



**SUMMARY OF RESPONSES  
TO  
SWARC SURVEY  
REGARDING  
ISSUANCE OF CLASS B-1, B-2 AND MOBILE SPORTS WAGERING LICENSES**

**Background**

At its meeting on January 19, 2022, Maryland’s Sports Wagering Application Review Commission (“**SWARC**”) authorized Taft Stettinius & Hollister LLP (“**Taft**”) to issue a Survey regarding the Issuance of Class B-1, B-2 and Mobile Sports Wagering Licenses (the “**Survey**”). The Survey was distributed by Taft to participants in the U.S. sports wagering industry. The purpose of the Survey was to solicit input from industry participants concerning matters relating to SWARC’s issuance of Class B-1 and Class B-2 Sports Wagering Facility Licenses (permitting in-person sports wagering at a physical location within the State) and Mobile Sports Wagering Licenses (permitting mobile sports wagering within the State) as authorized by Maryland’s sports wagering law (Chapter 356, Acts of 2021). The Survey was also posted on SWARC’s website. On February 18, 2022, SWARC received 11 responses to the Survey (an approximately 25% response rate).

Respondents to the Survey varied in size and experience. For purposes of assessing the tenor of responses across such a broad spectrum of respondents, we have categorized respondents into three different groups:

1. **Significant Operators (publicly-traded and operating in 8+ U.S. jurisdictions and internationally):** Four respondents
2. **Seasoned Operators (may or may not be publicly-traded and operating in less than 8 U.S. jurisdictions):** Three respondents
3. **Early-Stage Operators (new entrants to the sports wagering industry):** Four respondents

Below is a summary of the responses.

<b>No.</b>	<b>Topic</b>	<b>Response</b>
1.	<b>Should there be a minimum and maximum number of Mobile Sports Wagering Licenses?</b>	All respondents support an open market and believe SWARC should <u>not</u> artificially limit the number of mobile licenses available for issuance below the statutory limit of 60 mobile licenses. Respondents believe the number of mobile licenses issued should be determined by market demand and the quality of applicants for such licenses. Respondents also suggest that greater competition in the industry will benefit the State and provide an opportunity to attract diverse and next-generation sports wagering operators. That being said, a few respondents state that they do not believe SWARC will need to issue all 60 mobile licenses (in light of the number of mobile operators currently operating in states comparable to Maryland).



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		<p>Additionally, while not suggesting that SWARC <i>reduce</i> the total number of mobile licenses authorized by law, one Early-Stage Operator urges SWARC to consider issuing licenses on a rolling basis over time. For example, initially, SWARC could issue 25 mobile licenses and annually thereafter, depending upon need, issue additional licenses. This operator suggests that first-year priority for mobile licenses should be given to companies that have meaningful women and minority ownership and/or that operate existing gambling facilities in the State.</p> <p>If SWARC were to limit the number of licenses to a number below the statutory limit of 60 mobile licenses, an Early-Stage Operator suggests SWARC should issue at least 30 licenses and another suggests at least 47 licenses. An Early-Stage Operator suggests that the maximum number of mobile licenses available in Maryland should be <i>increased</i> from 60 to 70.</p>
2.	<p><b>If permitted by law, would you be in favor of SWARC implementing remedial measures to assist Minority and Women-Owned Businesses?</b></p>	<p>If permitted by law, all respondents favor SWARC’s implementation of remedial measures to assist minority-owned and women-owned businesses. One Significant Operator, however, cautions SWARC that implementation of remedial measures may subject SWARC to legal challenges as it is difficult to satisfy the “strict scrutiny” test required by the Constitution for implementation of such measures, and one Significant Operator emphasizes that there must be transparency in actions taken in furtherance of implementing such measures.</p> <p>Early-Stage Operators strongly support remedial measures in an effort to “level the playing field” and promote participation of minority-owned and women-owned businesses in the industry.</p>
3.	<p><b>What obstacles do you believe minorities, women, and minority- and women-owned businesses face in becoming owners of, or having a meaningful ownership interest in, sports wagering licensees? What steps do you believe the sports wagering industry could take to help</b></p>	<p>All respondents agree that there are obstacles. The three most cited obstacles are: (1) lack of access to capital; (2) lack of expertise/education; and (3) lack of mentorship and development of key relationships/networks (including access and connectivity to regulators and other key decision-makers in the industry).</p> <p>Respondents suggest the following as potential ways to attempt to overcome (or mitigate) these obstacles:</p>



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	<p><b>these groups overcome such obstacles?</b></p>	<ul style="list-style-type: none"> <li>• Provide funding assistance through grants, small loans or other means (e.g., more initiatives similar to the Small, Minority-owned and Women-owned Business Sports Wagering Assistance Fund);</li> <li>• Reduce the application and licensing fees and other financial requirements (such as required bonds or reserves) necessary to obtain sports wagering licenses;</li> <li>• Provide opportunities for experienced operators to partner with, or enter into mentoring relationships with, small, minority-owned and women-owned businesses;</li> <li>• Streamline the regulatory process by, among other things, reconsidering the necessity of certain requirements for smaller businesses (e.g., reconsidering whether smaller businesses must engage financial and legal advisors as well as a compliance officer to manage regulatory directives and conditions);</li> <li>• Increase the number of sports wagering licenses available to be awarded in Maryland;</li> <li>• Provide investment opportunities for women and minorities;</li> <li>• Provide early market access to the small, minority-owned or women-owned businesses or businesses with meaningful minority and women ownership;</li> <li>• Reduce tax rates;</li> <li>• Provide training, networking and other educational and foundational resources to less experienced applicants and increase their exposure to industry leaders and consultants through focused networking opportunities;</li> <li>• Provide access to consultants to assist prospective licensees;</li> <li>• Create Diversity Equity &amp; Inclusion (DEI) within the industry through partnerships with minority-owned and women-owned businesses, hiring focused on DEI, and making charitable contributions aimed at improving underserved communities;</li> <li>• Implement supplier diversity initiatives; and</li> <li>• Expand the definition of “Institutional Investor” to include venture capital funds (so that these funds are not subject to some of the licensing burdens).</li> </ul>
<p><b>4.</b></p>	<p><b>Do you believe that established sports wagering organizations or gaming entities (if applying for a</b></p>	<p>Generally, respondents believe that established sports wagering organizations or gaming entities would be willing to seek investors in the entity applying for a Class B-1, B-2 or mobile license from minority and women investors and assist such investors in financing the acquisition</p>



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	<p><b>Class B-1, B-2 or mobile license) would be willing to seek investors in the entity applying for a Class B-1, B-2 or mobile license from minority and women investors and assist such investors in financing the acquisition of ownership interests in such entity by minority and women investors?</b></p>	<p>of ownership interests in such entity by minority and women investors. Some Early-Stage Operators suggest that established sports wagering organizations must be incentivized to seek minority and women investors, with one Early-Stage Operator suggesting that providing income tax credits to businesses based upon their level of minority and women ownership could be such an incentive.</p> <p>Some Significant Operators note that as publicly-traded entities, minorities and women have significant opportunities to participate in their ownership and that they hope to contribute to diversification in the industry through means other than ownership. For example, such Significant Operators suggest the following as ways to increase diversity in the industry:</p> <ul style="list-style-type: none"> <li>• implement DEI hiring initiatives;</li> <li>• create scholarship and internship programs at local colleges and universities to engage interested parties earlier in their careers; and</li> <li>• increase partnerships with, and utilization of, minority-owned and women-owned businesses.</li> </ul>
<p><b>5.</b></p>	<p><b>If a sports wagering facility license (whether Class B-1 or B-2) or mobile license were awarded to a minority- or women-owned entity, do you believe that established sports wagering organizations would be willing to enter into a partnership/joint venture with such entity in which the established sports wagering organization provides financing and/or operating expertise in exchange for a revenue sharing arrangement?</b></p>	<p>All respondents state that established sports wagering organizations would likely be willing to enter into a partnership/joint venture arrangements with minority-owned or women-owned businesses in which the established sports wagering organization provides financing and/or operating expertise in exchange for a revenue sharing arrangement. Although one Significant Operator notes that it has already entered into such an arrangement, many respondents emphasize that the sports wagering industry is a highly competitive industry and, therefore, these arrangements must make sound business sense for both parties if they are to become a meaningful element within the industry. A potential solution to this, offered by two Early-Stage Operators, is to offer incentives to established operators or minority-owned and women-owned applicants to encourage partnerships, joint ventures, and other such multi-party relationships within the industry.</p>



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<u>No.</u>	<u>Topic</u>	<u>Response</u>
6.	<b>What type of marketing affiliations do you believe that mobile licensees in the State would be interested in establishing?</b>	<p>Respondents expect the following marketing affiliations to develop:</p> <ul style="list-style-type: none"> <li>• Marketing affiliations with major sports franchises, sporting venues and former athletes as well as with restaurant chains and individual local celebrities;</li> <li>• Marketing partnerships with local media groups across various marketing mediums and channels for advertising and promotional opportunities;</li> <li>• Associations with local colleges and universities and businesses in the entertainment, foodservice, and retail industries; and</li> <li>• Partnerships with local entities to fulfill the important goals of perpetuating brand awareness making a positive impact on the community, strong social media affiliates that include revenue share agreements, paid sponsorships and/or collaborative promotional offerings.</li> </ul> <p>Additionally, one Early-Stage Operator suggests Maryland adopt an “open” structure for marketing purposes to allow market entrants to decide which affiliations make economic sense for their circumstances.</p>
7.	<b>Any other feedback?</b>	<ul style="list-style-type: none"> <li>• SWARC should focus less on minority/women ownership and operation of a sports wagering platform (due to the significant hurdles and risks of operating a sports wagering business) and instead take into account other considerations such as programs related to charitable efforts, DEI efforts in hiring and business utilization, and other efforts.</li> <li>• Regulators should consider creating a reporting tool that tracks and measures the economic impact of deploying licenses in communities of color.</li> <li>• SWARC should release and distribute announcements, solicitations for licenses, etc. through national and local groups such as National Minority Supplier Development Council, Women’s Business Enterprise National Council, Capital Region Minority Supplier Development Council and other similar organizations.</li> <li>• SWARC should consider granting diverse applicants for mobile licenses early access to the market, providing these applicants a “first-mover” advantage.</li> </ul>



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		<ul style="list-style-type: none"><li>• In establishing its regulatory and licensing framework, SWARC should consider the fact that the sports betting market is highly volatile and requires an extraordinary amount of capital, experience and ability to mitigate risk.</li><li>• Maryland may face significant legal barriers in requiring minority and women equity ownership of sports wagering operators or providing specific advantages to minority-owned or women-owned businesses.</li><li>• Two Early-Stage Applicants and one Significant Operator suggest that SWARC establish a unified launch/start date for mobile licensees to ensure that all licensees are placed on equal footing.</li><li>• SWARC should provide a clear roadmap with timelines and expectations for the awarding of mobile licenses so that operators can allocate appropriate resources to Maryland.</li><li>• SWARC should consider adopting a mentorship-protégé program such as exists in government contracting whereby established operators are encouraged to advise, support and otherwise assist minority-owned and women-owned businesses.</li><li>• SWARC should require Class A Sports Wagering Facility Licensees to have meaningful minority and women participation in their operations.</li><li>• SWARC should know that minority-owned and women-owned participants can and will come forward to participate in the sports wagering industry.</li></ul>