipates this to have a positive impact on business because it will allow for day-to-day casino operations to generally be more dynamic, without sacrificing regulatory oversight.

- **Ohio Adm.Code 3772-10-22 (amendment), "Tips and gratuities."** This rule governs tips and gratuities at casinos. Given the changes made regarding poker and tournaments in this rule package, the only amendment to this rule is to expand the exception to the requirement that all tips and gratuities be distributed pro rata. Previously, the exception only applied to poker and the amendment expands this to all player against player contests. The provision is permissive does not require separate procedures. The Commission does not anticipate an adverse impact.

- **Ohio Adm.Code 3772-10-29 (rescind), "Slot machine tournaments."** This rule governs slot machine tournaments. The substance of this rule has been moved to and amended in Ohio Adm.Code 3772-14-01, -02, and -03 in the context of player against player contests, as more thoroughly discussed below. The Commission does not anticipate an adverse impact.

- **Ohio Adm.Code Chapter 3772-11, "Table Games."** This Chapter currently governs all table games, including poker and tournaments. However, after working with the regulated community, the Commission determined that poker and casino game tournaments were sufficiently different to justify slightly different regulations. Thus, the Commission created a new chapter to govern poker games and tournaments, Chapter 3772-14. As such, the Commission is amending or rescinding many of the rules in Chapter 3772-11 of the Administrative Code.

    - **Ohio Adm.Code 3772-11-01 (amendment), "Definitions."** This rule currently defines certain table game-related terms. The amendments to this rule pull promotional-related definitions from this rule and replaces them a definition of "promotion" in rule 3772-13-01 of the Adm.Code for greater consistency, as discussed below. The amendments also effectuate the move to regulating tournaments and poker as player against player contests by removing certain references to those items contained in these definitions. Therefore, the Commission does not anticipate an adverse business impact.

    - **Ohio Adm.Code 3772-11-11 (amendment), "Chip specifications."** This rule specifies how chips are to be printed. The rule is designed to prevent counterfeiting and allow for the quick identification of all chips at the casino facilities. The amendments to this rule largely streamline the language used between different types of chips. Therefore, the Commission does not anticipate an adverse impact.

- **Ohio Adm.Code 3772-11-18 (rescind), "Tournament chips and tournaments."** This rule governs table game tournaments. The substance of this rule has been moved to and amended in Ohio Adm.Code 3772-14-01, -02, and -03 in the context of player against player contests, as more thoroughly discussed below. The Commission does not anticipate an adverse impact.

- **Ohio Adm.Code 3772-11-21 (amendment), "Dice and card receipt, storage, and use."** This rule governs the receipt, storage, and use of dice and cards. The rule is being amended to allow casino operators to keep poker cards in use for longer than thirty days, if the cards' integrity is still intact. Given this, the Commission anticipates a positive business impact.

- **Ohio Adm.Code 3772-11-25 (amendment), "Patron exchanges."** This rule governs patron exchanges of cash and chips at a gaming table. The portion of the rule relating to poker is being removed. Instead, poker banks and transactions at poker tables will governed by rule 3772-14-02, discussed below. As such, the Commission does not anticipate an adverse impact.

- **Ohio Adm.Code 3772-11-35 (amendment), "Table game pit areas and supervision."** This rule governs how table game pit areas may be set up and supervised. The amendments to this rule remove requirements on pits related to poker games and table game tournaments and places them in rule 3772-14-01. As such, the Commission does not anticipate an adverse impact.

- **Ohio Adm.Code 3772-11-42 (rescind), "Poker room transactions."** This rule governs poker room transactions. The substance of this rule has been moved to and amended in Ohio Adm.Code 3772-14-01, -02, and -03 in the context of player against player contests, as more thoroughly discussed below. The Commission does not anticipate an adverse impact.

- **Ohio Adm.Code 3772-11-43 (rescind), "Poker room; poker promotional fund."** This rule governs the poker promotional fund. The substance of this rule has been moved to and amended in Ohio Adm.Code 3772-14-01, -02, and -03 in the context of player against player contests, as more thoroughly discussed below. The Commission does not anticipate an adverse impact.

- **Ohio Adm.Code 3772-13-01 (amendment), "Definitions."** This rule defines certain terms related to advertisements and promotions. A definition of "promotions" was created, which drew from definitions previously in Ohio Adm.Code 3772-11-01. This definition and the removal of a provision that previously declared promotional activities to be "advertisements" for purposes of Ohio Adm.Code 3772-13 combine to achieve the clear distinction between the two that the Commission intends with these amendments. The only written feedback that Penn submitted was related to the definition of promotion and the language of the rule, as it is currently written and summitted with this business impact analysis, evolved from the original version submitted to stakeholders almost entirely based on that feedback. Although the language differs from that suggested by Penn, the Commission intends for it to have the same effect. As discussed more thoroughly below, advertisements and promotions are now subject to separate regulations that are appropriately tailored to the nature of each item.

- **Ohio Adm.Code 3772-13-02 (amendment), "Advertisements."** This rule governs casino advertisements. Nearly all the amendments to the language are intended to clarify and more accurately represent present practice. Previously, the Commission interpreted the rule to require Commission-approval of any advertisement prior to publication or dissemination. However, with this amendment, casino operators will still need to provide a copy of all advertisements to the Commission at least five days prior to public dissemination but they will no longer need to obtain prior approval. This is in line with the Commission's pivot to regulatory oversight primarily by audit. Casinos will be able to have more flexibility in developing their advertisements as long as they do so in compliance with the rule. They will no longer need to worry about submission in anticipation of an arbitrary deadline in order to obtain Commission approval prior to a planned publication. The Commission does not anticipate an adverse impact and, in fact, expects the amendments to have a positive impact on casino gaming operations.

- **Ohio Adm.Code 3772-13-03 (amendment), "Promotions."** This rule governs promotions that casino operators may offer. Like the amendments to Ohio Adm.Code 3772-13-02, nearly all the changes are merely to clarify and streamline language. As noted above, promotions are presently considered to be "advertisements" and are subject to all rules governing both promotions and advertisements. These amendments are intended to distinguish the two items; promotions are no longer also subject to rules governing advertisements. Additionally, casino operators no longer need to obtain Commission-approval of promotions prior to implementation, in line with the other amendments discussed in this rule package. And because the Commission pivoted to regulatory oversight primarily by audit in this area, casino operators do not even have to submit a copy prior to implementation. Finally, casino operators are no longer required to maintain internal controls governing promotions, which must

be approved by the Commission. Rather, they need only establish policies and procedures governing promotions, which do not need Commission-approval either. JACK's written comments suggested using the term "criteria for entry" instead of "criteria for eligibility." However, the Commission views this as a distinction without a difference and assured JACK that this rule never has and never will require them to publicly disseminate confidential or trade-secret information to achieve compliance. Given the significant reduction in regulations governing promotions, the Commission does not anticipate an adverse impact on business.

- **Chapter 3772-14**, titled "Player Against Player Contests." This new regulatory structure is borne out of input previously received from the regulated community. This new structure is unlikely to have a negative impact on the regulated community, as many of the regulations proffered are currently in effect.

    - **Ohio Adm.Code 3772-14-01 (new), "Player against player contests."** This rule defines player against player contests and spells out the base requirements for a casino operator seeking to offer player against player contests. While these base requirements generally mirror the current requirements applicable to tournaments and poker, notification requirements were reduced for tournaments. Casino operators now only need to receive approval of a type of tournament and then they can continue to run that type of tournament without subsequent Commission approval. This rule then disclaims the portions of Chapters 3772-9 (slot machines) and 3772-11 (table games) of the Administrative Code that do not apply to player against player contests. Given the reduction of regulatory burden on these activities, the Commission does not anticipate an adverse impact.

    - **Ohio Adm.Code 3772-14-02 (new), "Monetary controls for player against player contests."** This rule governs the procedures related to monetary transactions at player against player contests. While this rule generally mirrors the casino operators' current requirements with regards to tournaments and poker, this rule does grant casino operators greater flexibility with respect to their monetary controls governing poker games. As such, the Commission does not anticipate an adverse impact.

    - **Ohio Adm.Code 3772-14-03 (new), "Player against player contest progressive fund."** This rule governs the player against player contest progressive fund. This fund is currently called the poker promotional fund and is subject to the same requirements listed in this rule. Therefore, the Commission does not anticipate an adverse impact.

15. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?

The amendments in this package are primarily to combine and adjust the rules governing poker and tournaments, collectively known as player against player contests, and to create clear distinction and regulatory expectation for three separate items: advertisements, promotions, and player against player contests. Put simply, all the changes should clarify expectations, tailor regulatory responsibilities, and eliminate unnecessary burdens.

Additionally, the regulatory intent justifies any adverse impact because Article XV, Section 6(C) of the Ohio Constitution and R.C. Chapter 3772 require the Commission to ensure the integrity of casino gaming, a highly regulated industry. Unregulated gaming poses a threat to the public welfare and raises the potential for fraud or abuse. To ameliorate these threats, the Commission, like other gaming regulatory bodies, is using its regulatory authority to establish a best practice framework for the regulated community.

Regulatory Flexibility

16. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.

Yes (indirectly), though it is unlikely this will be necessary since these regulations only impact the casinos, none of which likely constitute a small business. Further, these rules and amendments indirectly provide exemption or alternative means of compliance through Ohio Adm. Code 3772-1-04, which permits the Commission, upon written request, to grant waivers and variances from the rules adopted under R.C. Chapter 3772, including these rules, if doing so is in the best interest of the public and will maintain the integrity of casino gaming in the State of Ohio.

17. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?

Though it is unlikely R.C. 119.14 will apply to these rules and amendments because the rules only impact the casinos, none of which likely constitute a small business, the Commission will adhere to the statutory requirements thereunder, if applicable.

To the extent R.C. 119.14 would apply to a violation of these rules and amendments, the Commission will provide verbal and written notification to the small business to correct the paperwork violation. Thereafter, the Commission would allow the small business a reasonable time to correct the violation. The Commission and its staff would also offer any additional assistance necessary to aid in remediation of the violation. No further action would be taken unless the small business fails to remedy the violation within the reasonable time allotted by the Commission.

18. What resources are available to assist small businesses with compliance of the regulation?

The Commission and its staff are dedicated to working with members of the regulated community and the public to effectively and efficiently regulate casino gaming in this state. As a result, the following resources are available:

- Commission's mailing address:
  100 E. Broad Street, 20th Floor
  Columbus, OH 43215

- Commission's toll-free telephone number: (855) 800-0058

- Commission's fax number: (614) 485-1007

- Commission's website: http://www.casinocontrol.ohio.gov/

- Commission's email: info@casinocontrol.ohio.gov

Also, all members of the regulated community may, in accordance with rule 3772-2-04, request to address the Commission during a public meeting. Finally, all members of the regulated community may, pursuant to rule 3772-1-04, request waivers and variances from Commission regulations.

EXHIBIT 1

Siba, Michelle

From: Siba, Michelle
Sent: Friday, January 18, 2019 3:10 PM
To: 'Porter, Samuel'; Mackin, Lynne; McGrady, Jessica; 'Cynthia Hays'; Lisa Powers; Robert Wamsley
Cc: Donahue, Craig; Fleenor, Chris
Subject: Proposed Rule Changes: Ohio Adm. Code 3772-13, -14, and -19
Attachments: 3772-19 5YR.pdf; 3772-13.pdf; 3772-14.pdf

Good afternoon everyone,

Attached you will find three packets of proposed rule changes. The first contains all of Ohio Adm. Code 3772-19, which governs surveillance. All of these changes are pursuant to the Commission's statutory duty to review its rules at least once every five years. The other two, titled Ohio Adm. Code 3772-13 (amendments) and 3772-14 (new rules) contain several changes related to the regulation of advertisements, promotions, and player against player contests (which include poker, poker tournaments, table game tournaments, and slot tournaments). Please share these with your teams.

We understand that there may be questions regarding these changes after you have taken some time to read, review, and discuss them; please do not hesitate to call Craig Donahue (614387-5687), Chris Fleenor (614-387-0314), or me. **If, however, you would like to provide written comments, please do so by 5:00 p.m. on February 4.**

Thank you all.

Michelle

Michelle Siba
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Ohio Casino Control Commission
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Michelle.Siba@casinocontrol.ohio.gov

Cox, William

EXHIBIT 2

From: Cynthia Hays <CynthiaHays@jackentertainment.com>
Sent: Monday, February 04, 2019 2:25 PM
To: Siba, Michelle
Cc: Donahue, Craig; Fleenor, Chris; Lisa Powers; Robert Wamsley; Dan Reinhard
Subject: RE: Proposed Rule Changes: Ohio Adm. Code 3772-13, -14, and -19

Good afternoon Michelle.

Thank you to you, Craig, and Chris for taking time to talk with us last week to answer questions and provide some clarifications on the proposed rule changes.
After those discussions, we really only have a couple of remaining comments/requests. Please see the items below.

Comment re Promotional Rules Draft

A new requirement, "criteria for eligibility" was introduced into OAC 3772-13-03 in the section covering written, dated, and public-facing promotional rules. After discussing with you last week, we wanted to make sure that we are on the same page with the interpretation of "eligibility" when it comes to the public facing rules. As we discussed, we all agreed that we "eligibility" for these purposes to be, for example, "invited ClubJACK members". Our concern, however, is that the "criteria for eligibility" could be interpreted to be much more specific and to actually require us to include the specific criteria in the rules (e.g. specific targeted audience based on ADT, account balances, etc., i.e. "the secret marketing sauce"). We are absolutely able and willing to provide the detailed criteria for eligibility to the Commission upon request, but would like to request that the rule governing promotional rules reflect "criteria for entry" which aligns more closely to how they are drafted and how it is stated now.

Comment re Surveillance Rules Draft

In the proposed revisions, we found that OAC 3772-19-09(F) mirrors the inserted line in OAC 3772-19-09(C). We've interpreted the current rule (F) to mean that Surveillance reports may permit alteration as long as it is tracked for each person making the edit and limited to the Surveillance team. This is because there are surveillance reports that require alteration. One example is the report that is opened when the drop starts. That report is updated throughout the course of the drop with times and any incidents that may occur. Another example would be a CTR log entry. When there is research completed after the fact, those reports need to be updated to reflect the findings and provide additional detail. We want to make sure that we will still be able to update these as is our standard process so suggest a potential change to this language to be something along the following, which we believe more closely reflects the intent:

a. "Surveillance reports must be stored in a format that only permits alteration by Surveillance";
b. "Surveillance reports must be stored in a format that only permits alterations that are tracked to include name, date, and time of the edit";
c. A combination of the limitations for alteration; or
d. Removing the rule entirely because alterations may be permitted.

Please contact me if you have any questions or concerns with these items.
Thank you again for your assistance!

CYNTHIA HAYS
CORPORATE VICE PRESIDENT OF COMPLIANCE
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CYNTHIAHAYS@JACKENTERTAINMENT.COM
J·A·C·K ENTERTAINMENT
580 MONROE AVE, DETROIT, MI, 48226
WWW.JACKENTERTAINMENT.COM

From: Michelle.Siba@casinocontrol.ohio.gov [mailto:Michelle.Siba@casinocontrol.ohio.gov]
Sent: Friday, January 18, 2019 3:10 PM
To: Porter, Samuel <Samuel.Porter@pngaming.com>; Mackin, Lynne <Lynne.Mackin@pngaming.com>; McGrady, Jessica <Jessica.McGrady@pngaming.com>; Cynthia Hays <CynthiaHays@jackentertainment.com>; Lisa Powers <LisaPowers@jackentertainment.com>; Robert Wamsley <RobertWamsley@jackentertainment.com>
Cc: Craig.Donahue@casinocontrol.ohio.gov; chris.fleenor@casinocontrol.ohio.gov
Subject: Proposed Rule Changes: Ohio Adm. Code 3772-13, -14, and -19

Good afternoon everyone,

Attached you will find three packets of proposed rule changes. The first contains all of Ohio Adm. Code 3772-19, which governs surveillance. All of these changes are pursuant to the Commission's statutory duty to review its rules at least once every five years. The other two, titled Ohio Adm. Code 3772-13 (amendments) and 3772-14 (new rules) contain several changes related to the regulation of advertisements, promotions, and player against player contests (which include poker, poker tournaments, table game tournaments, and slot tournaments). Please share these with your teams.

We understand that there may be questions regarding these changes after you have taken some time to read, review, and discuss them; please do not hesitate to call Craig Donahue (614387-5687), Chris Fleenor (614-387-0314), or me. **If, however, you would like to provide written comments, please do so by 5:00 p.m. on February 4.**

Thank you all.

Michelle

Michelle Siba
Deputy General Counsel
Ohio Casino Control Commission
(614) 387-0485
Michelle.Siba@casinocontrol.ohio.gov

Siba, Michelle

From: Porter, Samuel <Samuel.Porter@pngaming.com>
Sent: Monday, February 4, 2019 5:09 PM
To: Siba, Michelle
Subject: RE: Proposed Rule Changes: Ohio Adm. Code 3772-13, -14, and -19
Attachments: PNGI Requested Changes to 3772-13-01.pdf

Michelle,

Attached please find Penn's comments to 3772-13.

Thanks,
Sam

From: Michelle.Siba@casinocontrol.ohio.gov <Michelle.Siba@casinocontrol.ohio.gov>
Sent: Friday, January 18, 2019 3:10 PM
To: Porter, Samuel <Samuel.Porter@pngaming.com>; Mackin, Lynne <Lynne.Mackin@pngaming.com>; McGrady, Jessica <Jessica.McGrady@pngaming.com>; Cynthia Hays <CynthiaHays@jackentertainment.com>; Lisa Powers <LisaPowers@jackentertainment.com>; Robert Wamsley <RobertWamsley@jackentertainment.com>
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Thank you all.

Michelle

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Ohio Casino Control Commission
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HOLLYWOOD Casino®
COLUMBUS, OH
200 Georgesville Rd ★ Columbus, OH 43228

February 4, 2019

Michelle Siba
Deputy General Counsel
Ohio Casino Control Commission
100 East Broad Street, 20th Floor
Columbus, OH 43215

Re: Hollywood Casino Columbus and Toledo Recommended Changes to OAC 3772-13

Dear Ms. Siba:

Thank you for the opportunity to respond to the Ohio Casino Control Commission's proposed amendments to OAC 3772-13. Respectfully, Hollywood Casino Columbus and Toledo would request the below changes to the proposed language on 3772-13-01 to help clarify current practices with the casinos' promotions and giveaways. The specific changes are highlighted below bold and underlined.

> "(D) "Promotional activity" means a drawing, contest, game, or similar activity in which no consideration is paid**, except from activity resulting from a casino wager if applicable,** for individuals to participate or compete for the chance to win a prize or prizes in which the casino operator has no stake **except from activity resulting from a casino wager if applicable**.
>
> "(E) "Promotional giveaway" means a gift, **prize,** or item given by a casino operator to**, or won by,** any individual meeting the casino operator's written criteria, for which the individual pays no consideration **except from entries resulting from a casino game if applicable**.

Paragraphs (D) and (E) are both accurate that promotional activities and giveaways typically don't require consideration in order for a patron to participate. However, in some of our promotions all that is required for entry is to be player/wagerer in a casino game (i.e. table games, slots or poker), where the wager could theoretically be construed as a form of consideration. For example, we have table and slot promotions where players gain entries into those promotions based on their level of play. Generally speaking, for these types of promotions, other than being a rewards card holder, placing a wager can enter the patron into the promotion contest. The added language above, "except from activity resulting from a casino wager if applicable" captures this type of wagering activity that can enter a player into a promotion.

In paragraph (E) we added the word "prize" because it's mentioned in paragraph (D) and because it's also a type of giveaway. Finally, the language, "or won by" was included because the patron can win a gift or prize that is also given by the casino.

HOLLYWOOD Casino®

COLUMBUS, OH

200 Georgesville Rd ★ Columbus, OH 43228

Thank you for your consideration to Hollywood Casino Columbus and Toledo's proposed changes.

Please let me know if you have any questions.

Sincerely,

Samuel H. Porter, III
Regional Director of Compliance
Hollywood Casino Columbus & Toledo

Siba, Michelle

From: Porter, Samuel <Samuel.Porter@pngaming.com>
Sent: Wednesday, February 6, 2019 1:43 PM
To: Siba, Michelle
Subject: RE: Proposed Rule Changes: Ohio Adm. Code 3772-13, -14, and -19

Michelle,

I was looking at the language I sent and thought the language could perhaps be more clear based on the explanation I provided for the modification.

Here is an alternative proposal if you think the change improves the language.

"(D) "Promotional activity" means a drawing, contest, game, or similar activity in which no consideration is paid**, except ~~from activity~~for consideration resulting from a casino wager if applicable,** for individuals to participate or compete for the chance to win a prize or prizes in which the casino operator has no stake **except from activity resulting from a casino wager if applicable**.

"(E) "Promotional giveaway" means a gift, **prize,** or item given by a casino operator to, **or won by,** any individual meeting the casino operator's written criteria, for which the individual pays no consideration **except ~~from entries~~for consideration resulting from a casino game if applicable**.

Thanks,
Sam

From: Michelle.Siba@casinocontrol.ohio.gov <Michelle.Siba@casinocontrol.ohio.gov>
Sent: Tuesday, February 5, 2019 8:56 AM
To: Porter, Samuel <Samuel.Porter@pngaming.com>
Subject: RE: Proposed Rule Changes: Ohio Adm. Code 3772-13, -14, and -19

Thank you Sam. I will share with the group before the language is finalized.

Michelle

From: Porter, Samuel <Samuel.Porter@pngaming.com>
Sent: Monday, February 4, 2019 5:09 PM
To: Siba, Michelle <Michelle.Siba@casinocontrol.ohio.gov>
Subject: RE: Proposed Rule Changes: Ohio Adm. Code 3772-13, -14, and -19

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Thank you all.

Michelle

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