

Bud Sizemore, Chair:

Good afternoon everyone. I welcome you to our July meeting of the Washington State Gambling Commission and just, I guess, a little housekeeping we actually convened at 9:30 this morning and went immediately into executive session until about 12:30 and are now back out of recess into our public meeting. This meeting's on TVW and being recorded by the commission. I will ask that because again, it is a virtual meeting that we use the functionality to the best of our ability of the Teams app and use the mute. Everyone should be muted until you're called upon to speak except for commissioners and ex-officios or staff. So I think, that probably covers our housekeeping and I'll ask Interim Director Griffin to call the roll please.

Tina Griffin, Interim Director:

Vice-Chair Patterson. Commissioner Levy. Commissioner Reeves. And chair- [crosstalk 00:01:36] Senator Conway. Senator Holy. Representative Kloba.

Bud Sizemore, Chair:

She will probably be joining us but excused if not here.

Tina Griffin, Interim Director:

Representative Vick.

Bud Sizemore, Chair:

Excused. So it appears that we have a quorum. We will continue, as is our custom, I would like to take just a moment of silence at the beginning of our meeting to recognize those law enforcement officers that have been lost since the last time we've met. So a moment of silence please.

Thank you. We'll get right into our agenda. First item on our agenda is our consent agenda which includes June 10th and 11th commission meetings or meeting minutes and new licenses and class three employee licenses. Any additions or subtractions from the consent agenda, not seeing any, is there a motion?

Vice-Chair Patterson:

Mr. Chair this is Patterson, I'll move adoption.

Bud Sizemore, Chair:

Is there a second? Okay. It's been moved by Vice-Chair Patterson and seconded by Commissioner Levy to approve the consent agenda as presented by staff. All those in favor, please say aye.

Any opposed? Motion carries four to zero. Next, we are considering the Skokomish Indian Tribe Compact Amendment hearings for sports wagering. We have presenting today The Honorable Tom Strong, Vice-Chair Skokomish Tribal Council, as well as from our staff, Tina Griffin, Interim Director, Julie Lies, our Tribal Liaison and Brian Considine, Legal and Legislative Manager. I will without objection because of the fact that we have been through 15 of these last month, unless there is a strong objection from any commissioners or ex-officios would ask for the abbreviated version from our staff and allow for the tribal voice to be able to give their presentation. Any objection to that?

All right, go ahead Tina.

Tina Griffin, Interim Director:

Actually, I think we can just jump past my section of the negotiation process. It's all under IGRA. We can go to slide...well, I'll just give out a brief update. So slide three, the Indian Gaming Regulatory Act sets a foundation or class three gaming on Indian lands when conducted in conformance with tribal state compact, next slide please. So gaming activities on tribal lands are a means for generating tribal government revenue and the negotiation topics are set out in IGRA and we can just go ahead and jump to the next speaker since we've gone through the negotiation process before.

Bud Sizemore, Chair:

Background. Thank you. Is Brian next?

Tina Griffin, Interim Director:

[crosstalk 00:05:30] Brian Considine will talk a little bit about just go over briefly the House Bill 2638.

Brian Considine, Legal Legislative Manager:

Thank you, Mr. Chair, Brian Considine legal legislative manager. I'm going to be super quick. As we know, House Bill 2638 set the foundation for where we are today it was signed by Governor Inslee in March of 2020. It hit the areas to be negotiated, as you can see on the screen, which mirrored our five pillars that we advocated for, next slide please.

Then the other background is what does the bill do? What's now in a gambling act? What does the gambling act currently do and not do? So there's the list of wagering authorized, prohibited and the areas that we as an agency spent a lot of time and energy talking with the legislature and everyone about related to money laundering, professional gambling updates, including sport integrity, additional statutes in the law match fixing, contest manipulation, where we got expanded coverage over those areas since they weren't really contemplated 45 years ago. With that, I'm happy to answer any questions.

Bud Sizemore, Chair:

Thank you. Any questions for Brian? Perfect, thank you Brian. Next to Julie Lies, I think maybe a little bit more of the details of this specific... [inaudible 00:06:53]

Julie Lies, Tribal Liaison:

Thank you chair, Julie Lies, Tribal Liaison for the Washington State Gambling Commission. What the presentation, as you mentioned before you today, is very similar to the one that you saw last month for the first sports wagering amendments. The Skokomish Tribe is who were the amendment that we're looking at today, proposed amendment and their provisions. They started with the Tulalip appendix and updated it. The one significant item of notice, they added this start-up fee alternative distribution method, MOU, that was in the other amendments that we saw last month. Would you like me to go through this in more detail or I'll just jump through-

Okay, fair enough. These are the five areas that were involved or included in RCW 9.46.0364. So we have licensing and fees, the operation. As you all saw last month, this was the graphic showing how we narrowed sports wagering from not statewide, to tribal only, to Indian lands and then what was in the facility and then what premises was.

Here's the definition of a premises and these are the two definitions that we used as guidance for determining what premises was.

There is a requirement for player accounts for mobile. There is a requirement for in-person identification and registration, a protection of personal identifiable information, that's what PII is, and then there is the ability to use a digital wallet later to connect to other gaming. There's going to be an authorized wagering menu that'll list an existing jurisdictions' approval just so we can hit the ground running and after that initial list is populated, then the tribal gaming agency will approve requests and then send them to us to review meaning state gaming. We'll add them to the list, if we have no objection. If we have objections, then we would go to the dispute resolution process.

Prohibited wagers, as we've all heard before, the in-state collegiate activities can not be wagered on, minor league sports is also prohibited. Events where the outcome has already been determined and then in Tulalip as well as Skokomish's amendment, we have this specific carve out where underage participants that are regulated by a sports governing body, like the Olympics would be allowed and they just want to make sure there's some sort of overarching body that's monitoring underage participation.

This is the chart we showed last time, kind of showing the in-state collegiate prohibition, how that would impact something like March Madness.

So ultimately because Gonzaga and Eastern Washington were both in this tournament, they, you couldn't wager on the west and then as Gonzaga progressed through you couldn't bet on those individual events or games and ultimately because Gonzaga was in the finals you couldn't wager on that event either.

Prohibitive participants, so we don't allow agents or proxies to place sports bets on somebody else's behalf. There's also this prohibition on folks that hold some sort of position of authority over an event or the participants. Then there's a prohibition of wagering if you're on the self-exclusion list for the casino. The sports wagering system must meet GLI-33. That system will be tested by an independent test lab, which is what ITL stands for and then each Tribal Gaming Agency will approve that and so in Skokomish's case it would be their Skokomish Tribal Gaming Agency. Then we'll be coordinating training with the tribal gaming agency at some agreed upon location. So that may be at the manufacturer, that may be on-site, at the casino, it may be some other location.

House rules, very similar to other house rules. They'll be part of Internal Controls that as approved by the Tribal Gaming Agency and concurred with by our staff. The reserve requirement, this is just [inaudible 00:11:36] the operation needs to ensure they have enough funds on hand to cover whatever wagering liabilities they have. Then internal controls will follow the current compact process which is the operations but we'll create them, the tribal gaming agency will approve them and then they'll be sent to us for concurrence.

Criminal enforcement, we have anonymous wagering up to \$2,000 and that's going to be at the windows or on, at the on gaming floor kiosks. Off gaming floor kiosk is going to require some sort of player account information and then also of course, mobile, will have a player account that's attached to it so there's not anonymous wagering through mobile. And then the tribe will follow additional anti-money laundering requirements that are federal. They already follow many requirements and then whatever additional ones need to be followed for sports wagering, they will do.

The integrity, each facility will have an Integrity Monitoring Provider and there'll be a notice that is sent to our agency on suspicious activity and there are already information sharing provisions within the compact and in this appendix we were able to add the additional requirements that are in 9.46.0364.

The last of the five areas that we needed to cover related to responsible and problem gambling and sports wagering net-win will be included in the problem gambling contribution. There's also a responsible gaming component with annual training and a policy either updated or created by the tribe. For mobile or player accounts there will be some sort of self-imposed limits that are offered to customers whether that's time, money, those types of options. For mobile and kiosks it says display a commitment to responsible gaming so what that would look like is, if somebody feels like they're having a problem, there could be the problem gambling helpline, there could be a reference to a website they can contact or other materials that they can use as a resource.

There is a statewide self-exclusion for our licensees and there was an option for the tribes to participate in that self-exclusion and we addressed that in appendix S and then also the problem gambling taskforce's work is ongoing and once their reports are concluded the tribe is also committed to considering the results and implementation of those. And with that, that's the end of my portion, unless we have any questions from the commission.

Bud Sizemore, Chair:

Any questions for Julie Lies? [crosstalk 00:14:49] Thank you, so- go ahead.

Julie Lies, Tribal Liaison:

I would like to introduce The Honorable Vice-Chair, Tom strong, and he will be presenting the information related to the tribe.

Honorable Tom Strong:

Thank you, good afternoon, thank you members of the commission for your time. Appreciate the opportunity to be here and speak on behalf of the Skokomish Indian tribe. Again, my name is Tom Strong I'm the Vice-Chair for the Skokomish Tribal Council and I'm here today to tell you a little bit about us and our facility and this amendment.

This first slide shows you a little bit about the location of our tribe, our reservation and the five properties that we operate are there. They include not just our casino but also a sea store, a park and an RV park as well. The picture on your left shows you our location in context, related to Puget sound, our traditional territory or seeded territory includes the complete Hood Canal drainage as well. So we'll give you a good sense about where we are in terms of geography, next slide please.

This is to tell you a little bit about our facility. We originally opened in 2000. Also, let you know a little bit about our reservation in relation to cities around us, Shelton is the nearest city seven miles north. We're also five miles south of Hoodspport if folks know our area here, next slide.

This shows you a little bit of our facility here and these slides will give you an idea about the property and kind of just the look and feel here. This kind of looks a little imposing but really if you come by it on highway 101 it's a smaller facility but we definitely liked the grand entryway there. This is the main entrance facing south but going north on highway 101 next slide, please.

This will show you another entrance for our facility here as well. In addition to that the next slide will show you another one of our entrances here to get into our facility. Again, give you another angle and view here. The next slide talks a little bit about the actual facility itself, our size and the number of games that we operate, we currently do not have any card games on the floor. It's all TLS Gaming Devices and a little bit about our employees, as well as our expansions.

Originally, our casino was located in a converted convenience store and we've expanded it subsequently in 06' and 13' to get to the current footprint that we're at today. With the next slide, we'll

be able to show you a little bit about the gaming floor to give you kind of just a look and feel about the facility from the inside. Continuing on the next slide as well shows a little bit of a different angle for our gaming facility and the following slide as well will give you another little angle to get a better idea about kind of our layout there.

The next slide talks a little bit about the offerings that we have currently at our casino. We do include a restaurant and bar and we also have an event center where we host comedy shows and things of that nature. We're currently all non-smoking owing to the COVID virus. That's been a measure that we've implemented to maintain safety there and I find that folks have actually really enjoyed that as well.

The next slide will show you a little bit from our restaurant floor, The Drift, which is just adjacent off the gaming floor. We do a little bit of retail in there as well but where folks can stop in for a quick bite. The next slide talks a little bit more about our retail but also our event center as well as, the different entrances that we have and access to some electric vehicle charging stations that we have located behind our casino as well.

After that, the next slide shows you the entrance to that event center and just to kind of get an idea about that, the next slide will actually show you the interior of our event center, where we host those events that I mentioned earlier.

The next slide after this will show you just an inside picture of our restaurant facility located off of our event center. Some of the pictures that you see in the back, those are actually Edward S. Curtis prints, Skokomish tribal members made long ago, we're pretty proud of those. The next slide talks a little bit more about sports wagering as it relates to our facility. Like I said, we're a small facility and it's likely to remain the same. We don't expect a lot of revenue out of this but continuing to offer different types of play for our patrons is something that we're always interested in doing just to maintain not necessarily a competitive edge but to make sure that whatever our customers are looking for, that we can hopefully meet that demand. So we're in the process of working through this here now and trying to get the amendment approved so that we can see what we might be able to do there or if there's any opportunity for us. With that, that would conclude my section of the presentation, unless there were any questions concerning the tribe. Thank you.

Bud Sizemore, Chair:

Thank you for that presentation, vice-chair. Are there any questions for Vice-Chair Strong?

All right, I am not seeing any questions. So, at this point we will open the floor for public comments from anyone on the meeting here. So if you would like to make public comments on the Skokomish Sports Wagering Compact Amendment the floor is open now, please use the raise hand function.

Okay, I will check in. So Julie Lies I know you kind of monitor the compacts at whatever the email address is and then I'll also check with you Julie Anderson to see if there's any other... so nothing here with Julie Anderson, Julie Lies any responses? [crosstalk 00:21:29]

Julie Lies, Tribal Liaison:

I just checked our email address for public comments and there are none at this time.

Bud Sizemore, Chair:

All right, last chance if there's anyone on the meeting here if you would like to make public comment... Okay, not seeing any raised hands. Our choices are- [crosstalk 00:21:59]

Julie Lies, Tribal Liaison:

Okay, so we are here today to vote on the proposed compact amendment with the Skokomish Tribe to add sports wagering. The options for the commission today is either forward to the governor for review and final execution or return to our director for further negotiations.

Bud Sizemore, Chair:

Excellent, thank you. So commissioners, ex-officios it is before you, is there a motion? I see Commissioner Reeves...

Commissioner Reeves:

Thank you, Mr. Chairman. At this time I move that we forward the proposed compact amendment to the governor for review and final execution.

Bud Sizemore, Chair:

Thank you. Is there a second?

Okay, it's moved by Commissioner Reeves and seconded by Vice-Chair Patterson that we forward the proposed compact amendment to the governor for review and final execution. Is there any comments?

Okay, hearing none and I'll just remind folks that because this is a tribal compact amendment that both commissioners and ex-officios will be voting and I'll ask the interim director to call the roll, please.

Tina Griffin, Interim Director:

Vice-Chair Patterson. Commissioner Levy. Commissioner Reeves. Senator Conway.

Bud Sizemore, Chair:

You were muted, sir. Sorry.

Senator Conway:

Senator Conway votes aye.

Tina Griffin, Interim Director:

Thank you. Senator Holy. Representative Kloba. Representative Vick. Chair Sizemore. [crosstalk 00:24:14]

Bud Sizemore, Chair:

Okay, the vote is six to zero. So with that, it appears that we have voted to forward the amendment to the governor for review and final execution. So with that, congratulations to you, Vice-Chair Strong.

Honorable Tom Strong:

[crosstalk 00:24:36] Thank you very much commission. We do appreciate it.

Bud Sizemore, Chair:

All right. Have a great afternoon.

Excellent, so that will now move us to the next item on our agenda from tab three which is a petition for rule change, adopting rules for manufacturers selling to distributors and I believe we have Ashlie Laydon, the Rules Coordinator will be presenting and then hopefully we have the petitioner Walter, and I may say this wrong, Antoncich. I'm not sure how to say that name, so please correct me when it's your turn. So we'll start with Ashlie.

Ashlie Laydon, Rules Coordinator:

Chair Sizemore, commissioners and ex-officios can you hear me okay?

Bud Sizemore, Chair:

Yes, we can.

Ashlie Laydon, Rules Coordinator:

Okay for the record, I'm Ashlie Laydon, Rules Coordinator with the Gambling Commission. Walter Antoncich, I hope I'm pronouncing it correctly, a licensed pull tab distributor of Lake Forest Park, Washington is proposing to adopt a rule to require all manufacturers to sell to all licensed distributors on an equal basis under a fixed set of rules. Similar to what previously existed under WAC 230.12.330, which was repealed by the agency in 2005. A copy of that rule is included for your reference.

The petitioner feels this change is needed because the near total dominance of one manufacturer has created a situation where that manufacturer can easily eliminate distributors at will. The petitioner feels that the lack of competition will ultimately have a tremendous ripple effect with significant loss of revenue to local jurisdictions and that smaller operations at both the distributor and operator levels have been severely impacted and will continue to be impacted.

The petitioner feels the effect of this rule change would help ensure a competitive balance that would ensure a healthy industry benefiting all parties. In addition to a copy of the previously existing rule, you should also have before you a copy of the petition, email correspondence between the petitioner and commission staff that led to the request to this rule change and stakeholder feedback from the manufacturer opposing this petition.

Additionally, you should find a copy of an informal opinion from the assistant attorney general dated December 2nd, 2014.

PART 1 OF 4 ENDS [00:27:04]

Ashlie Laydon, Rules Coordinator:

... on the assistant attorney general dated December 2nd, 2014. I will begin by providing you with the history of the previously existing rule. The Gambling Commission first adopted a rule in 1973 to address credit pricing and sales between manufacturers and distributors. This rule was amended in 1977 to require that all services and gambling-related equipment be available to all licensees without discrimination. In 1997, that rule was repealed and was replaced with a number of rules addressing credit and pricing restrictions, including WAC 230-12-330, which required manufacturers and distributors to make their products and services available to all licensees without discrimination and prohibited discriminatory pricing.

In 2005, WAC 230-12-330, and several other WAC rules were repealed or amended to no longer require that manufacturers and distributors offer their products and services to all licensees without discrimination and to remove credit and pricing restrictions between manufacturers and distributors. This was done following several public meetings regarding the Gambling Commission's role in market competition and an approved budget reduction for the 2005/2007 bi-annum. The commission repealed WAC 230-12-330, because the commission's role is to regulate gambling and not to control market competition. There are other legal remedies that could be pursued other than rely on commission rules such as anti-trust laws and removing the credit and pricing restrictions between manufacturers and distributors also supported the budget reductions that were made at the time.

Since the repeal of that rule, WAC 230-12-330, the commission has received and denied petitions to reinstate it in 2006/2007 and 2011, all citing that regulating business relationships between manufacturers and distributors is generally outside of the commission's mission and also that there are legal remedies that the petitioners could pursue such as anti-trust laws. In 2014, the commission accepted a similar petition and initiated rulemaking to require that bingo and pull tab manufacturers make related products and equipment available to all distributors. Draft language was filed in June, 2014, however that rulemaking was put on hold pending an opinion from the assistant attorney general.

The commission received the opinion in December, 2014 and chose not to take final action on the rule in January of 2015. This was because it was determined that the commission has implied statutory authority to impose restrictions on licensees if those restrictions are essential to the legislative purpose of the gambling act, for example, to keep the criminal element out of gambling. The assistant attorney general opined to court would likely find a rule requiring all manufacturers to sell their product to all distributors arbitrary and capricious. The assistant attorney general found on the available facts it is unlikely that a court would conclude that such a rule is necessary to effectuate the commission's express statutory authority to regulate gambling.

Under the requirements of the administrative procedure act, the commission must take action on this petition within 60 days of receiving it. Your options are to accept the petition and initiate rule making proceedings by filing the rule as proposed for further discussion, or to deny the petition in writing stating the reasons for denial and specifically address the concerns stated in the petition or where appropriate indicate alternative means by which the agency will address concerns raised in the petition. Some things to consider before taking action are consistency with past decisions. The commission staff believe that regulating lawful business practices between licensees continues to be outside the scope of the gambling commission's mission to keep gambling legal and honest.

The assistant attorney general found that it is unlikely that a court would conclude that such a rule as this is necessary to effectuate the commission's express a statutory authority to regulate gambling, a different outcome would be a change of direction since 2005. Agency resource impacts, adopting a rule or rules to accomplish what the petitioner is requesting would require staff time to develop the rules as well as increase the workload on agents to regulate the sales services, pricing schedule and credit terms between licensees. Currently, this rule would require at least the equivalent of half of an FTE devoted to enforcement. However, staff would need to go through a full analysis should the petition be accepted.

Right now there are currently five licensed pull tab manufacturers and 10 licensed pull tab distributors that this rule change would affect. Staff is recommending denial of the petition as regulating lawful business relationships between manufacturers and distributors is generally outside of the commission's mission. The assistant attorney general found that it is unlikely that a court would conclude that such a rule is necessary to effectuate the commission's expressed statutory authority to regulate gambling. Additionally, there are other legal remedies the petitioner could pursue such as

antitrust laws. The petitioner is present to speak to his petition. So if there are no questions of me, I'll turn it over to Mr. Antoncich.

Bud Sizemore, Chair:

Any questions for Alicia or excuse me.

Ashlie Laydon, Rules Coordinator:

Ashley.

Bud Sizemore, Chair:

Ashley? All right. Seeing none, sir, please help us with your last name so that we can get that correct the rest of the way and please identify yourself and talk about this petition?

Walter Antoncich:

Okay. Thank you. My name is Walter Antoncich. Along with my wife, we have been the owners of Tri-Focus Enterprises since 1988, I believe it's the longest continuous licensee of a distributor in the state. We've had a strong reputation in the community with the Gambling Commission, with our manufacturers, distributors. We've never had a violation, we've never had a late payment. So this is where we stand. I just want to very briefly tell you how we ended up here. On March 17th, we got a phone call from Mr. Bill Wickersham, who is our Arrow representative who told us from this point forward Arrow would not be selling us any more product after 33 years. No reason was given and no warning was given and no opportunity to appeal was given.

We asked him what was the reason? He had no reason. We asked him who called you so maybe we could go up the ladder a little bit and maybe get some answers? And he said he couldn't or wouldn't, I can't remember which one gave us that answer. We then decided to take some action on our own. Our first call was to a lady named Kathy Donnelley back in Ohio, who is their account manager. She might be VP of accounts, I don't know her title, but she's the only person at the corporate level that we have had any contact with over time and she didn't even know this had happened. She said she would come back and try to get us an answer. So she responded very quickly the next day and said all she could get it was a management decision.

We then asked if she could give us some contact information for the two brothers that own the company, Dennis and John Gallagher, so we could maybe go there and get an answer. She said she would not do that, patient said that she could not do. We then decided to take the next step to the Washington State Gambling Commission. We called, I can't remember, we got lady named Nicole in Spokane, this was everything was down pretty much in March. She referred us to our local agent, Angela Deckert, who we spoke with her a little bit, but it wasn't in her area, she referred us to Donna Khanhasa, I pronounced her name correctly, who was in licensing. She said she would get back to us and she did in a timely manner and gave us the answer in all us all honestly we expected to get, which was there were no rules or regulations that seem to have been broken. So therefore that's beyond the role of the Gambling Commission, it's not that we didn't expect that.

We then contacted the attorney general's office. And I spoke to a paralegal originally who gave me a lot of information about what the role of the AG's office is, took all the information down, passed it on to, I think there someone in their anti-trust division. And we got the answer that we pretty much expected that the AG's office only takes on cases that impact the greatest amount of people in the state. That's most harm to the most amount of people and that is not necessarily where we are.

So our last or final option here is to ask for a rule change, so that's how we ended up here. Now, if this helps on page 75, I think of your Commissioner's Packet, I'm going to kind of follow that along a little bit with the rest of this presentation. So the first thing I want to do is very simply, I don't want to go all over all the reasons for appeal that Ms. Leighton did because she was very thorough. But there were a couple of threads that of reasons why it was repealed that one run all the way through all the answers and others that come up that really I don't think carry a lot of weight.

Obviously, the biggest one is this is not a Washington State Gambling Commission issue, I think every response started without one. The second one was there's other means of going after this particular issue and that's antitrust attorney general's office. The real truth to that is we could probably go broke pursuing a half a billion-dollar company and it really turned out that it wouldn't be an issue for us, that mean, it's something that really we couldn't carry. Some of the other ones that came up were it helped with a budget reduction necessary I think around 2005. And my opinion of that is very simply, you either do what's right or wrong and figure out a way to make the budget work, you don't deny a valid petition because of budget.

Another one was that this had been denied two or three times, this one should standalone on its own merit. Another one said this has been in place since 1970... It would be a change of direction since 2005. And I would propose that the 2005 rule was a change in direction from 1973. So just because there's a change of direction, isn't really necessarily good or bad, it's just a change of direction. So while these petitions were [inaudible 00:39:34] I want to just address a couple of them saying that the Gambling Commission has no obligation in business decisions. And I would propose that not only do you have that you are doing that already.

There are things that are demanded to get a license that are way beyond any other business, and I'll just mention a couple that come to mind very quickly is one is there is kind of a verticality that can operate. In other words, a manufacturer can be a distributor, a distributor cannot be an operator. I can't be a distributor and own a place that sells [inaudible 00:40:23] that is a rule in the one of the WAC rules. If I'm not mistaken, Fred Meyer makes their own products, distributes their own products and sells their own products. So to me, that is the opening the door to a business decision that has been made.

The other one is in licensing. There's no way that if someone wants to open a barbershop they go through all the vetting that is done to get a gambling license, so that is for a business in gambling you got to do something different for a business in a well, if you want to cut hair. Another one, and this was we had this one of our customers wanted to buy out their partner. They had to go reapply for a brand new license show where they got the money to buy out their partner, go through three years of bank records and everything else. If I wanted to buy my partner out of a donut shop, it'd probably be \$10,000 and a lifetime supply of donuts and then the deal would be done. So you are involved in business decisions so tangentially, but not directly, but that those are business decisions.

The other thing that came up was that it was discussed for three months that's a reason to deny it to me, that's the number one it's irrelevant and number two, it shows that it had some legs to the idea if they just had to discuss it for three months. So the biggest thing is that things have changed since 2005. In 2005, and I remember speaking out against it, then in 2005, there were probably a dozen manufacturers active in the state. Since 2005, and then probably twice as many distributors, but since 2005 Arrow International purchased specialty manufacturing, which was the third largest manufacturer in the state. Trade Products who they had been competing with head-to-head purchased another company called Bingo King, shortly thereafter, Arrow purchased Trade Products, which includes specialty manufacturing Trade Products and Bingo King.

Shortly thereafter, shortly being within a year, maybe year and a half Arrow International purchased Universal Manufacturing, another one of the other larger manufacturers in the state. So at this point in time, since 2005, they have four of the five largest manufacturers that were doing business at the time under their umbrella. At the same time with the industry sliding, the revenues going down, most of the other manufacturers that were active left the state. Companies such as Douglas Press International, GameCo, Worldwide Press, American Games, all decided that this was not a viable market for them anymore leaving only, well, I'm positive. Ms. Leighton was accurate saying there are five manufacturers in the state, two of them have not been active for years. They might hold a license, maybe just in case they want to get back in, American Games has not sold a product in this state and at least five years. And the other one Free State Products makes punch boards, which I haven't even seen a punch board in 15 years out there.

So there's really only three manufacturers left that are doing business in the state, one is based out of Pennsylvania and makes a certain type of ticket that probably is only about 10% of the market. The other is Bonanza Press in Woodenville they've really kind of focused everything on the out-of-state market. I haven't bought the most popular type of ticket, they haven't made one in the last 16 months since the beginning of COVID. Therefore Arrow pretty much has the market to themselves somewhere. My figures I don't have the statistics to justify them, but the figure is probably if you could look at sales in state sales probably close to 85% to 90% of the market. And no distributor can function without the tickets they get from Arrow. The other two manufacturers don't make either enough or those types of tickets at all. So it does belong to them, the state does belong to them.

So what we're looking for is a reinstatement of a rule that was very functional and worked for a long period of time. In 2005, a group got together that included certain manufacturers and certain distributors. And I'm sure it members from the commission at that time or representatives and came up with the intended result of eliminating that rule and creating an absolute open market where manufacturers could do what they want. And they started doing things to us, not to us, but there's a whole list of things I have here, and I don't want to go over them, but two things that happened, there was all kinds of things that we were denied that other distributors were denied that we had to do, that other distributors had to do, one as I know larger distributors got 5% or 6% discount on their purchases, we got nothing.

We also know that other distributors had longer credit terms, we were at 30 days that we never missed, but others were at 60 or longer days, which I mean just the percentage of a discount, I look back cost us probably between \$5,000 and \$10,000 a year. And it also gives them a competitive advantage because when they can get games at a cheaper price they can sell them at a cheaper price. So we feel that it's time since the whole situation about manufacturers and distributors has changed and if they have the right to call me up and say after 33 years, you're out of business with no excuse and no legitimate reason and no warning. And then anything they do from this point on could be considered a business decision.

There's no reason we're at this time we are getting games and I'll address this down the road a little bit from another distributor. Okay. But nothing says that they couldn't call that other distributor and say don't sell him any more games or they could call that other distributor and say if you sell him any more games, we won't sell you any more games, that's how much control they have over the market right now. And if this goes on, you will see a shrinking amount of distributors, you will see an impact on operators, especially small operators. Let me check here for a moment, please. I think finally I'd like to, there was a letter presented here from Ms. Mary Magnuson representing Arrow International and in all honesty, and with all due respect, I found it loaded with half truths and a lot of disingenuous statements. And I would just if you do not have the letter in front of you, I will just go over it very briefly.

Bud Sizemore, Chair:

Mr. Antoncich, we do have that letter as Barbara Packet. So if I could get you to go ahead and summarize or conclude, I think that there is at least one question for you.

Walter Antoncich:

Okay. Do you have our responses to her letter?

Bud Sizemore, Chair:

Yes.

Walter Antoncich:

Okay. So that's fine, I appreciate that because I think there's a lot that needs to be read. So let me just summarize. And I didn't get in too much to the final thoughts of the antitrust, but you have this in front of you, it's number 9 on page 11. And I'm not a lawyer, I have no legal background, but I just after reading and going over some stuff, I looked at all these things that I think are very applicable to this situation that include restraint of trade, antitrust, willful interference of a business relationship and unfair method of competition being unfair and RCW rule.

And I'm going to throw this away and just say I really believe that this is not entirely a WSGC issue. I think there are antitrust issues, I think there are restraint of trade issues, I think there could be legislative where the legislature could come in and make a change. But right now, there's no place left for us to go to try to find this. And again, Arrow International gets what they want. Prices will continue to rise, distributors will fall, small time operators will not find it viable to stay in business any longer, dollar for dollar, pull tabs create more gambling, more revenue than any other form of gambling. And I will answer that question if anybody's interested why I can say that dollar for dollar not overall dollars. And a lot of it goes to cities, to small cities, to counties, to police departments. And I don't see that this is healthy for the entire industry. So I think I'll just leave you with that. I got off my script if that's okay.

Bud Sizemore, Chair:

Thank you, sir. Commissioner Reeves, I see your hands.

Reeves:

Thank you, Mr. Chairman. Mr. Antoncich, I have kind of a two-part question for you because I think I have not heard you say this explicitly, but I think in your testimony that you've provided, I would infer that there is an implicit accusation and by the nature of your petition because you want to reinstate rulemaking or rule language that specifically calls out discrimination or discriminatory behavior and that's where I get the implicit accusation. Yet you've not said explicitly why you believe first that reinstating this would actually meet that threshold. And two, even if this were reinstated, how the behavior of your manufacturer would qualify as discriminatory to you or to other small distributors that you've referenced. And as part of that, I guess the fundamental question I have for you is just how do you believe that this particular action on the part of your manufacturer challenges our role in keeping gambling legal and honest? How does this somehow not make gambling legal or honest in your opinion?

Walter Antoncich:

And I didn't really get to that part. The legality comes in are they operating in a legal way? Manufacturers have less restrictions on them than distributors operators. And so while what they're

doing might not qualify as something illegal in gambling it could be it is something, in my opinion, that is illegal in the business world that impacts the gambling. I don't know if that answers your question?

Reeves:

It answers the second part, sir, I guess again, I would just question your request is to ask the commission to reinstate anti-discrimination language in our rulemaking. And I've yet to hear from you, sir, why you believe that this particular action is discriminatory in its practice?

Walter Antoncich:

Because, well, number one, we're not asking for a specific set of rules, we're asking them to just give any rules so that we can abide by them, there are no rules for them right now. We heard in Ms. Magnuson's letter that we...

PART 2 OF 4 ENDS [00:54:04]

Walter Antoncich:

We heard in Ms. Magnuson's letter that we could meet a minimum quantity for purchasing. That's the first we've ever heard of it in this letter. After the fact, we didn't even know that existed prior to that. And there's a lot of things that go on that we aren't even allowed. It's not too complicated to just say these are our rules. I'll just give you an example. Paramount Manufacturing in Pennsylvania, who sell some of very small amount of product in this state last week, send out an email saying we have to change our terms. These are what they're going to change to across the board. If they want to put in rules that say this amount of purchasing, you get this amount of discount, or you got to do spend this amount of money, make something available that we can live by.

We've had no contact. We were just told after the fact that this is what you need to do. We were told we could only come in once a week for will-call. I think bottom line, and I'm just going to be really honest with you. I don't think they don't want us in business any longer. They want to be left with two or three or four distributors in the state to deal with. They have discriminated against all smaller distributors, not selling to them, not giving them equal access to product, not giving them discounts that others get. But to me, that's discrimination if it's applied to a certain level of distributor, but not the other level, we just want an even playing field. And if we can't compete on an even playing field, then that's on us.

Bud Sizemore, Chair:

All right. Senator Conway had your hand up and then Vice-chair Patterson. And you're still muted senator, sorry.

Senator Conway:

Forgetting. I should inject myself. I was a subject to my inquiries around this issue is I think Wendy knows, or the subject to the earlier decisions by a legal counsel regarding to The Gambling Commission. This has been an issue for some time. And the question really is I want to interject here that in certain the liquor commission does too, a great deal of regulating business relationships. We have a three-tier system there in the Liquor Board that regulates business relationships, but it is true that The Gambling Commission made a decision early in this entry, to back away from that regulation was in the Liquor Board and for various reasons, I'm not going to go into it.

But the question is here, and I had a distributor, of course, in Pierce County that was directly involved. Maybe it was Wendy's. And I continue to be concerned about this is an industry that's unfortunately been in decline for some time. And it's, of course, led to the consolidations that have occurred. And it is left an open question always, and maybe the commission doesn't feel it has the authority. Maybe the legislature needs to grant the commission this authority, but it is a problem.

The AG's have narrowly defined our role as simply one of ensuring that we keep gambling legal, and certainly, that's the narrow definition of the purpose of the commission. But I just want to let you know that this issue's been around us for places, as long as I've been here. So there is considerable amount of activity that we've had in trying to address the issue that Wendy's bringing forward. The issue here is that we have only one manufacturer, and they choose only one distributor and leave everyone else out. And if the attorney General's office is not going to investigate those issues because they don't believe it rises to the level of a community concern, then where do these people go to address this issue? And I guess I'll leave it at that because I think it's an open issue.

Bud Sizemore, Chair:

Thank you, Senator. Vice-chair, Patterson.

Vice-chair Patterson:

Thanks, Mr. Chair. And Mr. Antoncich, I have this letter that was written by the AG back in 2014, and it was pretty clear what it was that they were advising us to do. They said that there was insufficient circumstances to establish a rational connection between this commission's statutory authority and a targeted regulation requiring the evenhanded sale of gambling products. And then they went on to say that it was very unlikely that a court would conclude the such a rule is necessary to effectuate this commission's statutory authority to regulate gambling.

So if I'm a citizen commissioner sitting here trying to help solve this problem, and I get these words from the AG, it makes it difficult to understand where we should go with this because it feels like something is unjust here. Something doesn't feel quite right, but it also seems fairly clear that the AG is implying in this letter that this is outside of this commission's mission. And that we might end up doing more harm by trying to make it a part of our mission. And also, the fact of the matter is that there are other legal remedies that you could pursue. There are the antitrust laws you've mentioned that that would be too expensive for you. I'm just curious, is that really the case? Are your hands really tied in order to pursue another avenue to try to achieve some justice?

Walter Antoncich:

Number one, that was a ruling in 2014, correct?

Vice-chair Patterson:

Yes. It's not clear to me how things have changed in a way that would result in the AG writing a different letter today. To be perfectly honest.

Walter Antoncich:

To be perfectly honest, if things hadn't changed since 2014, I wouldn't be here. 2014, we could get product. At 2014 there was competition within the state. In 2014, everybody was treated close to equitably. Now there is essentially one manufacturer in the state who basically is operating with either tacit in approval or impunity in their business decisions.

Vice-chair Patterson:

But Mr. Antoncich said, if I could just break-in, I don't disagree that with the fact that you may have a big grievance there, but my question is why continue to excuse the expression, flog a dead horse here for The Gambling Commission instead of pursuing the avenues that I hear are being suggested to you.

Walter Antoncich:

I'm sorry. Go ahead.

Vice-chair Patterson:

Go ahead. Go ahead.

Walter Antoncich:

I don't necessarily say that this is entirely a Gambling Commission issue. I think it's an issue that involves the legislature. I think it's an issue involves the AGs office. They are operating in a lot of gray area that is kind of keeping everybody away from them and passing the buck to someone else. And to answer the other part of the question, yes, it would be for us prohibitively expensive to try to take on a half a billion-dollar company out of our own pocket with any lawyers. So I probably I'm not answering your question sufficiently, but that's the best I got this. Can you give me another avenue that we could take?

Vice-chair Patterson:

Well, I would ask our staff, I don't know if that would happen here right now, but our staff says that there are other legal remedies that a petitioner could pursue, such as antitrust laws. And I guess I would need to know more because I'm not an attorney about how someone like you would be able to address those concerns or those injustices when you don't have a lot of money, there has to be, or I'm thinking there should be a way that someone like you could do that. I don't know what the answer is, but maybe staff could help me with that.

Walter Antoncich:

If anybody has that answer, I would accept it.

Speaker 1:

Even offering suggestions.

Walter Antoncich:

But from the Attorney General's office, and from The Gambling Commission, there was no other, other than a generic, you have other legal options such as, and it was always antitrust laws. So if there is another one, no one even proposed anything like that to us in any of the communication we had.

Bud Sizemore, Chair:

And my guess is that our staff would be reluctant in giving legal advice.

Vice-chair Patterson:

No. I'm not asking for legal advice. Mr. Chair, I'm asking staff to answer my question. And that is how does someone like Mr. Antoncich pursue antitrust issue if he doesn't have the financial means to do so?

I'd like to know how that works. And I'm not asking for an answer here today, but I'm very curious about that.

Speaker 3:

We're open to that.

Bud Sizemore, Chair:

Okay. Commissioner Reeves.

Reeves:

I'm just curious, Mr. Chairman, beyond the letter that we received from the manufacturer, do we know if either anybody is in attendance in the meeting today and whether or not they are interested in providing comments?

Bud Sizemore, Chair:

So I saw that they do have a representative here, although if you want to give me the authority, I'll compel people to speak, but I don't think that I have that authority. So when we get to public comment and if they would like to speak, they certainly may.

Speaker 4:

I was just going to offer that indicated legislative. Essentially the legislature should get involved. And so that is one avenue that you can seek out is certainly reach out to your legislative representatives and see if they would be willing to move forward with any legislation in the next session.

Walter Antoncich:

Okay. Thank you.

Bud Sizemore, Chair:

Any other questions for the petitioner? Okay. So seeing no other current questions, I will open it up for public comment. Again, we'll use the functionality. If there's anyone from participating on this team's meeting that would like to make public comment, now would be the time, and just use your raise hand function if you can. Okay. I see Mary Magnuson. Hi Mary.

Mary Magnuson:

Hi, Mr. Chair, members of the commission. I'm Mary Magnuson. I'm here representing Arrow International. And I just want to respond a little bit to Mr. Antoncich to his comments. First of all, I take a little offense to the fact that the letter was filled with half-truths. The letter was an honest, and I think, comprehensive response to what has transpired for the past number of years with respect to this issue. As has been pointed out, this is not a new issue. It's been around for a number of years. And it's something that the commission has grappled with for a number of years. Arrow's in the business of selling product. They're in the business of selling as much product as possible.

It is not an easy decision ever to have to make these types of decisions. But the fact of the matter is right now, coming off of the COVID pandemic, where the factories were shut down for a significant period of time and then back operating at minimal levels, there are significant supply chain

problems. Right now, we cannot get product ranging anywhere from paper to glue to the various other components of these tickets. And so while the manufacturers Arrow and others are operating at as much capacity as they can with the limitations that they're facing in terms of product and, in quite frankly, labor shortages. Difficult decisions have had to be made to ensure that the business can be operated as effectively and efficiently as possible. And that means getting as much product out the door and into the hands of those distributors that are distributing it widely to the customer base.

Quite frankly, the same situation is happening all across the country. We're having to make decisions that are perhaps leaning towards the larger manufacturers, but when they're purchasing in bulk and in large quantities, it's much easier to satisfy those particular folks rather than the smaller operators. Mr. Antoncich purchased \$30,000 in product in the first quarter. In Washington, the closest competitor to that was over \$245,000. It's a very, very small amount of product that really has to go other directions in order for us to meet the demands of a national and international business.

So I don't know what antitrust options would be available because, quite frankly, I do not believe that there's any antitrust violation here. There's no collusion. There's no intention to run Mr. Antoncich out of business, as he suggests. He can get Arrow product from other distributors within the Washington market. And quite frankly, he can get product faster, and he can get a better variety by buying from the other distributors. Right now, Lane Gormley is on the line as well. We are at least taking orders out to February. In other words, if you put in an order today for product, you are not likely to get it until at least February.

That's how far behind things are with our supply chain problems and our labor and other shortages. So the distributors are the best source of product for folks like Mr. Antoncich. And fortunately, Washington has a statutory scheme that allows distributors to sell to one another. So from Arrow's perspective, we're doing our best. We're trying to get as much product out there. We're trying to work within the limitations that we currently have with supply chain issues and lack of inventory due to being shut down for periods of time. But at this point, some difficult decisions had to be made. And unfortunately, this was one of them.

Bud Sizemore, Chair:

Okay. Thank you. There may be a few questions for you. Vice-chair Patterson, and then-Senator Conway.

Vice-chair Patterson:

Thanks, Mr. Chair. I have a question for, is it Ms. Magnuson? Hello, this is Julia Patterson and also one for staff. So first of all, Ms. Magnuson, if there were not these problems associated with COVID and if you weren't so severely limited in the amount of product you had and the labor issues you have, would you be a willing provider of product to Mr. Antoncich?

Mary Magnuson:

Mr. Chair, Commissioner Patterson. I know that I necessarily have the answer to that. That's kind of above my pay grade, but I will say that until very recently, in March, Arrow was supplying to Mr. Antoncich, but things have changed. As I said in the letter, I don't know if this is the new normal or what we're going to expect going forward, but I do know that the difficulties that we're having right now have contributed greatly to our ability to get product into the marketplace.

Vice-chair Patterson:

Okay. And so then my question for staff, Mr. Chair has to do with the rules of general applicability, the WAC. So I need to ask an attorney this question. It says here 230-12-330. It says manufacturers and distributors shall make their products and services available to all licensees, without discrimination, except as authorized by this section, gambling equipment, devices, paraphernalia, or supplies and services shall be offered to any licensee wishing to purchase such for the same price and terms. So for staff, I'm trying to understand, given that language, how can this situation be? It feels like this particular individual and his business is potentially being discriminated against because others are getting the product. That's what I see. But I wonder if you have an explanation for that.

Speaker 2:

Yeah. So that WAC 230-12-330 is the rule that was repealed in 2005. And since has been the rule that has come up many times, 2006, 2007, 2011, and then a similar one in 2014 that petitioners have been wanting to kind of reinstate for those reasons.

Vice-chair Patterson:

So thank you.

Speaker 2:

Mm-hmm (affirmative).

Vice-chair Patterson:

That is the rule that was repealed.

Speaker 2:

Yes. One of them. Yes. I included this language because this is similar to what Walter is kind of wanting to refer back to, I guess.

Vice-chair Patterson:

Gotcha.

Speaker 2:

Mm-hmm (affirmative).

Bud Sizemore, Chair:

Unless, you have a follow--up, we'll move on to Senator Conway.

Senator Conway:

I think I'm on muted here, but I have a question. I know that Washington State has kind of a pull-tab state of the union. We have more pull-tab business in our state than normal. Do you have the same kind of relationships, Mary and other? Do you know whether Arrow has other kinds of rules that they operate under in other states?

Mary Magnuson:

I think if you're asking, are there any restrictions in place in other states? There are. Two states, my home state of Minnesota and North Dakota, and they both have rules that require manufacturers to sell to all distributors, much like you had in Washington. But both of those states have a number of exceptions in there, which include minimum pricing or minimum purchasing limits, exclusive games and credit delinquencies, and things like that. And those rules have been on the books for considerable periods of time. I want to say 25, 30 years, something like that.

Senator Conway:

So in other states, you would be required if it's a smaller purchase. You may be able not to sell to them if it's too small purchase what you were saying. But these other states do require you to sell to all distributors and meet those minimum requirements. Is that correct?

Mary Magnuson:

In those two other states, yes. But those are the only two states that have those requirements.

Senator Conway:

I hope that our commissioners will look at this a little bit because I know that what we did to the other states have rules like this that regulate this relationship. And I'd be curious under what legal right they do that in those other states. And I hope that we recognize that that may be a bit of information here that would be important for us to look at. Thank you.

Bud Sizemore, Chair:

Thank you, Senator Conway. And I think we do have a very unique gambling act in the State of Washington. So I don't know how instructive that will be. And I actually, I saw your hand went up and down. So it sounds like Mary was able to answer that question adequately. I'm going to go to Commissioner Reeves, and then I think the petitioner has his hand up and then Lane Gormley. So commissioner Reeves.

Reeves:

Thank you, Mr. Chairman. Ms. Magnuson, can you speak a little bit in the letter you referenced, I believe, and I don't have it right in front of me, but I believe that you referenced minimum purchase requirements and agreements that the distributor no longer met as part of your decision making tree for letting your distributor go, can you speak to what those minimum requirements were prior to COVID? And how those minimum requirements were communicated to the distributor?

Mary Magnuson:

I cannot, but I think Lane Gormley can. And Lane is on the line and had his hand raised. He's the vice president of operations for trade products, which is in the State of Washington. And I think can better understand those more specific business decisions.

Bud Sizemore, Chair:

Okay. So you can hold that for him then, Commissioner Reeves? So any other questions for Mary from commissioners? Okay. And Mr. Antoncich, we're not going to do a back and forth here between panelists here or those from the public that wish to testify or make public comment. So I'll let you

actually finish up. Mr. Antoncich. You'll have an opportunity. So thank you very for your public comments. And so we'll go to Lane Gormley, and you're muted, sir. Try now. I think you're there.

Lane Gormely:

Yeah. Think you get used to [inaudible 01:19:10] I've done enough of these Zoom meetings at this point. I think I'd get the hang of it.

Bud Sizemore, Chair:

Welcome back, sir.

Lane Gormely:

Thanks. My name's Lane Gormley. I'm the vice president of operations for Arrow and manage the facility we have in Lynnwood, Washington. Couple of things. This is certainly as we've all been through in an evolving set of circumstances for us. In January of this year and December of last year, my plan was in the position of not actually having enough work at that time. We were actually getting work from our sister plant in Cleveland. I was producing product that was being shipping back East, which is something we typically have never done before. That was the first time that had been done. In January, orders started coming in as the market came back nationally and came in at a fairly healthy pace.

We prided ourselves on producing games. Typically, when someone would order a game for us, we would get it out as quick as two weeks having to produce it, and we would have guaranteed four weeks. We also, at that time, when this went down for Washington alone, had approximately 4,000 cases of inventory that was just for Washington product. By the end of February, there was no inventory left in Washington. And we had gone out to 18 weeks backlog in a period of 45 days. We have besides producing for the states that Mary mentioned, we produce also several-

PART 3 OF 4 ENDS [01:21:04]

Lane Gormely:

Mary mentioned, we produce also several, we produce a lottery for Michigan and their charitable games thing, which were under contract and require to produce tickets for and amongst other customers. It hasn't just been in the case here in Washington. We have nationally gone in to their virtually, there's been no state that we have not gone in and canceled an order and said, "We can't do business with you." We've also refused to take on new customers during this time to try to meet the requirements of the customers that we currently have in-house. It's unfortunate nobody, and I certainly one, likes to not tell people we're not going to sell them product. There was no reason for me to do that when I'm producing in this state. Unfortunately again, because of the efficiencies that we gained by doing longer runs for people.

And also, from a shipping standpoint where we're shipping pallets of product and putting them on the back of the truck versus hand loading a van that comes in a couple of times a week, or once a week. We do have minimum shipping requirements of 75 cases, or that have to go, that is nationally. And we also have requirements currently to put an order in of that number. So, this is not going up against one individual. Unfortunately, because of the relative size in the state, he's the one that's been most effected here in Washington by it, we have no interest in telling other distributor not to sell our product to someone else, that doesn't make a whole lot of sense. There's no vendetta that exists here. Unfortunately, it's a decision that we had to make and not one that we wanted to make.

I don't know what the future is going to hold for the supply chain, when it's going to come back or not. I will tell you that what I have gone through, and for those that are involved in manufacturing, we have a fairly simple project, fairly simple bill of materials. We've got four things that paper, glue, ink, and some corrugated. All four of those things we can't get, as we gotten before for numerous reasons. So, that's the state that we're in right now. It was not any intent here to put someone out of business and I believe certainly that he is able to get product from another distributor. Bonanza is producing some product right now. We're told they are anyways, and there is also no doubt we produce more product than anyone else does in this state. I can't argue with that, but we're also producing product for every other state that this is legal in Canada, England, and a little bit for the Philippines. So, that's it.

Bud Sizemore, Chair:

All right. Thank you, sir, and standby, we might questioned for you. Commissioner Reeves.

Reeves:

Thank you, Mr. Chair. So thank you for that outlook, Mr. Gormley, I really appreciate it. I'm an economic developer by trade, so can absolutely resonate with economies of scale and production capacity and all of that. I absolutely can also appreciate as a consumer, somebody who's been wait-listed on a variety of different products personally for eight to 12 months because of COVID. But as somebody who also is very concerned with the disproportionate impacts, particularly on small businesses, Mom-and-Pop facilities, rural facilities, I guess my questions for you as you probably already heard were, what were the minimum purchase requirements identified prior to COVID, i.e, what were you telling your distributors that they had to produce or buy from you? And two, how was that communicated? Was there a contract? Was it a handshake agreement? How were you communicating that those minimum purchase requirements actually existed?

Lane Gormely:

Well, a minimum purchase requirements and pickup requirements were communicated verbally to the folks involved. As far as the decision where we have a cut off on a customer, we said that this is the limit, and this is what we're going to do. I was not involved in that. This actually did come down from our corporate office, but it was based on, I think the relative size of the distributors that we had and that we were trying to disservice. I will acknowledge certainly, I think we probably could have done a better job explaining what we had tried to do, but we have also been in a situation here where much like you, I don't have the same sales staff that I had before. We don't have this same number of people, our hands were pulled on what we were doing. So it was abrupt. There's no question about that. I don't think it would have changed. It hasn't changed the reasoning behind it though. That is it.

Bud Sizemore, Chair:

Okay. Thanks.

Reeves:

Thank you.

Bud Sizemore, Chair:

All right. So thank you, Elaine, for your public comment. Is there any other public comment? All right, I'm seeing no one else raised their hand. Mr. Antonsich, if you'd like to close our conversation here or make

yourself available for any other questions. And you're muted right now, sir, I'm sorry. You have to unmute. There you go. Nope. There you go.

Walter Antoncich:

I'll keep this brief. I appreciate the time that you've given this issue. My first issue and the question I had and it goes along with Commissioner Reese, if it was a verbal that Mr. Gormley said by communicating what minimum purchasing orders are, we never had a conversation with anybody in that warehouse. We never had a conversation with anybody at Arrow International. We have never had a conversation with our rep. We didn't know until we saw this letter from Mary Magnuson on June 28th, that there was even such a thing as a minimum purchasing requirement. Which depending on what it was, I would have been nice to have at least the opportunity to take advantage of that.

Two, saying that we purchased \$30,000 in the first quarter is correct, but that was not our standard. Our purchases prior to COVID were running between \$150,000-\$185,000 a year. So we're not very small, we're just small, but we're very functional. So, like I say, I think this is a very broad between Arrow, between the Gambling Commission, legislature, AGS office to let one organization, one company run the entire state, have their conditions and their determinations placed on everybody without any regulation or control whatsoever, in my mind is a pretty dangerous and unhealthy situation for this industry as a whole. Thank you.

Bud Sizemore, Chair:

All right. Thank you, sir. All right, commissioners. So this is before us. Commissioner Reeves, go ahead.

Reeves:

Thank you, Mr. Chairman. I have a question. Normally, I would say a point of parliamentary inquiry, we're not in that space right now. So I guess my question is one for options on the table. I recognize that the two motions that have been laid out, or the two options that have been laid out before us as a commission are to either accept the petition and enter into rulemaking, or to deny the petition for a variety of reasons. My question is, is there an option or a path for a third option where we could postpone the decision on this petition until our next meeting to give commissioners an opportunity to work with staff, to understand some informal market analysis, if you will? In terms of supplier diversity in this particular instance.

Bud Sizemore, Chair:

So, Ashley or Brian may chime in, but I'm looking at the rule petition to adopt, and it looks like we got this in May, so I think within a specified period of time, we have to act. So Brian, I see you popped up.

Brian Considine:

Yes. For the record, Brian Considine, Legal and Legislative Manager for the Gambling Commission. This question has popped up from time to time, Commissioner Reeves and Mr. Chair, I guess my opinion, my recommendation would be that something if the commissioners have a majority that could explore that with Mr. Antoncich. It's his petition. Ultimately I think if he wants you to make a decision today, he could ask you for that and that's where the administrative procedure act would fall. The APA is silent on holding things over or continuing them, but I think if the commissioners have a majority who would like to do that and the petitioner is accepting of that, I don't see why that cannot happen. Ultimately, this is Mr. Antoncich petition and if he desires for you, if you all desire for additional time to think about this,

and he's good with that, then it would seem that that would be a reasonable motion to also make and then you could come back around to the next commission meeting and address this, but it's really up to a majority of commissioners.

Bud Sizemore, Chair:

Thank you, Brian.

Brian Considine:

You're welcome.

Bud Sizemore, Chair:

Okay, so that is another option being laid out on the table. Is there a motion? Commissioner Reeves.

Reeves:

Bear with me fellow commissioners as I articulate this, but also explain why I think it's necessary. So Mr. Chair, I'd like to move to postpone, obviously looking out of the corner of my eye to Mr. Antonsich to postpone this petition to carry over to our next meeting for decision at our next formal or regularly scheduled commission meeting. I'm happy to speak to why, if other folks [crosstalk 01:33:15]

Vice-chair Patterson:

I would speak at that motion.

Bud Sizemore, Chair:

Okay. It's been moved by... Well, I'll ask the petitioner. Is that acceptable, Mr. Antonsich?

Walter Antoncich:

I think there would be a lot of value to that. Yes.

Bud Sizemore, Chair:

Okay. So it's been moved by Commissioner Reeves and seconded by Commissioner Levy to postpone action with agreement from the petitioner until our next commission meeting to do some additional research on options. Does that capture your amendment or your motion? It does. Okay. So go ahead if you want to speak to that motion.

Vice-chair Patterson:

Mr. Chair, point of order.

Bud Sizemore, Chair:

Okay.

Vice-chair Patterson:

Just curious with regard to the motion that's on the table, is that in keeping with the timeline that staff laid out just now regarding this rule? Does it create any kind of a timing issue to do it that way instead of

asking Mr. Antonsich to withdraw his petition, work with staff, work with commissioners and then resubmit, should we come up with another avenue?

Bud Sizemore, Chair:

And I'll ask Brian to come back onto camera and unmute, please. Do you hear that, Brian?

Brian Considine:

I did. I think it's ultimately, that is another option, Mr. Antonsich does not have to withdraw. This is his petition, it goes before you for a decision one way or the other. I know we have done that in the past when there is a desire to work something out, I think just practically a staff, if it would be withdrawn and if that would be the request from the commissioners to withdraw and see if something can get worked out, then I think there'd need to be some discussion of what exactly is getting worked out, who's working it out and who's going to be a part of that. I think that there'd be a helpful discussion for staff to know even if there's some other work we're supposed to do between now and the commission meeting, but just to answer Commissioner Patterson's question, I think that'd be a possibility, but ultimately again, that's up to the petitioner. And a majority of commissioners, I think that would desire that result versus a different result and right now there's only one motion on the table for your consideration.

Bud Sizemore, Chair:

Yep. And we'll only have one at a time, but we'll have a discussion.

Brian Considine:

Yes, please. One at a time.

Bud Sizemore, Chair:

Commissioner Reeves, on your motion.

Reeves:

Thank you, Mr. Chair. So my reasoning behind the motion on the floor today is one, where while I believe that it is in no way shape or form the distributors, or excuse me, the manufacturer's intent to proactively discriminate against the distributor petitioning the commission today and while I think that there is some ambiguity about whether or not this particular petition requests helps us meet our mission as a commission to keep gambling legal and honest, I think this is where my big P progressive comes out. Which is what I've heard today is that there is some outstanding question about whether or not we buy de facto in potentially declining this petition would be aiding and abetting, I think hyper capitalism at its best and by that, I mean when we singularly aren't focused on ensuring that there is fair and equitable access to the market, that there is fair and equitable access to distribution, that there's an overall equity issue in general, that I do think that that can bring into question whether or not we are helping facilitate keeping gambling legal and honest.

And what I would like in this motion and the reason I asked for a one month continuance would be to really work with staff, to determine, what the current distribution supply chain looks like? I heard, which was new information to me today that Arrow is currently the largest manufacturer and only manufacturer here in Washington, which is contrary to information that I had previously. And so, I just really want to nail down, what does that supply chain really look like, and are we by default in not looking at this, potentially pushing small businesses out of the market? We've seen millions of dollars in

federal revenue. We've seen millions of dollars in state revenue, particularly in COVID response, focused on those small, medium sized businesses in working to try to make sure that they can actually survive the COVID epidemic.

I want to make sure that we, as a commission are thinking strategically about the impact that we're going to have on the gambling industry in general, in Washington and I think the more folks we have in the community providing these resources and these services, the better we will be able to accomplish our mission of keeping gambling legal and honest. And so, I just want to make sure that we've put some thought into that, and that's the reason behind my motion today.

Bud Sizemore, Chair:

Okay. Any further discussion? So I'll offer, and this is a rare occasion where I disagree with my colleague. And I guess I have the benefit of the discussion back in 2014 on this topic and the ability to think about the discussions that we had at that point, and I guess maybe the AAG opinion from that time maybe speaks a little bit more to me. It feels very much to me like the recommendation of staff is very sound, it's rooted in rationale, as well as our history. I don't discount the points that you make, Commissioner Reeves.

Thank goodness, our mission is not keeping capitalism legal and honest because I don't think we could do that, or I wish I had the tools to do it, but we certainly do not have them. So, as much as I empathize with the petitioner, and completely support small businesses and want a robust thriving industry, I don't believe that it is our position to be reinstating this rule or a variance of this rule and don't believe that we can really get into that space. So for that reason, I will be voting against the motion. Vice-chair Patterson.

Vice-chair Patterson:

Yeah. Thanks, Mr. Chair, this has been a very thoughtful discussion. And so, I just wanted to say that I'm inclined to support the motion. The commissioner is simply asking for a month. Staff has not indicated that that month would result in any kind of harm or disrupt our opportunity to do whatever it is that we think is the right thing to do ultimately. I think that if 8 commissioner and right now there's only four of us, that's a significant request, I think, simply asking for a little bit of delay so that that particular commissioner and the rest of us can work with staff a little bit more. I'm inclined to support that motion to give it another month. I don't see the harm there.

Bud Sizemore, Chair:

All right. Thank you. Any other questions, comments from commissioners? Brian, I'm going to ask you to come back on and could you specify what it is that how you interpret this motion? I mean, do you know what and who was supposed to be working on what?

Brian Considine:

Yes and no. I understand the motion is to essentially table the petition until the next public meeting for possible...

Commissioner Reeves :

Hi, I'm Kristine Reeves, candidate for congressional Washington's 10th district.

Bud Sizemore, Chair:

Hold on.

Vice-chair Patterson:

Go ahead, Brian.

Brian Considine:

I'm sorry. That just took me by surprise.

Bud Sizemore, Chair:

Hold on.

Reeves:

I don't even know how that's happening. Nothing on my computer. Sorry guys.

Brian Considine:

That took me a bit by surprise. I'm sorry.

Bud Sizemore, Chair:

All right, Brian.

Brian Considine:

I understand what the motion is and what the consequences would be for a vote on the motion. I think for me, and I don't know honestly if it needs to go further now, and actually I think Interm Director Griffin can chime in because ultimately, I think it's good to get her opinion on this as far as if she needs additional. I think it would be helpful if there's more than just getting the numbers of how many manufacturers, distributors in the state, how many are actively operating, what that distribution is? Some of that information we're going to have, clearly the numbers, how many have we licensed? How many seem to be actively filing their revenues and their quarterly reports and what does that look like? I think though, if there's more, we'll need to work that out because some of the information that Commissioner Reeves might be seeking, which very well may be very valuable. We may just not have without mining it through our licensees or, getting it from somewhere else.

Bud Sizemore, Chair:

Thank you, Brian.

Speaker 5:

Thank you. We're all on same lines. There is some information that we have available here and then definitely we can have staff reach out and get more information regards to what the manufacturers are doing and just by doing a quick little information of what we already have, actually the others are reporting some sales within the state of Washington over the last three quarters in one capacity or another. So we can certainly not only pull numbers, but also then reach out and have conversations with distributors and manufacturers about what's going on with their supply chain? What are their sales in terms of products and availability? What did it look like pre-COVID? What is it post-COVID and what are

those requirements and restrictions for sales at this point moving forward and how long do you anticipate that to last? Does that kind of along the lines? Okay, there we go. Thank you.

Bud Sizemore, Chair:

Okay. Any further comment on the motion, which the motion is to delay for a month? So staff that can gather more information and for us to make a timely decision next month on this petition, whether to accept it or to reject it. So, all those in favor of the motion to delay by one month, go ahead and say, I.

Speaker 5:

I.

Reeves:

I.

Vice-chair Patterson:

I.

Bud Sizemore, Chair:

And the opposed, nay. Motion carries three to one for one month delay. So I'm sure Walter will be getting back in touch with you as well over this next month.

Walter Antoncich:

Thank you for your time.

Bud Sizemore, Chair:

All right. All right. So, that concludes tab three on the efficient for rule change. And so, I'm going to ask for a seven minute break before we move to the next topic. So, according to my computer here, it's 2:48. So at 2:55, let's go back live again. So, we're going to take a quick break, seven minute break.

PART 4 OF 4 ENDS [01:46:25]