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The Honorable Dave McCormick
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The Honorable Chris Deluzio
17th District U.S. House of Representatives
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RE: Sports Prediction Markets Threat to Pennsylvania Gaming Regulatory Framework

Dear Representatives and Senators,

I am writing to you today on behalf of the Pennsylvania Gaming Control Board (PGCB) to respectfully share our concerns about the growing presence of sports prediction markets and the significant threat they pose to Pennsylvania's long-established regulatory framework for gaming.¹

Following the U.S. Supreme Court's decision in *Murphy v. National Collegiate Athletic Association*, 584 U.S. 453 (2018), which struck down the Professional and Amateur Sports Protection Act of 1992 (PASPA) and recognized a state's right to authorize and regulate sports wagering within its boundaries, Pennsylvania began to authorize intrastate sports wagering. A comprehensive framework was developed through statute, 4 Pa.C.S. Chapter 13C, and regulation, 58 Pa. Code Part VII, Subpart Q, which is administered by the PGCB, an independent state agency also tasked with overseeing casino gaming, iGaming, video gaming terminals, and fantasy sports contests within the Commonwealth. Our system is designed to ensure consumer protections, responsible gaming, and the integrity of sporting events.

However, sports prediction markets operate under the assertion that they are financial derivatives, or swaps, and therefore claim to not be gambling under state law (or at the very least that state law is pre-empted). These markets claim primary regulatory oversight falls under the federal Commodity Futures Trading Commission (CFTC). This assertion creates a direct conflict regarding regulatory authority, pitting federal derivatives law against Pennsylvania's established power to regulate gambling activities within its borders and criminalize illegal gambling. The introduction of these markets operating under purported federal oversight poses a direct threat to the comprehensive regulatory system that Pennsylvania, and many other state jurisdictions, have meticulously constructed for gaming.

¹ To be clear, the PGCB feels prediction markets on non-sports related events (e.g., Will there be a civil war in the United States in 2025? Will Taylor Swift announce her pregnancy in 2025? See polymarket.com) are equally – if not more – troubling than sports related event contracts; however, given our regulatory role in this area is limited to sports wagering, that will be the focus of this letter. Notwithstanding that fact, the same basic concerns exist across “current event” related contracts as well.

The Threat to State Sovereignty and Regulatory Integrity

The regulation of gambling has historically been a matter left to individual states, reflecting the principle of state sovereignty. This was reaffirmed in *Murphy*. The framework Pennsylvania enacted was based on a long-standing understanding that regulation is crucial to the success of gaming. Allowing sports prediction markets to operate under the primary jurisdiction of the CFTC, which allows prediction markets to be self-certified by the private entities making them available, 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, and without strict oversight.

This strategy employed by prediction market operators appears to be one of regulatory arbitrage. State-regulated sports betting operators in Pennsylvania face significant requirements, including thorough background investigations, licensing fees, state taxation on gross gaming revenue for the benefit of the Commonwealth's citizens, and mandatory compliance with detailed rules providing consumer protections, responsible gaming provisions, and integrity monitoring. By seeking classification as financial derivatives, prediction markets aim to sidestep these crucial state-level requirements. This creates an uneven playing field where prediction markets could gain a competitive advantage by exploiting a perceived loophole between federal financial regulation and state gaming law. Perhaps most troubling, the CFTC regulates a system that also allows wagers on events that a single person can control – something the PGCB would never allow for fear of manipulation of the market and a cascading loss of confidence in the integrity of the betting system.

With all due respect to the CFTC, it would take years for them to create the regulatory system and oversight that state gaming authorities have in place, which would create a redundancy for a system that already exists and works exceptionally well. The CFTC is a financial market regulator, lacking the specific expertise and historical mandate for overseeing consumer gambling activities. State bodies like the PGCB possess specialized knowledge and experience in this area to protect the public interest.

Inadequate Consumer Protection and Sports Integrity

The jurisdictional clash carries a significant risk of resulting in inconsistent and inadequate regulation. The CFTC's framework is designed for derivatives markets often involving sophisticated institutional participants. In contrast, state gaming regulators prioritize consumer protection for the public, implementing detailed measures for responsible gaming, age verification, and problem gambling prevention. Sports prediction markets, despite their financial framing, are marketed broadly and attract retail participation, including potentially-vulnerable populations, including individuals as young as 18.² Without state oversight, these markets operate without the specific, consumer-focused protections Pennsylvania mandates for its licensed gaming operators.

Pennsylvania law and PGCB regulations require licensed online gambling operators to implement specific consumer protection and responsible gaming measures. These include:

- The ability to place limits on deposits, wagers, and time spent gambling.
- Implementing strict procedures to verify the age and identity of players.
- 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.

² Regulated gaming in the Commonwealth pursuant to the Pennsylvania Race Horse Development and Gaming Act requires an individual to be at least 21 year of age. 4 Pa.C.S. §1207(8).

Crucially, the PGCB also has the ability to penalize the operators should they not live up to the strict and necessary statutory and regulatory requirements the operator agreed to upon application for licensure – something that an operator who “self-certifies” their contracts/wagers would never be subjected to. Indeed, the CFTC self-certification process, coupled with, to date, laissez-faire oversight into products due to a lack of the regulatory infrastructure even seems disconcerting to the CFTC which wrote, in a September 30, 2025, industry guidance document, the following:

The Commission has not, to date, been requested to take or taken any official action to approve the listing for trading of sports-related event contracts . . . All sports-related event contracts that are currently listed for trading on DCMs have been listed pursuant to self-certifications filed by the relevant DCM . . . and the Commission has not, to date, made a determination regarding whether any such contracts involve an activity enumerated or prohibited under (the) CEA.

In addition to the above, it is further noteworthy that the PGCB and other state regulators are heavily involved in monitoring the integrity of sporting events. Sports prediction markets operating outside established state regulatory frameworks raise significant integrity concerns due to their vulnerability to manipulation. Our 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, 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. Even worse, the parallel tracks risk confusing patrons who engage in these markets by utilizing the veneer of a highly-regulated market when, in reality, their markets are more akin to the “wild west”.

For decades, Pennsylvania has demonstrated its capability to oversee a successful and safe gaming environment. We urge you to recognize and support the state's role in this area. Maintaining the integrity of our established regulatory framework is paramount to protecting the public interest, ensuring consumer safety, and safeguarding vital state revenue streams.

Thank you for your attention to this critical matter. Of course, I and my staff are more than willing to meet and discuss this very important issue should you have any questions.

Sincerely,



Kevin O'Toole
Executive Director
Pennsylvania Gaming Control Board