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The Various Forms of Gaming are Not the Same

- What are:
 - Fantasy sports?
 - Traditional sports betting?
 - Prediction markets?
- Key differences?

The U.S. Legal Landscape: How We Got Where We Are: Select US laws and Court Decisions

The Federal Wire Act

The Federal Unlawful Internet Gambling Enforcement Act (“UIGEA”)

The Professional and Amateur Sports Protection Act (“PASPA”)

U.S. Supreme Court Decision in *Murphy* Declaring PASPA Unconstitutional

Federal Government and State Governments Assert Primacy over Prediction Markets – The Court Cases March On

The Federal “Wire Act” of 1961

Prohibits the interstate transmission of sports betting transactions and information related to sports betting transactions, with exceptions for the transfer of certain information between states, or states and foreign jurisdictions, where sports betting is legal.

Originally passed to combat organized crime control of illegal gambling

Unlawful Internet Gambling Enforcement Act “UIGEA” of 2006



- Prohibits operators from accepting “bets and wagers” in connection with “unlawful Internet gambling” and requires payment processors to implement appropriate policies and procedures to restrict unlawful gambling.
- Whether gambling is “unlawful” under UIGEA depends largely on whether the gambling activity is illegal under the laws of the state or foreign jurisdiction where the bet or wager is initiated or received
- Fantasy sports contests are expressly excluded from the UIGEA’s definition of “bet[s]” or “wagers” if certain conditions are met.

Professional and Amateur Sports Protection Act (PASPA)

- PASPA is a *Federal* law that prohibited *states* from facilitating betting on amateur or professional sports games.
- The U.S. Supreme Court in the now famous (or infamous?) “Murphy” case ruled in 2018:
 - PASPA is an unconstitutional deprivation of states’s rights
 - States have the right to decide whether or not they want to legalize sports gambling within their own borders.

The Practical Effect of U.S. Supreme Court Decision in *Murphy*?

The *Murphy* decision did not and does not mean that sports gambling is legal throughout the United States. Rather, it means that absent further Federal legislation, States can legalize gambling within their borders so long as they comply with existing federal laws like UIGEA and the Wire Act. Many states have done just that.

Result – a hodge podge of varied and disparate rules and regulations resulting in what Churchill reportedly would have called: “a riddle wrapped in a mystery, inside an enigma”

Regulation of Prediction Markets – State or Federal – Conflicting Views and History

- Federal Legislation Could But Has not Asserted Exclusive Jurisdiction Over All Forms of Sports Wagering and Gaming.
- BUT: As to Prediction Markets, The U.S. Commodity Futures Trading Commission is asserting exclusive jurisdiction and signaling aggressive enforcement.
- What are the Courts saying??? – Well, Federal judges have and continue to come to different conclusions in preliminary rulings.

Recent Scandals and Criminal Prosecutions – Insider Trading is not Just for Stocks it Seems



- **Sports Betting**: Two Major League Baseball pitchers face federal charges of working with sports bettors to rig proposition bets on certain pitches.
- **Prediction Markets**: U.S. Federal prosecutors charged U.S. Army soldier with “insider trading” using classified nonpublic information regarding operations to capture former Venezuelan President Nicolás Maduro.

What's Next?

- **Courts**: Eventually the U.S. Supreme Court will decide State v. Federal regulation of Prediction Markets
- **Legislation**: The U.S. Congress *could* pass national legislation that makes the rules clear for sports wagering and prediction markets nationwide.
COULD
- **Enforcement**: Aggressive Enforcement of “Insider Trading” including innovative theories of prosecution.



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Questions?

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