

REGULATION 21

LIVE BROADCASTS

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21.005 General. The Chair may waive one or more of the requirements of this regulation if the Chair determines the waiver is consistent with the state policy set forth in NRS 463.0129.

(Adopted: 7/87. Amended: 10/92; 1/11.)

21.010 Definitions. As used in this regulation:

1. "Chair" means the Chair of the Nevada Gaming Control Board or the Chair's designee.
2. "Disseminator" means "disseminator" as that term is defined in NRS 463.0147.
3. "Live broadcast" means "live broadcast" as that term is defined in NRS 463.4212.
4. "User" of a live broadcast means "user" as that term is defined in NRS 463.4218.

(Adopted: 7/87. Amended 1/11.)

21.020 Standards for Board authorization. Pursuant to section 21.046, the Board or Chair shall not authorize a disseminator to enter into an agreement with a track to disseminate a live broadcast to users unless it is established to the Board's or Chair's satisfaction that:

1. The investigative and supervisory time and effort required to maintain effective control over the live broadcast is justified;
2. There exists a comprehensive, effective, government regulatory system governing the track in the jurisdiction where the track is located;
3. Information pertaining to the live broadcast operations at the track will be readily accessible to the Board at all times;
4. Proper and adequate administrative and production controls exist at the track to ensure that the interests of the State of Nevada are not unduly jeopardized; and
5. The track and the proposed live broadcast meet such other standards and requirements as these regulations or the Chair may impose.

(Adopted: 7/87. Amended: 1/11.)

21.030 Prohibited activities.

1. Disseminators shall not distribute audio-only transmissions of more than one race at a time to a race book.

2. Disseminators may distribute the audio portion of live broadcasts without the video portion; however, a user shall not use an audio-only transmission to determine winners of or payoffs on nonpari-mutuel wagers.

3. No disseminator may grant or purport to grant to any user an exclusive right to the use of any live broadcast or any part thereof, and any contractual provision that grants or purports to grant such exclusive right is void.

(Adopted: 7/87. Amended 1/11.)

21.031 Intent to submit a live broadcast proposal.

1. A disseminator intending to submit a live broadcast proposal for the exclusive right to disseminate a live broadcast of a racing meet to users must submit written notification of this intent to the Chair no later than 100 days prior to the start of the proposed racing meet.

2. If only one disseminator submits written intent notification, pursuant to subsection 1, the Chair will provide notice directing the disseminator to submit a live broadcast proposal to the Chair that meets the submission requirements set forth in section 21.032. The proposal must be submitted no later than 7 days prior to the start of the proposed racing meet, unless the meet was not distributed in Nevada during the previous year, in which case the proposal must be submitted no later than 30 days prior to the start of the racing meet.

3. If more than one disseminator submits written intent notification, pursuant to subsection 1, the person holding the live broadcast track rights ("rightsholder") shall determine which of the disseminators will be given the exclusive right to disseminate the racing meet to users. The disseminator given this right must notify the Chair of this determination no later than 45 days prior to the start of the proposed racing meet. The disseminator must also submit a live broadcast proposal to the Chair that meets the submission requirements set forth in section 21.032, following the same filing deadlines specified in subsection 2. If the rightsholder does not select a disseminator at least 45 days prior to the start of the meet, each disseminator who submitted written intent notification must submit to the Chair, no later than 30 days prior to the start of the proposed racing meet, a live broadcast proposal that meets the submission requirements set forth in section 21.032. A hearing panel may then be assembled, in accordance with section 21.034, to make a recommendation to the Board, as to which disseminator should be granted the right. The Chair will provide timely notices to the disseminator and users throughout this process as the Chair deems necessary.

4. A disseminator must notify the Chair in writing, no later than 7 days prior to the start of the proposed racing meet, to modify or withdraw the intent notification the disseminator made pursuant to this section.

(Adopted: 1/11.)

21.032 Live broadcast proposals.

1. Live broadcast proposal submissions for the exclusive right to disseminate a live broadcast of a racing meet to users must be made in a manner and using such forms as the Chair may prescribe. The Chair may require each proposal to be distributed to the users. Each proposal must include, in addition to such other information as this regulation may require:

(a) Evidence satisfactory to the Chair that the live broadcast would not be contrary to the laws and regulations of the jurisdictions where the track at which the live broadcast races are to be run is located;

(b) A description of the entire racing program, including a schedule of race days, types of wagering and number of races to be offered, and program times;

(c) If requested by the Chair, a precise, detailed diagram showing the path of the live broadcast signal from track to race book;

(d) Identification of the satellite proposed to be used;

(e) If requested by the Chair, a written description of all track and disseminator procedures relating to the live broadcast;

(f) The proposed agreement between the disseminator and users;

(g) On a live broadcast proposal form to be provided by the Chair, information pertaining to the racing meet under consideration, including but not limited to the percentage rate to be charged users and, if available, the past, present or proposed handle;

(h) A copy of an executed letter of intent between the disseminator and the live broadcast rightsholder indicating that the disseminator will be granted the exclusive right to transmit the live broadcast. If the executed letter of intent is provided by a rightsholder other than the track, then a copy of an executed contract or letter of intent between the track and the rightsholder must also be provided;

(i) A copy of the proposed agreement between the disseminator and the live broadcast rightsholder, and a statement from the disseminator that the live broadcast will not be disseminated to users before an executed agreement has been finalized;

(j) Identification of the proposed transmission vendors contracted to provide encoding, uplinking, decoding, and transponder services for the racing meet;

(k) A statement that the live broadcast will comply with all the production requirements set forth in section 21.060. If a production requirement cannot be met, a waiver request must be submitted detailing the reason the requirement cannot be met; and

(l) Any additional documentation or information the Chair may request.

2. When only one disseminator has submitted a live broadcast proposal, the disseminator must notify the Chair in writing no later than 3 days before the start of the racing meet to modify the proposal submission the disseminator made pursuant to subsection 1.

(Adopted: 1/11.)

21.034 Hearing panel.

1. If a hearing is determined to be necessary, the Board shall appoint a hearing panel, in accordance with section 21.035 and NRS 463.423, and shall notify each disseminator and user indicating that a hearing panel meeting will be conducted. The hearing panel will determine, using the approval standards set forth in section 21.045, which disseminator will be recommended to the Board for approval to be granted the exclusive right to disseminate a live broadcast racing meet to users, and will be conducted pursuant to NRS 463.424.

2. The hearing notice may include:

(a) A time certain within which each proposal for the exclusive right to disseminate a live broadcast must be submitted;

(b) Instructions regarding the manner in which each proposal should be prepared for submittal; and

(c) Any other information deemed necessary by the Chair.

(Adopted: 1/11.)

21.035 Hearing panel members: qualifications and eligibility.

1. Each member of the panel shall be a citizen of the United States, and a resident of the State of Nevada.

2. A member of the hearing panel may not:

(a) Represent a disseminator, race book, or nonrestricted gaming establishment approved for a race book, or an affiliate of these entities, in a professional capacity; or

(b) Hold a disseminator or nonrestricted gaming license; or

(c) Be an employee of a disseminator, a nonrestricted gaming licensee, or any affiliate thereof; or

(d) Have a direct pecuniary interest in a disseminator, a nonrestricted gaming licensee, or any affiliate thereof.

3. It is the intention of the Commission that the panel be composed of the most qualified persons available.

(a) One member of the panel must be a certified public accountant licensed by this state or another state of the United States or a public accountant qualified to practice public accounting under the provisions of chapter 628 of NRS, have 5 years of progressively responsible experience in general accounting, and have a comprehensive knowledge of the principles and practices of corporate finance; or such person must possess the qualifications of an expert in the fields of corporate finance, auditing, general finance, gaming or economics.

(b) One member of the panel must either be a lawyer licensed in the State of Nevada and whose practice generally involves business law or administrative law or be an individual, who although not a lawyer, has experience in administrative hearings or administrative law.

(c) One member of the panel must be an individual with 5 years of progressively responsible experience in business or government and with comprehensive knowledge of the principles and practices in the field of regulated industries.

4. Each nonrestricted licensee and each disseminator may submit the names of individuals who in their opinion meet the qualifications for appointment to the panel. Each submission must be in writing and must include a résumé of the proposed panel member. The Board or its designee shall consider the

qualifications of each proposed panel member but retains its sole and absolute discretion to determine who shall be appointed to the panel.

(Adopted: 7/87. Amended: 10/92.)

21.039 Notices. [Repealed: 1/27/11.]

21.040 Proposals for the exclusive right to disseminate a live broadcast of a racing meet to users. [Repealed: 1/27/11.]

21.045 Standards for approval of a live broadcast proposal. A proposal shall not be approved pursuant to section 21.046 unless:

1. It contains all of the information required by section 21.032;
2. The proposed rate to be charged to users does not exceed the rate permitted by subsections 1 or 2 of section 20.030 or the rate approved pursuant to subsection 3 of section 20.030;
3. The terms and conditions of the proposed user agreement are reasonable; and
4. It provides the live broadcast to users at a cost that is lower than that proposed by any other disseminator. If two or more proposals provide for the same lowest cost, the hearing panel shall choose its recommendation for the exclusive right to disseminate the live broadcast by lot.

(Adopted: 7/87. Amended: 12/88; 10/92; 1/11.)

21.046 Approval of live broadcast proposals.

1. If only one live broadcast proposal is submitted to the Chair in accordance with section 21.031(2) or more than one live broadcast proposal is submitted and the person holding the live broadcast track rights determines which disseminator will be given the exclusive right to disseminate the racing meet to users in accordance with section 21.031(3), the Chair shall approve the sole disseminator's live broadcast proposal or the live broadcast proposal of the disseminator selected by the person holding the live broadcast track rights if the approval standards set out in section 21.045 are satisfied by the live broadcast proposal. Upon approval of the live broadcast proposal, the Chair shall notify the disseminator and each user of the Chair's approval.

2. If more than one live broadcast proposal is submitted and the person holding the live broadcast track rights does not determine which disseminator will be given the exclusive right to disseminate the racing meet to users at least 45 days prior to the start of the proposed racing meet, the Board may determine that a hearing is not necessary for the selection of a disseminator and the Board shall choose a disseminator using the approval standards set forth in 21.045. Upon the selection of a disseminator, the Board shall notify each disseminator and user of the Board's selection.

3. If the Board assembled a hearing panel, pursuant to section 21.034, to recommend to the Board which disseminator should be granted the exclusive right to disseminate a live broadcast racing meet to users, the Board shall consider the hearing panel's recommendation in accordance with NRS 463.424 and shall select a disseminator, using the approval standards set forth in section 21.045, to receive this exclusive approval. The Board shall notify each disseminator and user of the Board's selection.

(Adopted: 1/11.)

21.047 Withdrawal of authorization and action following withdrawal.

1. The Board may order the withdrawal of the authorization of any proposed live broadcast without notice or hearing whenever the Board has reason to believe the disseminator has violated any regulation of the Commission, or for any cause the Board deems reasonable. Each disseminator shall be considered to have consented to such authority of the Board as a condition of the approval of the live broadcast. The decision of the Board is final and is not subject to Commission review.

2. Without limiting the discretion of the Board, the following may be grounds for withdrawal of authorization:

(a) If, prior to the live broadcast of the first race of the racing meet, the disseminator fails to broadcast and demonstrate for the Chair a video signal meeting the requirements of this regulation and using the equipment and following the procedures described in the proposal.

(b) If, the Chair determines, the terms of any agreement submitted with the disseminator's proposal are altered to the economic detriment of a user.

(c) If the Chair has not received an executed rights contract, pursuant to subsection 1 of section 21.050.

(d) If the Chair determines the authorized disseminator will be unable to execute a contract for these rights.

(e) If the Chair determines, following execution of the contract for the live broadcast rights, that the authorized disseminator is economically unable to provide the live broadcast.

3. The following action may be taken following withdrawal of authorization:

(a) If more than one disseminator submitted proposals for a live broadcast and the Board acts to withdraw its authorization, the Board may then authorize any other disseminator who submitted a proposal to disseminate the live broadcast.

(b) If only one disseminator submitted a proposal for a live broadcast and the Board acts to withdraw its authorization, the Board may then authorize any other disseminator who is willing to adopt the withdrawn disseminator's proposal and provide the racing meet on those terms to disseminate the live broadcast.

4. Except for any agreement between a disseminator and user, any agreement executed by a disseminator relative to a live broadcast must be deemed to include a provision for its termination upon the Board's withdrawal of authorization. Such termination is without prejudice to the track or organization of tracks to enter into an agreement with another disseminator upon the same terms.

(Adopted: 7/87. Amended: 1/11.)

21.050 Documents and information to be maintained or submitted following Board authorization. Except as may be provided by the Chair, once authorized to disseminate a live broadcast, the disseminator must:

1. Submit to the Chair a copy of any rights contract the disseminator executes with the track or racing association before the live broadcast begins.

2. Maintain copies of the executed agreement with each user.

3. Submit a report listing the inclusive dates of the meet, number of race days, number of users who contracted for the live broadcast, the effective percentage rate charged to the books and any other information that the Chair may require to be filed, using such forms as the Chair may prescribe within 60 days following the completion of the racing meet.

(Adopted: 7/87. Amended: 10/92; 1/11.)

21.053 Standard revenue and expense classifications. [Repealed: 1/27/11.]

21.055 Unsuitable methods of operation. It is an unsuitable method of operation:

1. For a disseminator to submit a proposal to disseminate a live broadcast which includes misrepresentations or omissions.

2. For either disseminators or users to misrepresent any facts during a hearing before the hearing panel or Board.

3. For a disseminator to delay the transmission or a user to delay the public showing of a live broadcast for any period of time.

4. For a disseminator to not meet the filing deadlines specified in this regulation.

(Adopted: 7/87. Amended: 1/11.)

21.060 Production.

1. For each race, the video portion of every live broadcast must include:

(a) The post parade;

(b) At least twice before the start of the race and for at least 30 seconds each time, the track totalizator board or a graphics display, which is interfaced with the tote system, showing the race odds and pool information in United States currency and the time until post at the track;

(c) The race;

(d) At least twice after the end of the race and for at least 30 seconds each time, the track totalizator board or a graphics display, which is interfaced with the tote system, showing the official order of finish and the resulting payoffs in United States currency;

(e) The track totalizator board or a graphics display that accurately reproduces some or all of the information shown on the totalizator board, at all times other required or permitted portions of the program are not shown;

- (f) At all times, the track's name or logo; and
 - (g) At all times, a digital display, as described in subsection 4, of the date and time of day at the track where the live broadcast races are run.
2. For each race, the audio portion of every live broadcast must include:
 - (a) Post time, as defined in Regulation 22;
 - (b) An announcement of the start of the race; and
 - (c) The call of the race.
 3. The audio and video portions of any live broadcast may include:
 - (a) Information identifying the next race, its distance, and track conditions;
 - (b) The names, numbers, post positions, and other information identifying the horses and jockeys or other entrants in the next race;
 - (c) Pre-race preparation activities in the paddock area; and
 - (d) Race replays, but only if the replays are conspicuously identified as such on the video portion of the live broadcast throughout the replay.
 4. The digital display referred to in subparagraph (g) of subsection 1 must be generated at the track, broadcast continuously by the disseminator, and displayed continuously by the user. The time must be displayed to the nearest second, conform as closely as possible to the official time used by the track, and, along with the date, be readily visible to the person in the user's employ who controls the closing of wagering for each race.
 5. Except as the Chair may otherwise approve in advance in writing, speakers, television screens, and similar devices used to display the audio and video portions of live broadcasts must be located only within public areas of the user's premises.
(Adopted: 7/87. Amended 1/11.)

21.070 Signal transmission, reception, and security. Before providing a live broadcast to a user, the disseminator must:

1. Verify that the signals to be transmitted will be encrypted and controlled by a conditional access system.
2. Install and maintain at each user's premises such equipment needed to decrypt the signals transmitted to that user.
3. Maintain records of all serial numbers for all decryption equipment located at each user's premises.
(Adopted: 7/87. Amended: 12/88; 1/11.)

21.080 Procedures of users.

1. A user may not use a live broadcast before the user has executed an agreement with the disseminator. The user must maintain copies of all such executed agreements for five years after the expiration of such executed agreement.
2. A user may not use information included in a live broadcast to determine winners of and payoffs on wagers accepted at the user's race book unless the user receives the live broadcast from the disseminator approved to disseminate the live broadcast.
3. Each user shall post at the user's establishment an explanation of any discrepancies between numbers used at the track and those used at the user's establishment to identify entrants.
(Adopted: 7/87. Amended: 10/92; 1/11.)

21.090 Records and reports.

1. Each user who uses information included in a live broadcast to determine winners of and payoffs on wagers accepted at the user's race book shall record simultaneously with the occurrence of the recorded event, for each live broadcast race:
 - (a) The scheduled post time supplied by the disseminator;
 - (b) The actual post time as defined in Regulation 22;
 - (c) The name, number, and official finishing position, as supplied by the track, of each entrant finishing in a position for which a payoff is made or offered;
 - (d) The official race track payoff results announced in the live broadcast; and
 - (e) Such other information as the Chair may require.
2. Every user shall retain copies of the reports filed pursuant to Regulation 20.030(7).

3. Each disseminator shall record the audio and video portions of each live broadcast the disseminator transmits to users. Disseminators shall use such recording equipment and procedures as the Chair may approve in advance, and shall preserve the recordings for at least 20 days after the occurrence of the events recorded unless the Chair orders preservation for a different length of time. Using such equipment as may be approved in advance by the Chair, each disseminator shall incorporate in the video portion of the recordings the date and, to the nearest second, the correct time of day at which the live broadcast is transmitted to users. The disseminator shall take reasonable steps to prevent discrepancies between the track time displayed as part of the live broadcast and the time generated as part of the recording, and shall maintain and, upon the Chair's request, submit records describing each such discrepancy in detail. In the alternative, a disseminator, upon approval from the Chair and subject to conditions prescribed by the Chair, is not required to record the audio and video portions of each live broadcast the disseminator transmits to users if the disseminator is able to obtain such recordings from the track originating such live broadcast provided that the track maintains the recordings for at least 20 days after the occurrence of the events recorded or for such different time period as approved by the Chair.

4. Disseminators and users shall create and maintain the records required by this or any other regulation in such manner and using such forms as the Chair may require or approve. The Chair may require disseminators and users to create and maintain such other records and reports as are necessary or convenient for strict regulation of disseminators and users. At the Chair's request, disseminators and users shall submit the records specified in subsection 1. Users and disseminators shall preserve the records required by this regulation (other than the recordings referred to in subsection 3) for at least 5 years after they are made. The Board may at any time examine and copy the records of any user or disseminator.

(Adopted: 7/87. Amended: 1/11.)

21.100 Board monitoring and authority.

1. A disseminator who distributes live broadcasts to users shall provide and maintain at Board offices a post-licensing, investigative and security verification fund in such amount as the Chair may require.

2. The Board may review the security of the live broadcast transmission and reception at any time and in any manner, including, but not limited to:

- (a) Verifying the security codes used to authorize decoders;
- (b) Requesting security code changes;
- (c) Verifying the number and locations of decoders; and
- (d) Verifying the serial number of any decoder.

3. The Chair may order the immediate termination of any live broadcast transmission or reception without prior notice or hearing whenever the Chair has reason to believe the disseminator or user has violated any regulation of the Commission, and each disseminator and user shall be considered to have consented to such authority of the Chair as a condition to the approval of the live broadcast. After any such termination, the disseminator or user may, within 3 days of the order, request a hearing before the Commission to review the Chair's order. The decision of the Commission is binding and conclusive on the affected disseminator and users.

4. The Board may recommend to the Commission that a person or an entity providing services in connection with the transmission of live broadcasts be required to file an application for a finding of suitability pursuant to NRS 463.168.

(Adopted: 7/87. Amended: 1/11.)

21.110 Live broadcast supervision. Each disseminator:

1. Shall maintain an office in Nevada and designate a key employee to supervise and be responsible for the day-to-day operations of the dissemination of the live broadcasts; and

2. By using communications equipment other than equipment used to transmit live broadcasts:

- (a) Shall be able at all times to contact each user immediately; and
- (b) Shall be available at all times to respond immediately to user requests for confirmation of information included in the live broadcasts.

(Adopted: 7/87.)

21.120 Notification procedures. The method of "notification" used pursuant to this regulation may include, but is not limited to, written notification through United States mail, email, and posting to the Board's website.

(Adopted: 1/11.)

End – Regulation 21