



PENNSYLVANIA GAMING CONTROL BOARD  
303 WALNUT STREET, COMMONWEALTH TOWER  
HARRISBURG, PENNSYLVANIA  
17101

KEVIN F. O'TOOLE  
*Executive Director*  
303 Walnut Street  
Commonwealth Tower, 5<sup>th</sup> Floor  
Harrisburg, PA 17101  
Phone: (717) 346-8300  
Fax: (717) 346-8350  
Email: [keotoole@pa.gov](mailto:keotoole@pa.gov)  
Website: [gamingcontrolboard.pa.gov](http://gamingcontrolboard.pa.gov)

April 25, 2025

*Chair*  
DENISE J. SMYLER

*Commissioners*  
FRANK DERMODY  
SHAWN DILLON  
GEORGE DUNBAR  
SARA MANZANO-DÍAZ  
NEDIA RALSTON  
FRANCES J. REGAN

*Ex-Officio Members*  
PAT BROWNE  
STACY GARRITY  
RUSSELL C. REDDING

**Sent via Electronic Mail**

The Honorable Caroline D. Pham  
Acting Chair  
Commodity Futures Trading Commission  
Three Lafayette Centre  
1155 21st Street, NW  
Washington, DC 20581

**RE: Prediction Markets Roundtable**

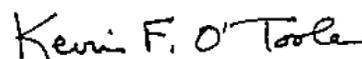
Dear Acting Chair Pham and Commissioners:

The Pennsylvania Gaming Control Board ("PGCB") was disappointed to hear that the Roundtable was canceled and that we would not have the opportunity to testify in front of the Commodity Futures Trading Commission regarding the comingling of Futures Markets and Exchange Wagering/Sports Betting.

Regardless, the PGCB believes this to be an important issue, and we are including our testimony that would have been given at the Roundtable.

Thank you for your consideration and if you have any questions or need additional information, please feel free to contact me.

Sincerely,

  
Kevin F. O'Toole  
Executive Director

Enclosure

cc: Brigitte Weyls, Esq., Senior Counsel, Office of Acting Chair Caroline D. Pham Commodity Futures Trading Commission

**Commodity Futures Trading Commission**  
**30 APRIL 2025 – Prediction Markets Roundtable**  
**Testimony from Pennsylvania Gaming Control Board Executive Director**  
**Kevin O’Toole**

Good morning, Chairman Pham and Commissioners. My name is Kevin O’Toole and I serve as the Executive Director to the Pennsylvania Gaming Control Board (PGCB). I would like to begin by thanking you for the opportunity to address prediction markets and their effect on Pennsylvania.

The emergence of sports prediction markets presents a novel challenge to established regulatory frameworks across the United States, including the Commonwealth of Pennsylvania. These platforms facilitate the trading of contracts whose value is tied to the outcomes of future sporting events. These markets can attract significant trading volume.<sup>1</sup>

Following the U.S. Supreme Court's decision in *Murphy v. National Collegiate Athletic Association*,<sup>2</sup> which struck down the Professional and Amateur Sports Protection Act of 1992 (PASPA) under the Constitutional mandate that Congress cannot commandeer state legislatures to enact specific laws,<sup>3</sup> Pennsylvania began to authorize and regulate sports wagering. These legal wagers,

---

<sup>1</sup> Sports Prediction Markets Still Face Legal Roadblocks, <https://frontofficesports.com/legal-roadblocks-kalshi-sports-prediction-markets/>, (16 April 2025)

<sup>2</sup> 584 U.S. 453 (2018).

<sup>3</sup> U.S. Const. Amnd. 10

which are provided for in the Pennsylvania Race Horse Development and Gaming Act,<sup>4</sup> fall squarely under the jurisdiction of the Pennsylvania Gaming Control Board (PGCB), the independent state agency also tasked with overseeing casino gaming, iGaming, video gaming terminals, and fantasy sports contests within the Commonwealth.

In contrast, operators of sports prediction markets typically assert that their products are not "gambling" under state law but rather financial derivatives or swaps. They claim primary regulatory oversight falls under the Federal Commodity Futures Trading Commission (CFTC) and that the Wire Act, which prohibits interstate sports wagering, is not applicable. This assertion creates an immediate and significant conflict regarding regulatory authority, pitting federal derivatives law against other federal laws and Pennsylvania's established power to regulate gambling activities within its borders (and, importantly, criminalize illegal gambling). This threat obviously manifests through challenges to state sovereignty and creates a complex federalism dilemma.

The introduction of sports prediction markets operating under purported federal oversight poses a direct threat to the comprehensive regulatory system Pennsylvania – and many other state jurisdictions – have meticulously constructed

---

<sup>4</sup> 4 Pa.C.S. §1101 *et seq.*

for gaming, including sports wagering. With all due respect to this body, it would take years for the CFTC to create the regulatory system and oversight that state gaming authorities have in place and, were you to do that, it would create a redundancy to something that already exists and works exceptionally well.

As the Supreme Court stated in the *Murphy* decision, the regulation of gambling has historically been a matter left to individual states, reflecting the principle of state sovereignty and the understanding that states are best positioned to address the unique social and economic considerations associated with wagering within their borders.<sup>5</sup> The regulatory framework that Pennsylvania enacted was based on a long-running understanding that regulation is crucial to the success of gaming and was based, in part, on the Nevada and New Jersey models of regulatory oversight. When Nevada first created their Gaming Control Board, they did so with the understanding that there had been unsavory characters and organized crime operating in the gaming space, that gaming was vital to the state, and that for gaming to succeed, public trust was crucial. That declaration in the Nevada enabling statute remains good law today,<sup>6</sup> and is a fundamental tenet in Pennsylvania as well.

---

<sup>5</sup> See, again, *Murphy v. NCAA*.

<sup>6</sup> Nevada Revised Statute 463.0129

Allowing sports prediction markets to operate under the primary jurisdiction of the CFTC directly undermines this state authority. These markets effectively create a backdoor to legalized sports betting, operating parallel to, but outside of, the state-regulated system.

The strategy employed by prediction market operators appears to be one of regulatory arbitrage. State-regulated sports betting operators in Pennsylvania face significant financial and regulatory requirements, including thorough background investigations, licensing fees, state taxation on gross gaming revenue, and mandatory compliance with detailed rules providing consumer protections, responsible gaming provisions, and significant integrity monitoring. Furthermore, they are subject to penalties, should any of these stringent stipulations not be upheld. By seeking classification as financial derivatives under CFTC oversight, prediction markets aim to sidestep these crucial state-level requirements. This creates an inherently uneven playing field, where prediction markets could gain a competitive advantage not solely through product innovation, but by exploiting a perceived loophole between federal financial regulation and state gaming law.

To be clear, the CFTC is primarily a financial market regulator, lacking the specific expertise and historical mandate for overseeing consumer gambling activities. State bodies like the PGCB, conversely, possess specialized knowledge

and experience in regulating gaming to protect the public interest.<sup>7</sup> The PGCB exemplifies the long-standing role of states in gaming regulation, recognizing their unique understanding of local needs and values. Conversely, to begin to equate sports wagering with the equivalent of a financial product opens a proverbial Pandora's box of potential issues as financial advisors, using their client's funds, can choose to "invest" in the outcome of a sporting event.

This jurisdictional clash carries a significant risk resulting in inconsistent and potentially inadequate regulation. The CFTC's regulatory framework is designed primarily for derivatives markets, often involving sophisticated institutional participants, focusing on market stability, and preventing fraud within that context. In contrast, state gaming regulators like the PGCB prioritize consumer protection for the public, implementing detailed measures for responsible gaming, age verification, Know Your Customer standards, advertising standards, and problem gambling prevention and treatment. Unlike what has occurred historically in financial markets, sports prediction markets, despite their financial framing, are marketed broadly and attract retail participation, including to potentially vulnerable populations. Without the benefit of state participation, these markets operate without the granular, consumer-focused protections Pennsylvania mandates for its

---

<sup>7</sup> 4 Pa.C.S. §1101(1).

licensed gaming operators – such as integration with the state's self-exclusion program, adherence to specific advertising restrictions, or contributions to the Commonwealth's problem gambling funds.

In fact, regulated gaming operators in the Commonwealth of Pennsylvania, and the PGCB, have always supported research, studies, and treatment options in the area of problem gambling. The Pennsylvania Department for Drug and Alcohol Programs (DDAP), the state agency responsible for overseeing substance abuse and gambling addiction programs in Pennsylvania, receives funding from Pennsylvania licensed gaming operators. This funding supports treatment for those in need, as well as funding for an annual study of trends in the area. Moreover, DDAP has highlighted the increasing prevalence of online gambling and associated problems in its annual reports, acknowledging that the problem is aggravated by the prevalence of illegal and unregulated options that do not provide any guardrails for consumers.

Similarly, the Council on Compulsive Gambling of Pennsylvania, a key non-profit partner providing education and facilitating referrals through the 1-800-GAMBLER helpline, has noted the significant shift in helpline calls towards younger demographics and those struggling specifically with online sports betting and casino games.<sup>8</sup> The PGCB, through its Office of Compulsive and Problem

---

<sup>8</sup> See, Pa. Act 42 – 2017.

Gambling, acknowledges the importance of analyzing these trends to adapt prevention and assistance programs protecting consumers.

The PGCB and other state regulators are also heavily involved in monitoring the integrity of sporting events. Unfortunately, the introduction of new forms of wagering without robust safeguards against corruption and manipulation, is harmful to all stakeholders in the sports wagering space. Sports prediction markets, particularly if operating outside the established state regulatory frameworks, raise significant integrity concerns due to their vulnerability to manipulation, especially when compared to the safeguards embedded within state-regulated sports betting systems due to the partnerships that have been built across operators, jurisdictions and sports leagues.

These established frameworks involve mandatory data sharing between licensed operators and sports leagues, sophisticated monitoring systems to detect suspicious betting patterns, and strict rules prohibiting participation by athletes, officials, and other insiders. If prediction markets successfully carve themselves out of the "gaming" definition for regulatory purposes, they risk creating a parallel wagering ecosystem where bets on sports outcomes occur with significantly less oversight regarding potential match-fixing or the exploitation of insider information.

Ultimately, if prediction markets are perceived as having weaker integrity controls than state-regulated sportsbooks, it could amplify those concerns about match-fixing or the misuse of insider information, eroding the trust that is essential for the sports ecosystem. Blurring the lines between strictly regulated sports betting and these alternative platforms can lead to consumer confusion and dilute the effectiveness of hard-won integrity measures.

Another critical deficiency of sports prediction markets operating outside of Pennsylvania's established gaming regulatory structure is the potential lack of robust consumer protections equivalent to those mandated for PGCB licensees. Pennsylvania law and PGCB regulations require licensed online gambling operators (including sportsbooks and iGaming sites) to implement specific consumer protection and responsible gaming measures. These typically include: the ability to place limits on deposits, wagers, losses, and time spent gambling, periodic notifications reminding players of the duration of their gambling sessions, offering options for players to voluntarily exclude themselves from accessing gambling platforms for defined periods, implementing strict procedures (Know Your Customer) to verify the age and identity of players, preventing underage access, and displaying clear information about the risks of gambling, and providing easy access to resources like the 1-800-GAMBLER helpline and the Council on Compulsive Gambling of Pennsylvania.

The coexistence of state-regulated platforms and federally overseen (or unregulated) prediction markets create fertile ground for consumer confusion. From a user's perspective, placing a wager on a sporting event outcome might appear functionally similar whether done on a licensed sportsbook app like FanDuel or a prediction market platform. Aggressive marketing by various online wagering platforms can further blur these lines. Consumers, particularly those less familiar with the nuances of gaming regulation, might reasonably assume that all platforms offering sports-related wagering provide comparable levels of security and protection. This potential confusion benefits prediction market operators by attracting users who might otherwise prefer the safeguards of the state system, but it disadvantages consumers who may unknowingly forgo critical Pennsylvania-specific protections, such as PGCB-administered dispute resolution or seamless integration with state problem gambling resources and self-exclusion lists.

Should consumers experience harm, their avenues for seeking redress through Pennsylvania's established channels may be limited or non-existent if the platform is not licensed by the PGCB. The PGCB provides a crucial oversight function for its licensees, investigating complaints, and ensuring adherence to fair play and consumer protection standards. Without this state-level oversight, Pennsylvanians interacting with prediction markets might find themselves navigating complex

federal regulatory channels with little practical recourse and substantial personal funds hanging in the balance.

A crucial justification for regulating event contracts under the CFTC, rather than as gambling under state law, is the assertion that they serve a legitimate "economic purpose," primarily hedging risk or facilitating price discovery, as required by the Commodity Exchange Act (CEA). However, the application of this principle to contracts based on sports outcomes is questionable. Unlike derivatives based on commodities, interest rates, or even weather events, the outcome of a specific football game or tennis match generally does not create systemic economic risk that necessitates hedging for broad segments of the economy. The primary motivation for most participants trading sports event contracts is likely speculation on the outcome, which closely resembles gambling. Importantly, the PGCB believes sports prediction markets are no more than sports wagering under a different name, and contracts based upon "gaming" are expressly prohibited by the CEA.<sup>9</sup>

Proponents sometimes emphasize the entertainment value provided by prediction markets, framing them as engaging ways for consumers to interact with events. While participation can undoubtedly be entertaining for some, this potential benefit must be carefully weighed against the well-documented societal costs

---

<sup>9</sup> 7 U.S.C. § 7a-2(c)(5)(C)(i)(V) (2023)

associated with gambling expansion. These costs include the direct harms suffered by individuals with gambling problems as well as broader impacts on families, communities, and public resources. Authorizing or permitting the operation of sports prediction markets outside the established regulatory framework of the PGCB would pose significant risks to the Commonwealth and its residents.

Sports prediction markets operating under Federal CFTC oversight directly challenges Pennsylvania's sovereign right to regulate gambling within its borders. They create a parallel system that bypasses the PGCB, state licensing requirements, taxation structures, and specific consumer protection mandates designed for Pennsylvanians. Platforms operating outside PGCB oversight are unlikely to offer the same level of consumer protection mandated by Pennsylvania law, including specific responsible gaming tools, integration with state self-exclusion programs, robust age verification, and clear avenues for dispute resolution within the Commonwealth. These markets present vulnerabilities for market manipulation, insider trading, and match-fixing, thereby threatening the perceived and actual integrity of sports competitions. Furthermore, they pose a risk of cannibalizing revenue from established and licensed operators, harming crucial state programs funded by that revenue.

Maintaining the integrity and consistency of the state's established regulatory framework for all forms of gambling is paramount to protecting the

public interest, ensuring consumer safety, preserving sports integrity, and safeguarding vital state revenue streams.

It would be our hope that the CFTC would continue to oversee futures markets, of which “sports events” should not apply, and allow state gaming regulators to regulate state gaming markets, of which sports wagering is expressly included as our respective enabling legislation provides for.

Thank you. I am certainly available to address any questions any of the Commissioners may have.