cite as: Newall, P. W. S., & Xiao, L. Y. (2021). Gambling marketing bans in professional sports neglect the risks posed by financial trading apps and cryptocurrencies. *Gaming Law Review*. doi: 10.1089/gle2.2021.0027

Gambling marketing bans in professional sports neglect the risks posed by financial trading apps and cryptocurrencies

Philip W. S. Newall* [0000-0002-1660-9254]

Leon Y. Xiao^{†‡} [0000-0003-0709-0777]

*: Experimental Gambling Research Laboratory, School of Health, Medical and Applied Sciences, CQUniversity, 400 Kent St, Sydney, NSW 2000, Australia

[†]: The Honourable Society of Lincoln's Inn, Lincoln's Inn, London WC2A 3TL, United Kingdom

[‡]: The City Law School, City, University of London, Northampton Square, Clerkenwell, London EC1V 0HB, United Kingdom

International Gaming Industry Update

Introduction

Professional sports have in recent years become increasingly intertwined with gambling marketing, especially in countries such as Australia,¹ Spain,² and the UK.³ Even Formula 1 racing, which used to be closely associated with tobacco sponsorship,⁴ announced in 2021 an agreement to have an official betting sponsor.⁵ However, as happened previously with tobacco sponsorship, some policymakers and regulators have started to take legal action with gambling marketing restrictions. In Italy, gambling advertising and sponsorship are now prohibited.⁶ In Spain, gambling sponsorship of sports teams is prohibited,⁷ whilst advertising is prohibited except between 1:00AM–5:00AM, thus effectively banning commercially viable gambling marketing through sports.⁸ The UK is currently considering a sponsorship ban in sports.⁹ Although these regulatory actions may have improved consumer protection against gambling harms, a closer examination of recent developments in the top men's soccer leagues of these three countries reveals an emerging trend toward sponsorship from two gambling-like industries that are unaffected by these legal bans: financial trading apps and cryptocurrencies. Consumers are becoming increasingly exposed to the marketing of these

¹ Samantha Thomas et al., *Sports betting marketing during sporting events: a stadium and broadcast census of Australian Football League matches*, 36 AUST. N. Z. J. PUBLIC HEALTH 145–152 (2012).

² H. Lopez-Gonzalez, Frederic Guerrero-Solé & Mark D. Griffiths, *A content analysis of how 'normal' sports betting behaviour is represented in gambling advertising*, 26 ADDICT. RES. THEORY 238–247 (2018).

³ Christopher Bunn et al., *Shirt sponsorship by gambling companies in the English and Scottish Premier Leagues: global reach and public health concerns*, 20 SOCCER SOC. 824–835 (2018); Rebecca Cassidy & Niko Ovenden, *Frequency, duration and medium of advertisements for gambling and other risky products in commercial and public service broadcasts of English Premier League football*, 2017 (2017), <https://osf.io/gprkv>; Steve Sharman, *Gambling in football: How much is too much?*, MANAG. SPORT LEIS. (2020).

⁴ Simon Chapman, *Formula One racing and the end of tobacco sponsorship: half pregnant at 350 kph?*, 11 TOB. CONTROL 87–88 (2002).

⁵ Richard Mulligan, *PokerStars becomes Formula 1 betting partner*, IGAMING BUSINESS (2021), <https://igamingbusiness.com/pokerstars-becomes-formula-1-betting-partner/>.

⁶ Art. 9 of Decreto Legge 12 Luglio 2018, n. 87, in Gazzetta Ufficiale 13 Luglio 2018, n. 161, as converted into law with amendments by Decreto Legge 9 Agosto 2018, n. 96, in Gazzetta Ufficiale 11 Agosto 2018, n. 186.

⁷ Art. 12 of Real Decreto 958/2020, de 3 de noviembre, de comunicaciones comerciales de las actividades de juego, BOE 2020, 95846.

⁸ *Id.* at Arts. 18 and 19.

⁹ Samuel Agini, *EFL warns shirt sponsorship gambling ban would be 'catastrophic'*, FINANCIAL TIMES (2021), <https://www.ft.com/content/98236174-30ce-4b69-81ca-3acdbcf25d8>.

gambling-like products through sports contexts, and these products could pose similar risks to gambling or even additional, unique risks.

Emergence of financial trading apps and cryptocurrencies

A new generation of mobile phone apps is making it easier than ever before to trade not only on the stock market, but also on complex financial securities such as ‘options’ and ‘contracts for difference.’ These apps can be significantly ‘gamified,’¹⁰ featuring flashing colors and congratulatory messages reminiscent of those used on electronic gambling machines.¹¹

However, the ease of trading on these apps can have practical downsides and pose potential harms to consumers because people with problem gambling symptoms are more likely than others to frequently trade both stocks¹² and complex securities.¹³ Disclosures from the European Union’s financial regulator revealed that 74%–89% of contract for difference investors lose money,¹⁴ thus demonstrating that this financial product is not profitable for most people—just like gambling. Indeed, these products can even pose unique risks to consumers, such as the risk of losing more than your initial deposit in contract for difference trading—a risk that is not present with gambling where only up to the value of the stake (*i.e.*, ‘initial deposit’) can potentially be lost.¹⁵

¹⁰ Emily Stewart, *Who gets to be reckless on Wall Street?*, VOX (2020), <https://www.vox.com/business-and-finance/2020/7/9/21314119/stock-market-day-trading-reddit-dave-portnoy-barstool-robinhood>.

¹¹ Candice Graydon et al., *Gambling despite financial loss—the role of losses disguised as wins in multi-line slots*, 114 ADDICTION 119–124 (2019).

¹² Moritz Mosenhauer, P. W. S. Newall & Lukasz Walasek, *The stock market as a casino: Associations between stock market trading frequency and problem gambling*, Forthcoming J. BEHAV. ADDICT. (2021), <https://psyarxiv.com/zqe9s> (last visited Sep 5, 2021).

¹³ Jennifer N. Arthur, Paul Delfabbro & Robert J. Williams, *Is there a relationship between participation in gambling activities and participation in high-risk stock trading?*, 9 J. GAMBL. BUS. ECON. 34–53 (2015); Robert J. Williams et al., *Predictors of gambling and problem gambling in Canada*, 112 CAN. J. PUBLIC HEALTH 521–529 (2021).

¹⁴ European Securities and Markets Authority, *Notice of ESMA’s Product Intervention Renewal Decision in relation to contracts for differences* (2019), https://www.esma.europa.eu/sites/default/files/library/esma35-43-1912_cfd_renewal_3_-_notice_en.pdf.

¹⁵ Charlie Barton, *The risks of CFD trading / How risky are CFDs?*, FINDER (2020), <https://www.finder.com/uk/cfd-trading-risks> (last visited Sep 6, 2021).

Some financial trading apps even enable trading in volatile cryptocurrencies. Even the oldest and most stable cryptocurrency, Bitcoin, which is approximately 10 years old, has lost up to 20% of its value in a single day,¹⁶ comparable to the worst overall daily loss in the US stock market's entire history.¹⁷ Research has found that cryptocurrency traders are likely to have problem gambling symptoms,¹⁸ and has identified psychological similarities between cryptocurrency trading and online sports betting.¹⁹ The academic literature thus shows converging trends between gambling and both financial trading and cryptocurrencies.

Current sponsorship patterns in European men's soccer

A closer examination of the main shirt sponsors of men's soccer clubs in the top divisions of Spain and Italy (for the 2021/2022 season) reveals why this convergence might be an issue. Six out of 20 current Spanish La Liga teams previously had gambling sponsors, which have now been removed following the recent ban,²⁰ and are currently without main shirt sponsors.²¹ However, two clubs, including the reigning champions *Atlético Madrid*, and *Sevilla*, both of which also competed prominently in European competition in the previous season, have financial trading apps as shirt sponsors (one of which focuses on contracts for difference, whilst the other offers a broader range of investments including cryptocurrencies). Another club, *Valencia*, is sponsored by 'fan tokens,' a volatile digital asset providing fans with voting rights on minor club issues such as which song will play as the team goes onto

¹⁶ Scott Chipolina, *Bitcoin Price Suffers Biggest Daily Drop in History*, DECRYPT (2021), <https://decrypt.co/53742/bitcoins-price-suffers-biggest-daily-drop-ever>.

¹⁷ John C. Bogle, *Black Monday and Black Swans*, 64 FINANCIAL ANALYSTS JOURNAL 30–40 (2008).

¹⁸ Paul Delfabbro et al., *Cryptocurrency trading, gambling and problem gambling*, 122 ADDICT. BEHAV. (2021); Devin J. Mills & Lia Nower, *Preliminary findings on cryptocurrency trading among regular gamblers: A new risk for problem gambling?*, 92 ADDICT. BEHAV. 136–140 (2019).

¹⁹ Paul Delfabbro, Daniel L. King & Jennifer Williams, *The psychology of cryptocurrency trading: Risk and protective factors*, J. BEHAV. ADDICT. (2021).

²⁰ Art. 12 of Real Decreto 958/2020, de 3 de noviembre, de comunicaciones comerciales de las actividades de juego, BOE 2020, 95846.

²¹ Corey Pellatt, *Six La Liga Clubs Are Without Shirt Sponsors Due to Ban on Gambling Brands*, VERSUS (2021), <https://versus.uk.com/2021/08/six-la-liga-clubs-without-shirt-sponsors-due-ban-gambling-brands/>.

the pitch, and which can only be bought with cryptocurrency.²² In Italy, four out of 20 clubs in Serie A are currently without main shirt sponsors. One club, *Atalanta*, is sponsored by a contract for difference provider; another, *Inter Milan*, is sponsored by a cryptocurrency-based fan token; and a third, *Roma*, is sponsored by a cryptocurrency-based company. Financial trading apps and cryptocurrencies are already partly inhabiting the space left by the legal bans on gambling sponsors in Spain and Italy, and this trend is likely to continue.

In the men's English Premier League, where a gambling sponsorship ban has not yet been enacted, seven out of 20 clubs are (for the current 2021/2022 season) sponsored by gambling operators approved by the national gambling regulator. This rate of 35% of clubs with gambling logos on the front of their shirts is below the average seen in recent years.²³

However, additionally, one club, *Leicester*, is sponsored by a financial trading app, whilst two other clubs, *Southampton* and *Watford*, are sponsored by cryptocurrency gambling operators, which allow for bets to be made in a range of cryptocurrencies. These two latter clubs with cryptocurrency gambling sponsors were not included when counting the aforementioned seven clubs with *approved* gambling sponsors, because cryptocurrency gambling is not even legal in the UK, and a visitor to these sites with a UK-based IP address will be unable to place any bets. Cryptocurrency gambling operators are thought to be using English soccer as an advertising platform because of its appeal in overseas markets such as China,²⁴ where cryptocurrency can be used to overcome a wide-ranging ban on gambling.²⁵ Although these gambling platforms are not legal in the UK, they may nonetheless help to normalize the use of cryptocurrencies in that country through their prominent presence at

²² Joey D'Urso, *Special investigation: Socios 'fan tokens' – what they really are and how they work*, THE ATHLETIC (2021), <https://theathletic.com/2774492/2021/08/18/investigation-socios-fan-tokens-what-they-really-are-and-how-they-work>.

²³ Bunn et al., *supra* note 3; Cassidy and Ovenden, *supra* note 3; Sharman, *supra* note 3.

²⁴ Joey D'Urso, *HODL! English football's hidden links to Bitcoin gambling*, THE ATHLETIC (2021), <https://theathletic.com/2517118/2021/04/26/hodl-english-footballs-hidden-links-to-bitcoin-gambling/>.

²⁵ See Criminal Law of the People's Republic of China, art. 303 (2020).

mainstream sporting events. One of these clubs, *Watford*, even has the logo of the meme cryptocurrency ‘DogeCoin’ on its sleeves,²⁶ as a further demonstration of the growing presence of cryptocurrencies in the sports sponsorship space. Financial trading apps and cryptocurrencies can compete directly with gambling operators for sponsorship of teams in the world’s most watched professional sporting league, even without a gambling sponsorship ban yet in place.

Conclusion

Regulators and policymakers contemplating gambling marketing restrictions should consider the potential risks posed by financial trading apps and cryptocurrencies. It is possible that the restriction of gambling marketing, but not marketing from these gambling-like industries, could help to legitimize the use of these products by making them appear either less risky or more acceptable than gambling. The banning of gambling shirt sponsors removes competition from this marketplace, and therefore potentially enables more financial trading apps and cryptocurrency-based ventures to invest in this marketing strategy. Indeed, financial trading apps and cryptocurrencies may have fewer harm reduction features than those available in gambling, such as self-exclusion schemes.²⁷ Additionally, financial trading apps and cryptocurrencies have other ways of increasing the consumers’ potential for loss compared to gambling: for example, a greater proportion of the population could engage with these products than with gambling, and people may be willing to risk more money when ‘investing’ via these products than would risk when ‘gambling’ (because of how the risk-taking behavior is ‘framed’ to the consumers).²⁸ Finally, financial trading apps and

²⁶ Lily Russell-Jones, *Watford FC to feature Doge on football shirts*, CITY A.M. (2021), <https://www.cityam.com/watford-fc-doge/>.

²⁷ Tobias Hayer, Tim Brosowski & Gerhard Meyer, *Multi-venue exclusion program and early detection of problem gamblers: what works and what does not?*, 20 INT. GAMBL. STUD. 556–578 (2020).

²⁸ Xuesong Shang, Hebing Duan & Jingyi Lu, *Gambling versus investment: Lay theory and loss aversion*, 84 J. ECON. PSYCHOL. 102367 (2021).

cryptocurrencies are more recent inventions than gambling, thus making it harder to predict the range of potential harms that they could pose to consumers in the future.

In conclusion, gambling marketing restrictions in professional sports are likely helping the growth of financial trading app and cryptocurrency by affording them a cheaper and less competitive advertising space, and may be legitimizing these products to a wide-range of audiences and exposing consumers to potential harms. Regulators should consider how these emerging gambling-like products can have overlapping risk profiles with gambling, and can even pose additional, unique risks to consumers that are not present in gambling. Researchers should continue investigating these emerging industries to allow policymakers to base their decisions off of the best information possible.