



# The Rise and Regulation of Prediction Markets: The Current Legal Landscape and What's Next for Event Contracts

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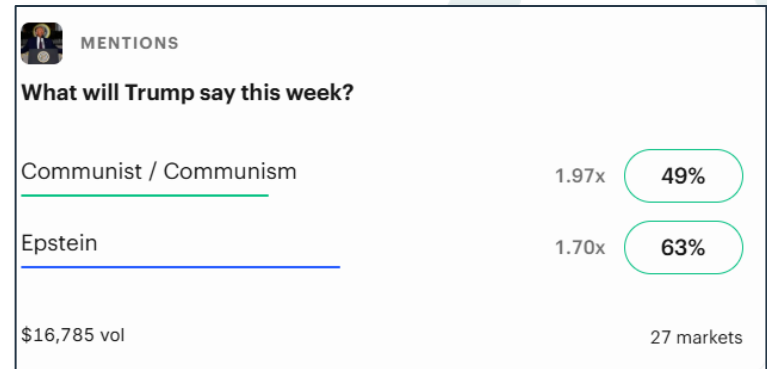
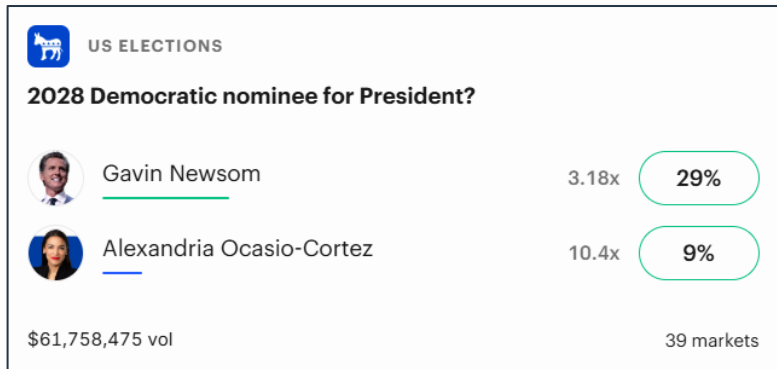


# Introduction to Prediction Markets

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# What Are Prediction Markets?

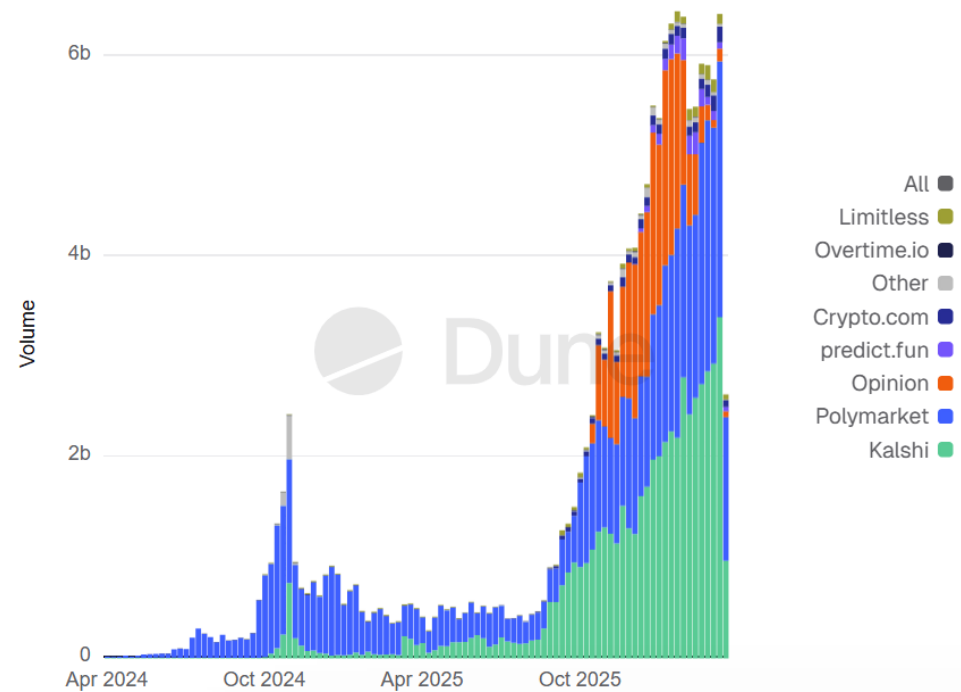
- ▶ Online platforms where people can bet on the outcome of future events with a “yes” or “no” answer.
- ▶ Referred to as “event contracts” or “binary options.”
- ▶ \$1 per contract for correct predictions and \$0 for incorrect predictions.
- ▶ Participants trade with other traders, not the platform itself.



# History and Growth

- First modern prediction market was launched by the University of Iowa in 1988.
- Polymarket and Kalshi launched in 2020 and 2021, respectively.
- Surge in interest during 2024 election.
- Total trading volume on prediction markets in 2025 exceeded \$60 billion.

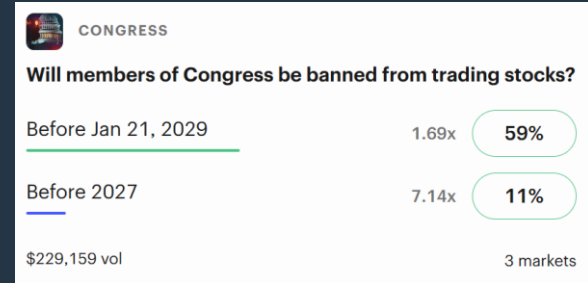
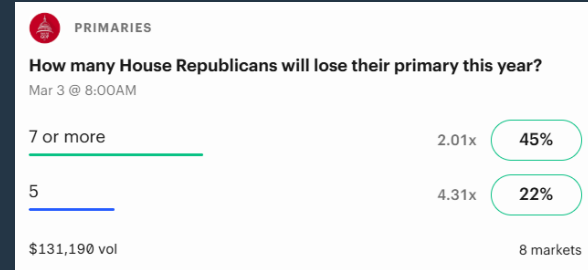
Weekly Prediction Market Notional Volume

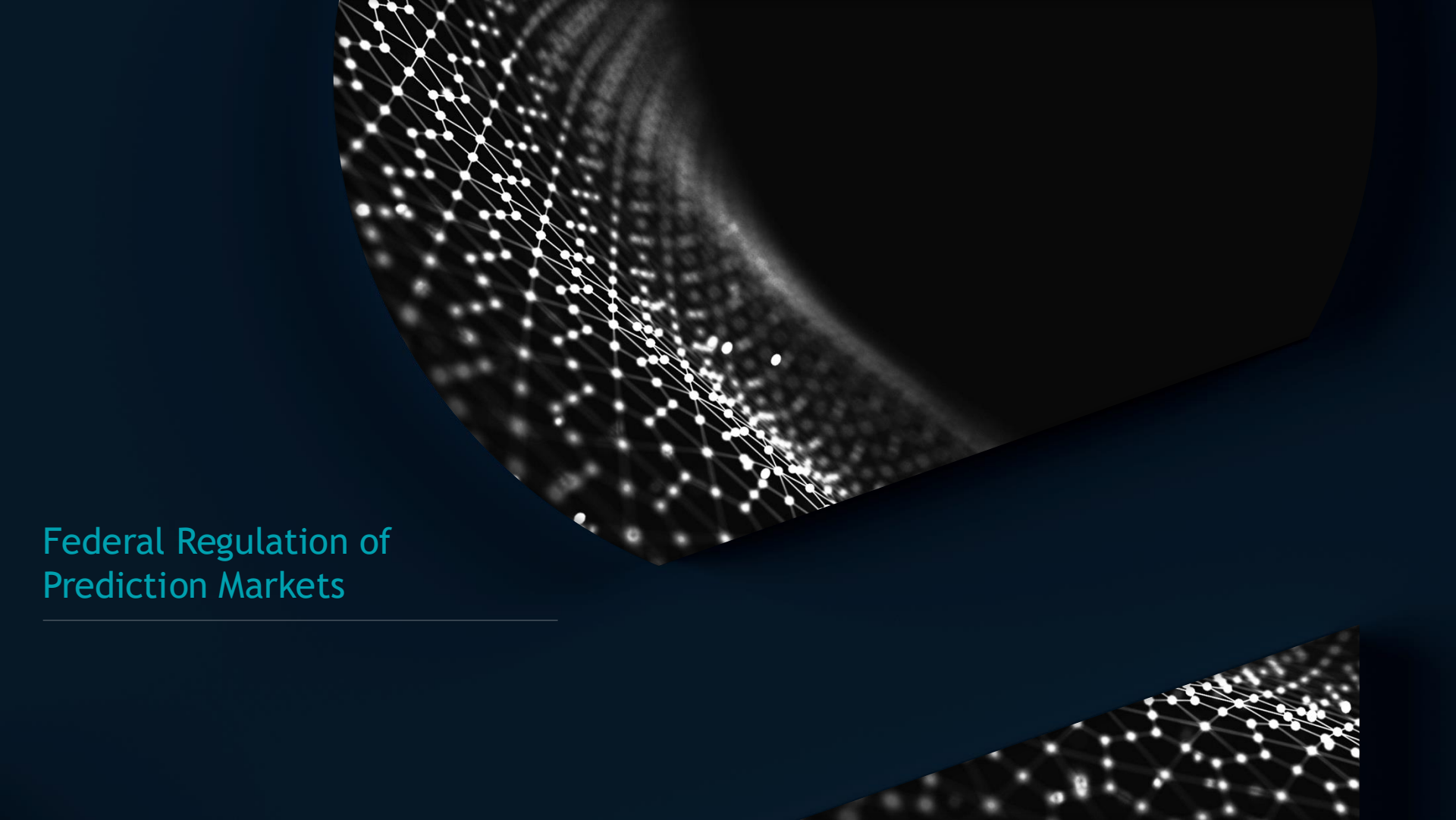


# Are Prediction Markets “Gambling”?

Many states have argued that prediction markets are a form of gambling, but there are important differences between prediction markets and traditional sports books.

- Sports betting utilizes active risk management/“line-setting.”
- Sports books are the counterparty for all bets as opposed to peer-to-peer model utilized in prediction markets.
- Prediction market operators don’t face “Tiger Woods Won’t Win the Masters” liability.
- Market forces set “prices” for prediction market trades.
- Prediction markets offer user-defined “bets” rather than bets and lines determined by operator.
- Prediction markets in the U.S. are structured to meet CFTC requirements.



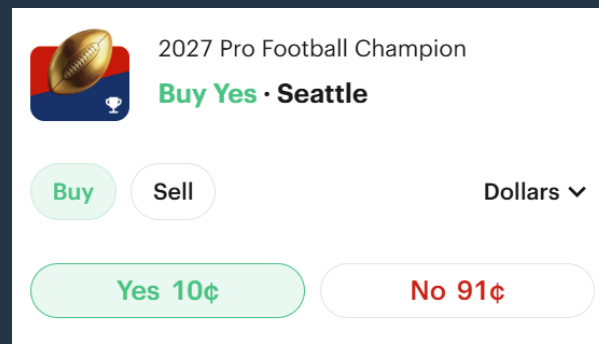


## Federal Regulation of Prediction Markets

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# Event Contracts as Swaps

- Under the Commodity Exchange Act (CEA), the CFTC has “**exclusive jurisdiction** . . . with respect to . . . transactions involving **swaps** . . . traded or executed on a [designated] contract market . . . .” 7 U.S.C. § 2(a)(1)(A).
- A **swap** includes:
  - “any agreement, contract, or transaction . . . that provides for any purchase, sale, payment, or delivery . . . that is dependent on the **occurrence, nonoccurrence, or the extent of the occurrence of an event** or contingency associated with a **potential financial, economic, or commercial consequence.**” 7 U.S.C. § 1a(47)(A).
- The CFTC has a long history of regulating certain event contracts as “swaps”



The screenshot shows a betting interface for the 2027 Pro Football Champion. At the top left is a logo featuring a football on a blue and red background. To the right of the logo, the text reads "2027 Pro Football Champion" and "Buy Yes · Seattle". Below this, there are two buttons: "Buy" (highlighted in green) and "Sell". To the right of these buttons is a dropdown menu labeled "Dollars". At the bottom, there are two large buttons: "Yes 10¢" (highlighted in green) and "No 91¢".

## Event:

Seahawks win the 2027 Super Bowl

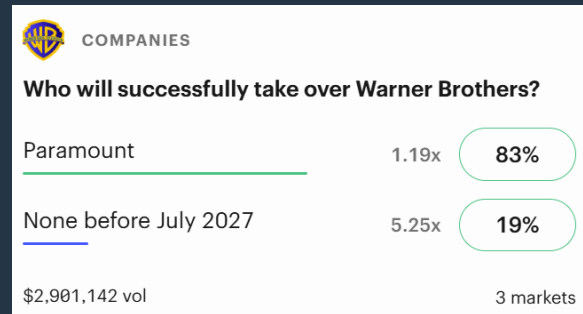
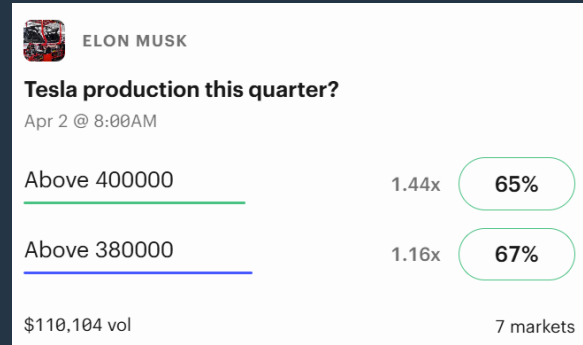
## Economic Consequences:

Team revenue, advertising, broadcasting, sports bars, concessions, etc.

# SEC Regulation of Event Contracts

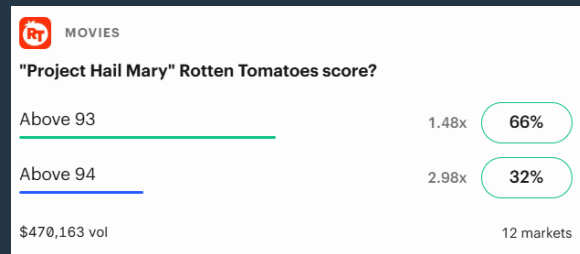
- Most event contracts trading today are not securities and are regulated by the CFTC, not the SEC.
- Some event contracts could be options on securities or security-based swaps, and therefore under the SEC's jurisdiction:
  - Event contracts based on the **price of security** or narrow-based security index.
  - Event contracts based on an event that **directly effects an issuer's financial statements, financial condition, or financial obligations of the issuer** (e.g., mergers, acquisitions, earnings announcements). See 15 U.S.C. § 78(c)(a)(68) (defining a "security-based swap").
- The SEC and CFTC have emphasized the importance of cooperation in regulating prediction markets.

## Are these event contracts securities?



# Self-Certification of Event Contracts

- Prediction markets offering event contracts to retail investors in the U.S. must register with the CFTC as a **Designated Contract Market (DCM)**.
- DCMs may list new event contracts by **self-certification**.
- By the open of business on the day before the listing, DCMs must submit a copy of the contract's terms and conditions and certify that the product complies with the CEA and CFTC regulations. 17 C.F.R. § 40.2.
- DCMs may also list event contracts through a Commission review and approval process. 17 C.F.R. § 40.3. This process is not being utilized.



# Prohibited Event Contracts

The CEA and CFTC Regulations prohibit the listing of event contracts based on certain activity deemed “contrary to the public interest.” 7 U.S.C. § 7a-2(c)(5)(C)(i); *see also* 17 C.F.R. § 40.11(a).

- terrorism;
- assassination;
- war;
- gaming;
- “activity that is unlawful under any Federal or State law”;  
or
- “other similar activity determined by the Commission, by rule or regulation, to be contrary to the public interest.”

The CFTC has not identified any “other similar activity.”



US forces enter Iran by..?

December 31

72%

Yes

No

April 30

64%

Yes

No

\$37M Vol.



Israel military action against Lebanon on...?

March 20

100%

Yes

No

March 27

100%

Yes

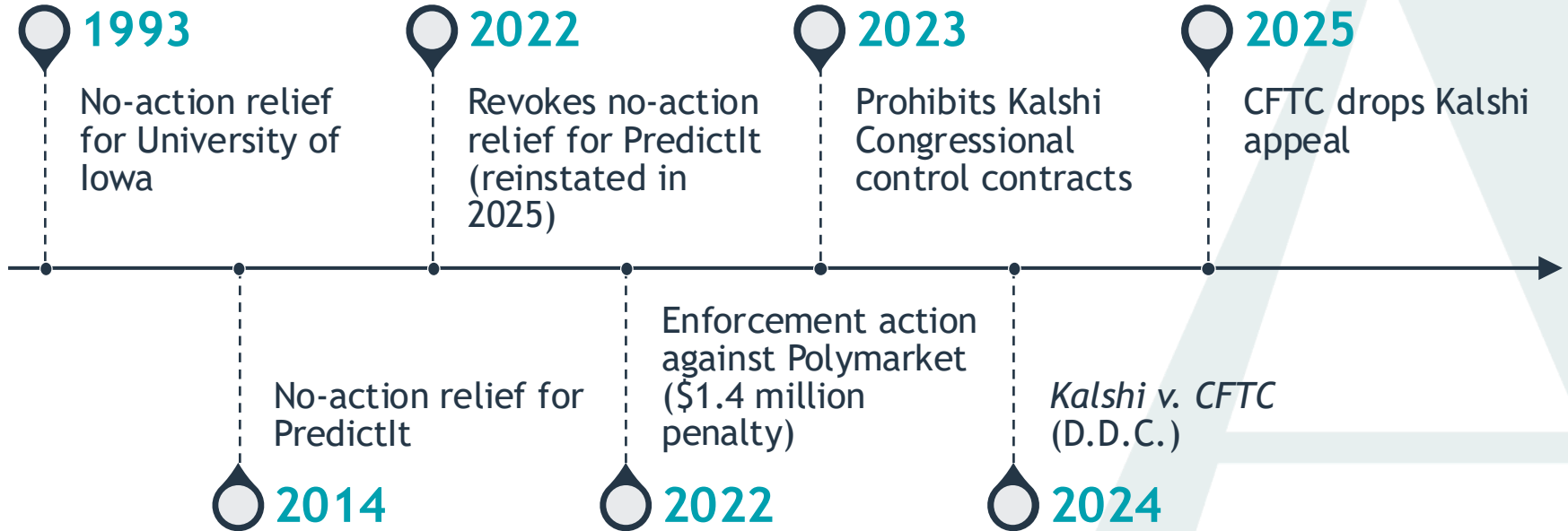
No

\$3M Vol. ↻ Monthly



**Would these contracts be legal if offered in the U.S.?**

# History of CFTC Regulation of Event Contracts



# KalshiEx v. CFTC

In 2023, the CFTC issued an order prohibiting Kalshi from offering event contacts based on Congressional elections. Kalshi sued and won an injunction in the District Court. *KalshiEx v. CFTC*, No. 23-cv-3257, 2024 WL 4164694 (D.D.C. Sept. 12, 2024).

- The CFTC argued:
  - The contracts involved “gaming” because they were a form of gambling.
  - The contacts were unlawful under state law because many states prohibited wagering on elections.
  - The contracts were not in the public interest because they were unlikely to be used for hedging (the public interest that transactions subject to the CEA are intended to serve), and they could threaten election integrity.
- The Court held:
  - “Gaming” means the “act of playing a game” or “playing games for stakes,” and therefore does not include wagering on elections.
  - Because the underlying events in the Congressional control contracts - i.e., federal elections - are not themselves illegal, the contracts did not involve “illegal or unlawful activity.”
  - An event contract can be “contrary to the public interest” only if it involves unlawful activity, terrorism, assassination, war, or gaming.



## Other Applicable Laws

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# State Laws and Regulations

- 1992: **Professional Amateur Sports Protection Act (PASPA)** prohibited states from allowing sports betting, subject to a few exceptions.
- 2018: Supreme Court held that PASPA was an unconstitutional violation of State rights. ***Murphy v. NCAA***, 584 U.S. 453 (2018).
- 39 states (including D.C.) now have legalized sports betting.
- State regimes impose license and compliance obligations, including responsible gaming requirements, advertising restrictions, and wager/time limits.
- Many states have argued that prediction markets fall within their authority to regulate gambling.



Chuck Schumer out as  
Senate Minority Leader?

Before Nov 3, 2026 25%

Yes / No

Before July 2026 12%

Yes / No

\$128,908



Will the House impeach a  
federal judge this year?

Before 2027 18%

Yes / No

Before 2026 2%

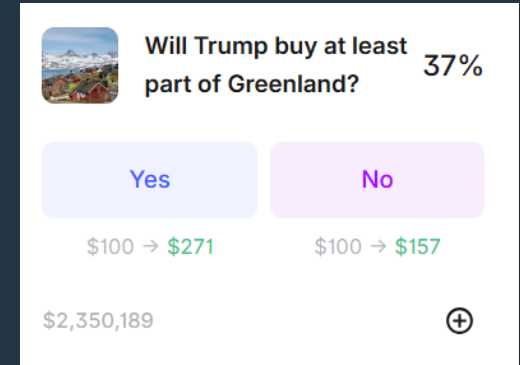
Yes / No

\$27,939



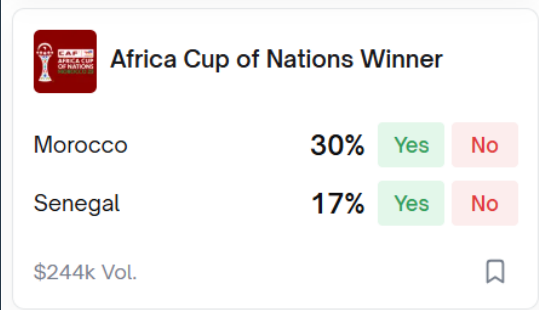
# Indian Gaming Regulatory Act (IGRA)

- Enacted in 1988 to provide a uniform framework for regulating gaming activity on Indian lands.
- Regulates “Class III gaming activities,” i.e., Nevada-style gambling.
- Class III gaming activities are lawful on Indian lands only if such activities are authorized by a tribal ordinance or resolution, located in a state where such activities are legal, and conducted in conformance with a Tribal-State compact. 25 U.S.C. 2710(d)(1).




# Unlawful Internet Gambling Enforcement Act (UIGEA)

- It is unlawful “to place, receive or otherwise knowingly transmit a bet or wager by any means which involves the use . . . of the Internet where such bet or wager is unlawful under any applicable Federal or State law in the State or Tribal lands in which the bet or wager is initiated, received, or otherwise made.” 31 U.S.C. § 5362(10)(A).
- “[T]he term ‘bet or wager’ does not include any transaction conducted on or subject to the rules of a registered entity or exempt board of trade under the Commodity Exchange Act.” 31 U.S.C. § 5362(1)(E)(ii).



Africa Cup of Nations Winner

Morocco	30%	Yes	No
Senegal	17%	Yes	No

\$244k Vol. 

Detailed description: This is a screenshot of a sports betting poll. At the top left is a red icon of the Africa Cup of Nations trophy. To its right is the title "Africa Cup of Nations Winner". Below this, there are two rows of data. The first row shows "Morocco" with a "30%" vote, a green "Yes" button, and a red "No" button. The second row shows "Senegal" with a "17%" vote, a green "Yes" button, and a red "No" button. At the bottom left, it says "\$244k Vol." and at the bottom right, there is a bookmark icon.



Which NBA players will be traded this season?

Jonathan Kuminga	79%	Yes	No
Trae Young	61%	Yes	No

\$503k Vol.  

Detailed description: This is a screenshot of a sports betting poll. At the top left is a small profile picture of a woman. To its right is the title "Which NBA players will be traded this season?". Below this, there are two rows of data. The first row shows "Jonathan Kuminga" with a "79%" vote, a green "Yes" button, and a red "No" button. The second row shows "Trae Young" with a "61%" vote, a green "Yes" button, and a red "No" button. At the bottom left, it says "\$503k Vol." and at the bottom right, there are two icons: a gift icon and a bookmark icon.



## Ongoing Litigation

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# Ongoing Litigation

Dozens of cases have been filed in state and federal courts across the country regarding the legality of prediction markets.

- Appeals are pending in four circuits:

- *Blue Lake Rancheria v. Kalshi*, No. 25-7504 and *KalshiEx. v. Hendrick*, No. 25-7516 (9th Cir.)
- *KalshiEx. v. Schuler*, No. 26-3196 (6th Cir.)
- *KalshiEx v. Martin*, No. 25-1892 (4th Cir.)
- *KalshiEx v. Flaherty*, No. 25-1922 (3d Cir.)

- These cases present several key issues:

- Are event contracts swaps?
- Are certain event contracts based on “gaming,” “unlawful under any federal or state law,” or “contrary to the public interest”?
- Does the CEA preempt state gambling laws?
- Do prediction markets infringe on tribal rights?

# Are Event Contracts Swaps?

- Some decisions have held that sports event contracts are swaps. Others have not addressed the issue or have assumed (without deciding) that event contracts are swaps.
- Other decisions have held that event contracts relating to sports do not meet the statutory definition of a swap.
  - Sports event contracts are not swaps because they turn on the **outcome** of an event and not the **occurrence** of an event. *N. Am. Derivatives Exchange, Inc. v. Nevada*, No. 25-cv-978, 2025 WL 2916151 (D. Nev. Oct. 14, 2025).
  - Sports event contracts are not associated with a potential **financial, economic or commercial consequence**. *KalshiEx, LLC v. Hendrick*, No. 25-cv-575, 2025 WL 3286282 (D. Nev. Nov. 24, 2025); *accord KalshiEx, LLC v. Schuler*, No. 25-cv-1165, 2026 WL 657004 (S.D. Ohio Mar. 9, 2026).

**Who wins the Kentucky Derby:**  
An “outcome” or an “occurrence”?

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**What are the economic consequences of:**

- A win versus a loss?
- Total points scored?
- Beating the spread?
- Individual player stats?
- Other prop bets?
- Reality show winner?
- Mention markets?

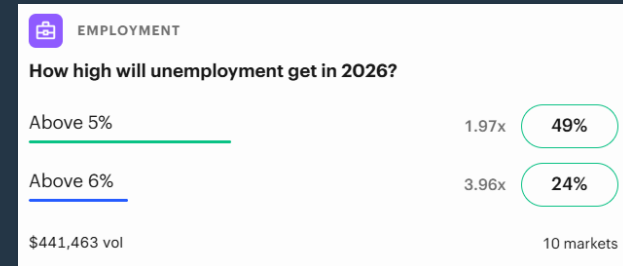
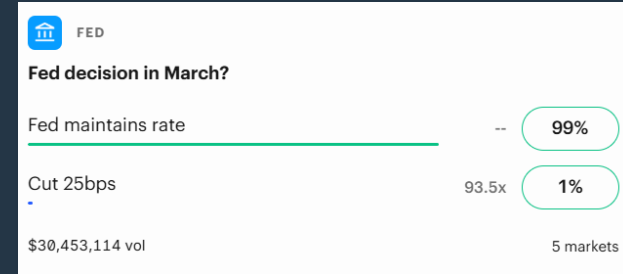
# “Gaming” or “Unlawful” Under Any State or Federal Law?

## “Gaming”

- Not defined in the CEA or CFTC regulations.
- “[T]he term ‘gaming’ requires further clarification and . . . is not susceptible to easy definition.” Provisions Common to Registered Entities, 76 Fed. Reg. 44776, 44785 (July 27, 2011).
- *KalshiEX v. CFTC*: “gaming” means “playing games or playing games for stakes.”

## “Unlawful”

- *KalshiEX v. CFTC*: A contract involves “activity that is unlawful under any state or federal law” only if the *activity underlying the contract* was illegal.



# Federal Preemption

- “The Commission shall have **exclusive jurisdiction** . . . with respect to . . . transactions involving swaps . . . traded or executed on a contract market designed pursuant to section 7 of this title . . . .” 7 U.S.C. § 2(a)(1)(A).
- Multiple courts have held that the CEA’s grant of “exclusive jurisdiction” reflects congressional intent to occupy the field of regulating CFTC-designated exchanges.
- Other courts have reached the opposite conclusion, holding that Congress did not clearly manifest an intent for the CEA to preempt state sports betting laws.
- **CFTC amicus brief** in the Ninth Circuit argued that sports event contracts are swaps, and the CEA preempts state gambling laws.



Who will perform at the 68th Grammy Awards?

SZA

53%

Yes / No

Sombr

52%

Yes / No

\$214,340 · ↻ Annually



Deportations in Trump's first year?

At least 500,000

26%

Yes / No

At least 750,000

12%

Yes / No


\$1,366,241




# Tribal Rights


*Blue Lake Rancheria v. Kalshi*, No. 25-cv-6162, 2025 WL 3141202 (N.D. Cal. Nov. 10, 2025) (on appeal)

- The UIGEA, not the IGRA, governed Kalshi’s sports event contracts.
- The UIGEA covers internet gaming that can be accessed in locations where such gaming is unlawful, *including Indian lands*.
- The IGRA covers gaming activities that take place *exclusively* within tribal lands.
- Under the UIGEA, the phrase “bet or wager” expressly “does not include any transaction conducted on or subject to the rules of a registered entity.”



 US bank failure by January 31? 12% chance

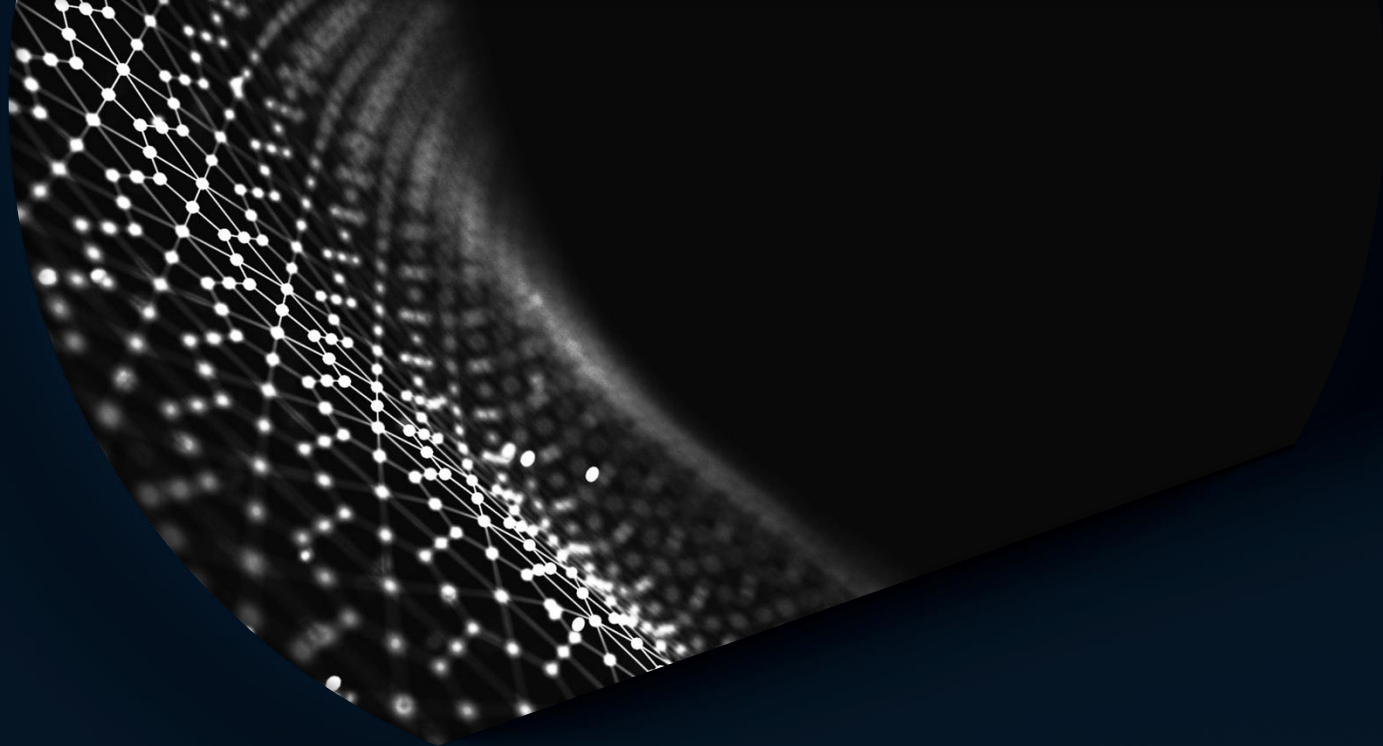
Yes No

\$3k Vol. Monthly 

 Tim Walz charged by...?

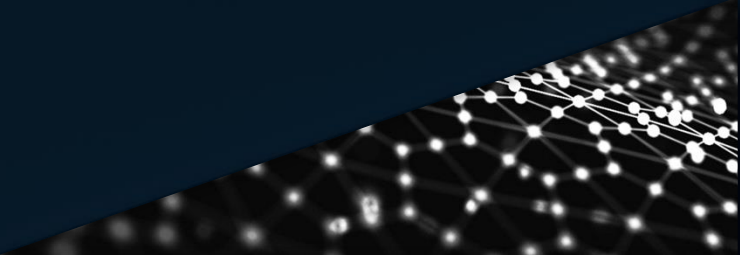
March 31	9%	Yes	No
Before 2027	28%	Yes	No

\$66k Vol.  



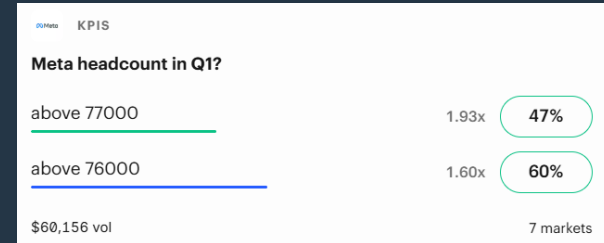
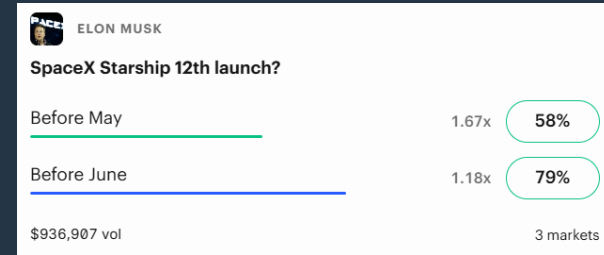
# CFTC Posture

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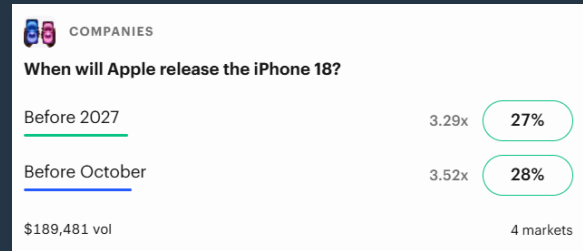
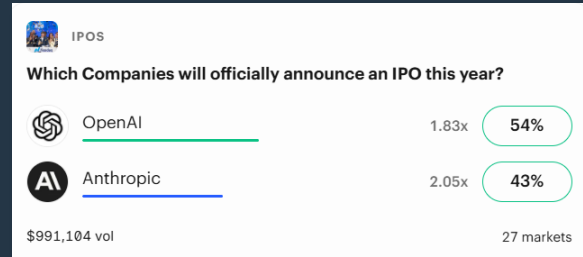
# The CFTC's Recent Posture

- “Industry friendly” approach to prediction markets under the current administration.
- Sided with prediction markets in Ninth Circuit appeal.
- No steps under the current administration to prevent prediction markets from operating or from offering certain kinds of contracts.
- Frequent no-action relief granted to prediction markets relating to swap data reporting and recordkeeping requirements.



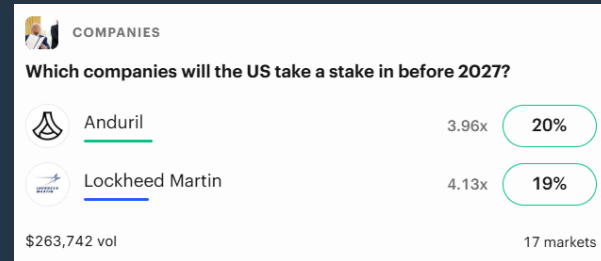
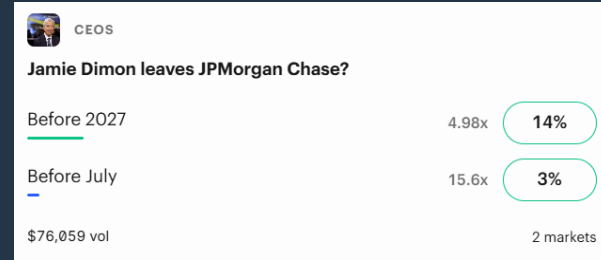
# Prediction Market Advisory

- The CFTC's Division of Market Oversight issued an advisory on March 12, 2026 relating to prediction markets. Among other things, DMO advised that:
  - Core Principle 3 requires a DCM to list for trading only derivative contracts that are not **readily susceptible to manipulation**.
  - Core Principle 4 requires a DCM to have the capacity to prevent manipulation through market surveillance, compliance, and enforcement practices and procedures.
  - Core Principle 12 requires a DCM to establish and enforce rules to protect markets and market participants from abusive practices.



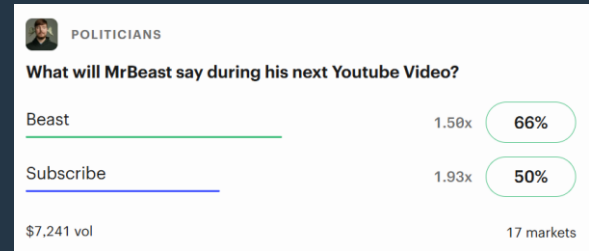
# Advanced Notice of Proposed Rulemaking (ANPRM)

- On March 12, 2026, the CFTC issued an Advanced Notice of Proposed Rulemaking relating to prediction markets.
- Requested public comment on a broad range of issues related to event contracts, including:
  - Swap jurisdiction
  - Manipulation
  - Surveillance
- First step in developing new CFTC rules to address unique characteristics and risks posed by prediction markets.
- Comments due April 30, 2026.



# CFTC Enforcement

- No public enforcement actions to date relating to prediction markets under this administration.
- CFTC very focused on insider trading and other abusive trade practices on prediction markets.
- February 25, 2026 enforcement advisory:
  - Publicized two insider trading disciplinary actions brought by Kalshi under the exchange's rules.
  - One case involved a political candidate who traded event contracts relating to his own candidacy.
  - The other involved a video editor employed by the YouTuber Mr. Beast, who traded event contracts relating to what Mr. Beast would say in his videos.
  - Both cases resulted in fines and trading suspensions.





## Compliance Considerations

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# Insider Trading in Prediction Markets

- If event contracts are swaps, then the CEA and CFTC regulations prohibit insider trading and other manipulative or deceptive conduct.
  - ▶ **17 C.F.R. § 180.1(a)**: “It shall be unlawful for any person, directly or indirectly, in connection with any swap . . . to intentionally or recklessly: (1) Use or employ, or attempt to use or employ, any manipulative device, scheme, or artifice to defraud; . . . [or] (3) Engage, or attempt to engage, in any act, practice, or course of business, which operates or would operate as a fraud or deceit upon any person.”
- Even if event contracts are not swaps, trading on confidential information in violation of a platform’s rules may be prosecuted as **wire fraud** (see *United States v. Clase de la Cruz*; *United States v. Earnest*).

## Elements of CEA Insider Trading:

The defendant

- (1) misappropriated confidential information;
- (2) in breach of a preexisting duty of trust and confidence to the source of the information;
- (3) intentionally or recklessly, i.e., with scienter;
- (4) in connection with a swap.

*CFTC v. EOX Holdings L.L.C.*, 2021 WL 4482145, at \*22 (S.D. Tex. Sept. 30, 2021).

# Real World Fact Patterns

- Maduro capture:
  - A Polymarket trader placed a \$32,000 bet that Maduro would be ousted by the end of the year, just hours before the president ordered the operation.
  - \$400,000+ profit
- Recent earnings call:
  - “I was a little distracted because I was tracking the prediction market about what [we] will say on [our] next earnings call, and I just want to add here the words Bitcoin, Ethereum, Blockchain, Staking and Web3 to make sure we get those in before the end of the call.”
  - At the time, traders had placed \$84,000 worth of bets on the topic, and the contract price immediately rose to \$1.00.



Politics · Venezuela

## Maduro out by...?

\$56,616,275 Vol. | ⌚ Nov 30, 2025

This screenshot shows a prediction market interface. On the left is a profile picture of a man with a mustache. The main title is 'Maduro out by...?' under the category 'Politics · Venezuela'. Below the title, it shows a volume of '\$56,616,275 Vol.' and a clock icon with the date 'Nov 30, 2025'.



# Practical Compliance Considerations

- SEC Custody Rule
- Offshore market access
- CPO/CTA registration
- Swap dealer registration
- Policies and procedures
- Personal accounts

## Policies and Procedures

- **Public companies—and any company or organization that may be the subject of an event contract—should consider updating or implementing insider trading policies to address event contracts.**
- **Investment advisors should consider whether to update policies and procedures to account for event contracts.**



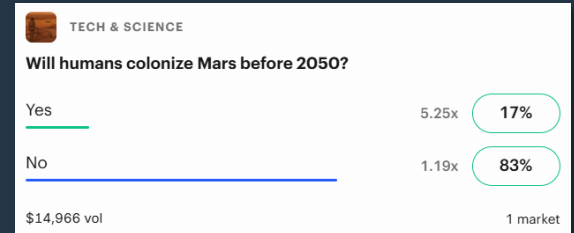
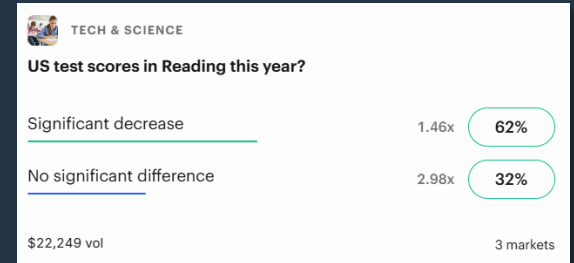
Industry Developments and  
Issues on the Horizon

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# Data Licenses in Sports

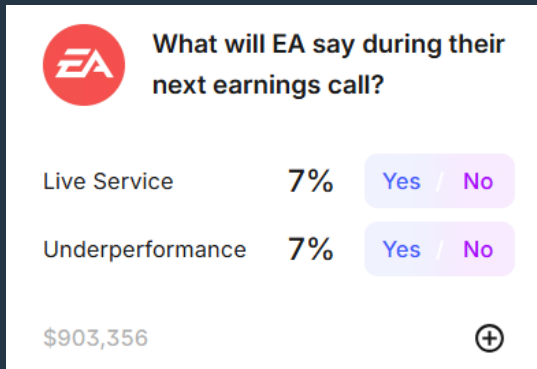
- Sports betting runs on data licenses with teams and leagues. Companies like SportRadar and Genius license official data from leagues and in turn license data to sports betting operators and others for use in setting lines/risk management, integrity assurance and other functions.
- Kalshi and Polymarket have entered into licensing agreements with the NHL. The agreement provides for use of league and other proprietary data and includes sponsorship and marketing elements. Creates framework for marketing/sponsorship deals with teams.
- Not clear if prediction market operators require league data license to offer contracts on connected games.
- Issue could be akin to early sports misappropriation litigation (did the real-time scores provided on Motorola pagers violate the NBA's IP rights in its games?).
- Other leagues have taken a wait and see approach.



# Potential Impact on Teams and Leagues

Legalized sports betting has produced significant revenue for sports teams and leagues:

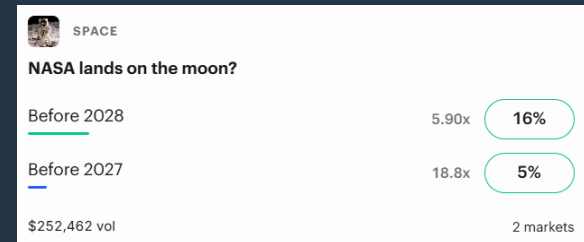
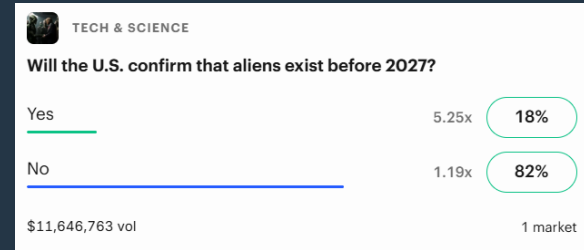
- Data licenses with leagues
- Team-based sponsorships and market access deals (Washington Capitals/Wizards in-arena sportsbook)
- Big 5 and most other professional leagues don't allow teams to "touch the handle" in connection with sports betting deals
- Start-up sports and sports betting revenue sharing (a percentage of all \$\$ bet on games of a specified league)



# Potential Impact on Teams and Leagues

## Sports Betting Operators Becoming Sports Media Distributors

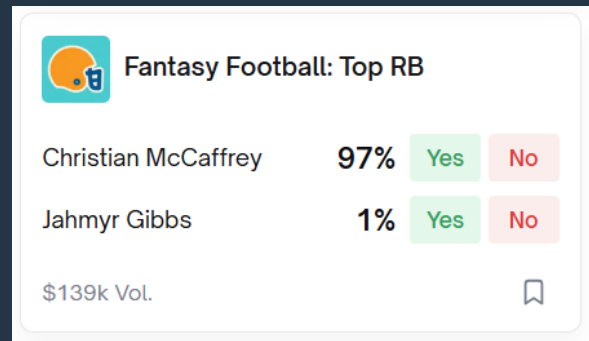
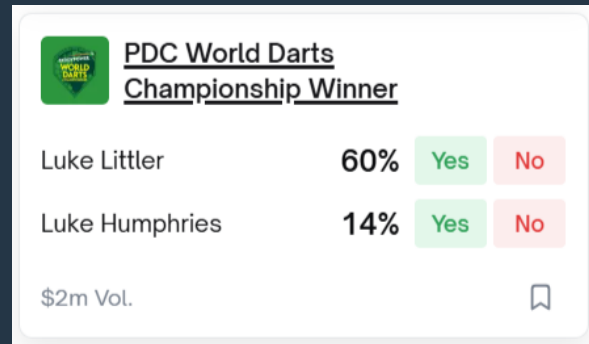
- Fan Duel and Draft Kings have led industry in acquiring media rights for sporting events—sports bettors like to watch sports and sports-watchers are a good source of potential sports bettors.
- Kalshi has acquired Ballers League media rights.
- Could sports betting and prediction market operators emerge as potential distribution rivals/replacements for pay-TV RSNs?
- Sports betting operators face similar regional restrictions as NBA/NHL/MLB teams with local rights to sell.



# Potential Impact on Teams and Leagues

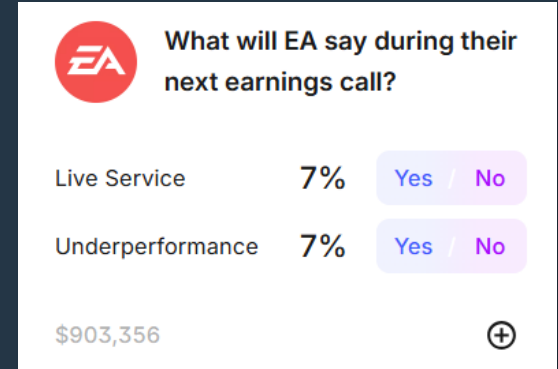
## Increased engagement with federal regulators

- CFTC Guidance recommended greater cooperation between sports leagues and regulated prediction markets.
- CFTC-MLB MOU
  - On March 19, 2026, the CFTC and Major League Baseball announced a first-of-its-kind memorandum of understanding.
  - Framework to discuss, cooperate, and exchange information concerning issues of common interest including protecting the integrity of professional baseball and related prediction markets.



# Applications for Prediction Markets in Sports

- Could teams/leagues “sponsor” prediction markets based on their games and other related non-game events? Monetize non-game events and decisions and build engagement and asset value around those activities?
- Could teams and leagues take a portion of the revenue generated by the transaction costs in connection with event contracts?
- Could teams hedge their own performance? Could teams hedge risk associated with losing players to free agency or injury?



# Thank You



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