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Acting Chairman Caroline D. Pham
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
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RE: **CFTC Prediction Markets Roundtable Submission**

On behalf of the Campaign for Fairer Gambling

Introduction

This submission is presented jointly by Derek Webb of the Campaign for Fairer Gambling (CFG) and Brianne Doura-Schawohl of Doura-Schawohl Consulting LLC, retained to represent CFG in matters of policy and regulation. Both Mr. Webb and Ms. Doura-Schawohl respectfully request an opportunity to appear at the Commodity Futures Trading Commission's forthcoming roundtable on prediction markets in Washington D.C. Full biographies of both Mr. Webb and Ms. Doura-Schawohl are provided in Appendices B and C.

Background

Our submission is designed to inform the CFTC on the question of sports betting regulation, as well as more generally explaining gambling and state online sports betting in the USA.

Definition of gambling

Legal definition

Legally speaking, it is the obligation of administrations, legislatures and regulators to determine whether a gambling activity should be permitted with regulation, permitted without regulation or not permitted at all. Legal definitions of gambling are not the same thing as logical definitions of gambling.

Logical definition

A gamble is a transaction involving an element of value risk to obtain an element of value reward as a consequence of an outcome of an event where a degree of chance applies. It does not matter if the element of value is a wager, a subscription, conventional monetary value, crypto-currency or any other token of value. It does not matter if the degree of chance exceeds the degree of skill or not.

Multiple activities are gambling activities

Traditional gambling activities include sports betting, casino gaming and lotteries. While a financial product can be both a financial transaction and a gamble, it should be legally defined as one or the other. The internet has created the opportunity for additional gambling activities such as fantasy sports betting, sweepstakes casinos and video game loot-box engagement.

Betting is not gaming

State legislators across the US have recognized the difference between betting and gaming. The majority of states have allowed online sports betting, but only a minority of sports betting states have allowed online gaming so far.

Prediction market justification

Logically speaking, if politics and cultural events markets are acceptable markets, then there is no inherent rationale to indicate that sports events are not acceptable markets. It is a matter for the CFTC to determine to permit sports event markets or not.

Impacts of a sports betting prediction market

Gamblers

In states where sports betting is legalized, operators offer promotions to attract and retain novice gamblers. Operators steer gamblers away from pre-event single event wagers to multi-event parlays, propositions and in-play betting. This gamification of sports betting results in a higher frequency of gambling and a longer duration of gambling with inferior payback odds. Prediction markets will compete with state operators on pre-event and single event wager opportunities.

Winning gamblers

Despite minimal numbers of winners, state operators have been closing down winning accounts or restricting wagers from those accounts to trivial amounts. A prediction market should welcome all participants. The prices displayed should be more accurate than those of state operators.

Competent gamblers

There are far more competent gamblers than there are winning gamblers but even competent gamblers can find their accounts impacted similarly to winning gamblers. Competent gamblers can have confidence that the prediction market prices should be more accurate, and the returns should be more generous, compared to state operators.

State revenues

It is uncertain the degree to which prediction market legality would have impact on state operator revenues. The overall market of legal and illegal is growing. Prediction markets would probably grow the overall market.

Taxes

The federal excise tax on sports betting of 0.25% could be applied to sports prediction market transactions. That is a matter for the relevant authorities. It should be noted that this tax is not being used to fund enforcement against illegal operations, the original purpose of the tax. Similarly, it is not being used to ameliorate the increase in the costs of harm as a consequence of online legalization.

Sports betting integrity

The areas of sports betting that are of most concern to integrity are proposition and in-play wagers. With a prediction market unlikely to offer those types of wagers and with re-focusing sports betting on pre-event single wagers, there is no evidence to support the narrative that a prediction market will compromise sports integrity.

"Responsible" gambling

Operators claim that tools exist to help gamblers control their losses. Yet there is no independent evidence that there is adequate take-up of the tools, or that the tools have a meaningful impact. Gamblers who have self-excluded often report that the tools were ineffective.

Operators have a theoretical opportunity to use data and algorithms to responsibly constrain gambler behavior. However, the evidence shows that the same information is used far more extensively for marketing.

Offers and promotions are pushes towards increased engagement and consumption. When these push in the opposite direction to constrained gambling it is irrational to purport to offer "responsible" gambling. A prediction market will not be as reliant on such tools.

Once a state has legalized sports betting there is then a push to legalize online gaming – namely, casino table and slot content. This content is more intensive and addictive on a mobile device than when premises based. Use of data allows cross-marketing from online sports to casino. It is inconceivable that prediction markets would offer gaming and be compromised this way.

With the ineffective nature of alleged "responsible" gambling there is no evidence to support the narrative that a prediction market will be more harmful than state operations.

Demographic

Participants crossing over from other prediction markets and from state betting will have lower economic downside than new participation. With the generally wealthier profile of prediction participants there will be lower socio-economic downside than with state betting. There is no

evidence to support a narrative that a prediction market would result in increased economic downside.

Operator profits

Operators are in the business of making profits. Traditional operators generate profits by winning from losing gamblers. Prediction market operators can generate profits from turnover from losing and winning gamblers. These are very different operational cultures.

Fees

Operator profits in prediction markets are generated by fees. It is a matter for the CFTC to determine if there should be specified levels and/or types of fees.

Wider market implications

Illegal online gambling is still growing

Financially motivated proponents of state legalization of online sports betting and gaming have used the existence of the illegal market to justify legalization, misleadingly claiming that this would diminish illegality. However, CFG provides evidence by Yield Sec substantiating that the illegal market is still growing. This growth fails to protect American consumers and the American economy from foreign illegal gambling operators.

Similarly, legalizing prediction providers will not make sense unless there is a joined-up government policy to act against the bad actors, the illegal prediction operators.

Online gambling is detrimental to the economy

All gambling is economically detrimental as it takes disposable spend away from other economic activities. The alternative leisure activities, when compared to gambling, mainly have greater employment resulting in more jobs and wages, with mainly longer supply chains resulting in more economic multipliers, creating more taxable events.

Hotel destination gambling, offering gaming and possibly betting, compensates economically by providing alternative leisure activities at the premises and creating several jobs per hotel room. Online gambling does not offer any such compensatory features.

NAAIG provides evidence by Innovation which substantiates the negative impact of online gaming on premises-based gaming and the wider economy.

CFG provides evidence by NERA which substantiates the economic detriment of online gambling in New Jersey, where the gambling tax rate of around 15% does not generate real fiscal benefit in excess of other taxes that would have been generated by the alternative spend.

State online gambling creates harm and burdens government services

Currently the Federal Government does not invest in the research, prevention, treatment, or after care from gambling disorder. This leaves the responsibility solely on the individual states. All but two U.S. states have some form of legalized gambling. According to a 2023 survey of U.S.

problem gambling services, U.S. states contributed a total of only $134 million annually to research, prevention and treatment. There are eight U.S. states that currently contribute nothing at all. When compared to the national investments addressing other public health concerns, such as substance misuse, the funding of problem gambling services was 338 times less than other services – yet problem gambling is only 7 times less prevalent.

The National Council on Problem Gambling estimates that there are 9 million Americans that are struggling with problem gambling, costing the country $14 billion annually in social costs. However, when states have pursued a deeper understanding of these costs, they are finding that the prevalence of gambling disorder is greater than previously thought. For example, New Jersey found a prevalence rate of close to 6% of their adult population, with Indiana at 3%, and Illinois at 3.8%.

With the gambling sector pursuing further expansion, it is vital that legislators understand how this growth will negatively impact both the economy and the public. Research indicates that the industry is heavily reliant on those suffering from gambling-related harm to drive revenue. One study from Connecticut has highlighted that 71% of gambling revenue came from fewer than 7% of residents who are problem (1.8%) or at-risk gamblers (4.9%).

Financial harm to the financially vulnerable is a pathway to wider harms and greater vulnerability. Research suggests that an individual struggling with a gambling problem will negatively impact six other individuals (non-gamblers). Additionally, research has also suggested that an individual struggling with a gambling problem is 15x more likely to die by suicide. We provide references for this research in Appendix A of our submission.

State online gambling harms the federal economy and federal tax base

The burden on government services can affect federal authorities as easily as state authorities. Harm to the state economy extends to harm to the federal economy. With online gambling affecting jobs and revenues in other sectors, there is an associated downturn not only in state taxes but also in federal taxes.

State online gambling has negatively impacted gambling regulatory standards

In letters to the FTC and the DoJ, Senator Mike Lee and Senator Peter Welch have identified FanDuel (owned by Flutter) and Draft Kings as a monopolistic duopoly in the state regulated online sports betting market. These operators were state licensed despite not being in good standing with the IRS in respect of owing Federal Excise Tax on daily fantasy sports betting. They marketed fantasy sports as an activity to win at, then used their database to market state betting, but weeded out the winners.

The overseas activities of the British-facing operators indicates that states are ignoring their compromised histories. Obtaining revenues from gamblers in jurisdictions without permission of those jurisdictions has been common practice. The omission of a “responsible gambling” agenda by those operators in those jurisdictions highlights that “responsible gambling” is used as a politically expedient tool.

In these circumstances, the theoretical suitability standard of licensees having morals, ethics, integrity and probity no longer applies.

State online gambling bad actors should be excluded from prediction markets

State gambling allows operators to have high margins and to promote the highest margin activities. If those operators are able to obtain prediction market databases, they will try to convert those consumers to state-based online gambling, to the detriment of those consumers.

Conclusion

CFG general view is that gambling should be permitted but not promoted. CFG opposes expanding state online gambling as currently operated as this results in increased detriments of personal, social and economic harms. However, CFG recognizes the differences that will apply to a prediction market and does not have the same concerns.

CFG will support the legalization of sports betting prediction if there can be simultaneous positive engagement by legislators and the administration to instigate the following actions:

- Prompt and aggressive enforcement action against illegal operators
- Consideration of a temporary moratorium on the expansion of state online gambling
- Consideration of a review of state online gambling regulation standards
- Bad actors of state licensed online gambling to be excluded from prediction markets

Submission summary

We do not claim to have expertise in prediction markets or cryptocurrency. However, we do have years of world-class experience of understanding of the impacts of gambling policy and regulation. We provide an alternative evidence-based voice to counter misrepresentations made by trade bodies and others promoting online gambling.

Should we be invited to participate in the roundtable we would welcome the CFTC using us as a sounding board to test the veracity of claims made by some of other participants.

Many of the submissions to CFTC are expected to represent vested financial interests. By contrast, CFG is philanthropically funded with no vested financial interest. We appreciate your time and consideration.

Appendix A

Supporting Evidence

Commissioned by CFG

NERA Economic Assessment of iGambling in New Jersey

Yield Sec United States of America iGambling Marketplace Report

Submissions by CFG

Statement for the record from the December 2024 Senate Judiciary Committee Hearing "America's High Stakes Bet on Legalized Sports Gambling"

Statement for the record for the National Council of Legislators from Gaming States "Statement of Policy" on an Internet Gaming Act

Other evidence

Senators Lee and Welch wrote a letter to the FTC entitled "Possible Anticompetitive Conduct by FanDuel and DraftKings"

The 2021 Survey of Publicly Funded Problem Gambling Services in the United States by the National Association of Administrators for Disordered Gambling Services (NAADGS)

The 2023 Updated Report for the 2021 Survey of Publicly Funded Problem Gambling Services in the United States by the National Association of Administrators for Disordered Gambling Services (NAADGS)

Rossow I., The total consumption model applied to gambling: empirical validity and implications for gambling policy. *Nordisk Alkohol Nark*. 2019 Apr 36 (2):66-76

Gemini Research. (2024). Impacts of Legalized Gambling in Connecticut. Report commissioned by the Connecticut Department of Mental Health and Addiction Services (DMHAS).

Goodwin BC, Browne M, Rockloff M, Rose J. A typical problem gambler affects six others. Int Gambl Stud 2017; 17: 276–89.

Karlsson A, Håkansson A. Gambling disorder, increased mortality, suicidality, and associated comorbidity: a longitudinal nationwide register study. J Behav Addict 2018; 7: 1091–99.

Appendix B

Derek Webb history and philanthropy

Entrepreneurial

Successful international poker player

Creator of leading casino table game Three Card Poker

Creator of leading casino blackjack side-bet game 21+3

2011 - sale of game assets – commercial retirement

2007 - successful plaintiff in *Walker Process** litigation

2018 - funder of successful plaintiff group in *Walker Process** litigation

**These litigations proved that an attempted monopolist in 2007 and an actual monopolist in 2018 had breached anti-trust laws by using sham litigation and fraudulent patents to damage competitors in relevant casino supply sectors, with some proofs being to a clear and convincing standard. State gambling regulators did NOT investigate licensee commercial criminality.*

Campaigning success – Great Britain

Stop the FOBTs (machines in betting shops) reduced maximum stakes

Maximum stakes on online slots to be introduced

"Harm" tax of 1.1% of gross online gambling revenues to be introduced

Campaigner support

CUG	Clean Up Gambling
CEGA	Campaign to End Gambling Advertising

Policy support

Social Market Foundation – centrist think tank

DGA	as secretariat for politicians on gambling harm – Great Britain
Chambre	as secretariat for politicians on gambling harm – Northern Ireland

Legal support

AWO	for online gambling data abuse cases
Leigh Day	for online gambling related suicide inquests
	for judicial review of the Gambling Commission – Great Britain

Harm amelioration support

Gamban – leading online gambling self-exclusion software - global

Kindbridge – leading tele-therapy for gambling harm - US

Gambling with Lives – gambling suicide bereaved family support

GamFam – supporting mainly affected others of harmed gamblers

GamLearn – supporting mainly persons harmed by gambling

Tackling Gambling Stigma- a voice for gambling harm lived experience

Extern – gambling harm – Republic of Ireland and Northern Ireland

Appendix C

Brianne Doura-Schawohl is founder and CEO of Doura-Schawohl Consulting LLC, a boutique global government relations firm that specializes in problem and responsible gambling policy. Doura-Schawohl has been retained to represent the Campaign for Fairer Gambling on policy matters at the national and state level. She most recently served as Vice President of US Policy and Strategic Development for EPIC Global Solutions, a global harm prevention consultancy, conducting work in over 24 countries. Prior to her role at EPIC, Brianne served as Legislative Director for the National Council on Problem Gambling (NCPG). Her experience includes over a decade of leadership in advocacy, public policy, government affairs, and communications specializing in the field of problem gambling.

Doura-Schawohl's practice spans a wide range of work with executive and legislative branch officials and private sector stakeholders at the international, federal, state, and local levels of government. She has a history of achievements in State and United States Congressional legislative work, including a diverse portfolio of complex problem gambling policy issues. This continues to be invaluable in her ability to make a difference on behalf of people with gambling problems around the world.

Doura-Schawohl works with Congress and numerous State legislatures and regulators to provide expert advice on gambling policy. She continues to work with stakeholders on both sides of the aisle. Additionally, she has been featured in international, national, state, and local media, including ABC News, Bloomberg, CBS, CNBC, Forbes, ESPN, The Athletic, The Financial Times, The New York Times, The Washington Times, The Washington Post, The Guardian, CBC and numerous others.

Brianne was named one of the top lobbyists in 2024, 2023 and 2022 by 'The Hill', named one of the top 100 lobbyists in 2022 and 2021 by the National Institute of Lobbying & Ethics (NILE), was featured as one of the 25 People to Watch in 2022 by Global Gaming Business, an honoree of the 2023 class of 40 under 40 Emerging Leaders in Gaming, is an honoree of the 2023-2024 '10 Women Rising in Gaming' by Global Gaming Women and CDC Gaming Reports and named one of the top 10 most influential women in gaming in 2023 by iGB. In 2019 she was appointed as a member of the Digital Gaming Advisory Group for the State of Hawaii and continues to serve on various coalitions.

In 2024 she was a guest faculty member at Vanderbilt Law School, in 2020 and 2021 she was an invited speaker for Seton Hall Law School at their Gaming Law, Compliance, and Integrity Program and continues to be a guest lecturer for the University of Minnesota, Global Institute for Responsible Sport Organizations, and has lectured at Bradley University. Doura-Schawohl presents at conferences and other public events on gaming policy across the United States, Europe, Canada, and Australia.

Doura-Schawohl serves on the Board of Directors for Kindbridge Research Institute (KRI) and is a member of the leadership team of the NILE Next Gen Executives committee, a group committed to advancing educational & networking opportunities for the next generation of

leaders within the government relations profession. She is also a proud member of the KRI's Military Gambling Awareness Committee (MGAC), a groundbreaking initiative dedicated to addressing and mitigating gambling-related harms within the military community.

Mrs. Doura-Schawohl holds a Bachelor of Arts in Political Science from the University of Mary Washington. She is a proud military spouse and resides in Fairfax, Virginia with her family.