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Memo

Date: August 28, 2020

To: Oregon Lottery Commissioners

From: Barry Pack, director

Subject: Request for approval of an alternative compensation agreement

Two retailers of traditional Lottery Products have requested Lottery approve an alternative compensation agreement as allowed under OAR 177-040-0025(4). This portion of Lottery's administrative rules allows for the director, with approval of the Commission, to enter into an alternative compensation agreement for Traditional Lottery retailers (not Video Lottery) to support innovative business models that attract or retain retailers offering different sales styles.

These retailers, Produce Row LLC and the Independent Sports Bar and Grill, have partnered with theLotter.com for several years, filling a market demand for US-based draw game sales to international players. These retailers have generated significant revenues for the Oregon Lottery and the programs that depend on them, far outpacing any other traditional retailer. For context, these partnership sales generated $12.4m in FY17, $19.7m in FY18 selling both Powerball and Mega Millions internationally. When the Mega Millions Consortium changed their rules to prohibit such sales, their revenues dropped, but were still substantial at $5.5m for FY19 and just over $4m in FY20, selling only Powerball. During those same years, no other traditional retailer crossed the $1m line in sales.

Because of the high volume of sales, these retailers have historically always been compensated at the 10% rate each week. The new commission structure will reduce that 20%, a significant revenue loss. Significant enough that Lottery is concerned theLotter may move its business operations to another jurisdiction where the compensation may not increase, but the general cost of doing business is more favorable and profitable. Lottery has no plans to enter this market space and does not wish to risk losing revenues we would otherwise be unable to generate.

To this end, I request approval to enter into an alternative compensation agreement with these two retailers. To prove that their business model is still generating high revenues from international players, the retailers would be compensated at the standard 8% of weekly gross sales, until the combined sales of the two retailers reaches $2.5 million. From then on, compensation will be 10% of gross weekly sales through the remainder of the fiscal year. At the end of the fiscal year, or at a mutually agreed upon time, the Lottery will "true-up" the first $2.5 million worth of sales and compensate the retailers an additional 2% for those sales. If the retailers' combined revenues do not reach $2.5m, they will be compensated at 8% for the entire year.

I recommend approval of this alternative compensation model to protect and sustain this revenue stream. Please let me know if you have questions or would like additional information.