July 15, 2026

Federal Trade Commission
Office of the Secretary
600 Pennsylvania Avenue NW
Suite CC-5610
District of Columbia 20580

Petition for Rulemaking Prohibiting Unconsented and Unstoppable Marketing Push Notifications for Wagering Applications

Introduction and Summary

Pursuant to 16 C.F.R. § 1.9, 5 U.S.C. § 533(e), and Section 18 of the FTC Act, the National Consumers League, on behalf of itself, the Campaign for Fairer Gambling, the National Council on Problem Gambling, the Public Health Advocacy Institute, and Truth in Advertising, Inc., petitions the Federal Trade Commission to address an unfair practice in the marketing of wagering applications: the delivery of push notifications for marketing purposes without meaningful consumer consent and without an effective mechanism for consumers to stop receiving such advertising unless consumers also block essential account communications.

Sports betting and prediction market applications—products associated with gambling behaviors and addiction—now reach millions of Americans through mobile devices and increasingly rely on push notifications to promote wagering opportunities, bonuses, and other inducements designed to compel continued engagement. Yet many operators do not provide consumers with practical means to avoid gambling-related advertising via push notifications without simultaneously forfeiting access to important account, transactional, and security-related communications. Consumers are thus forced to choose between accepting a steady stream of gambling advertisements or disabling notifications altogether and risking missed critical account alerts—assuming users are even aware of the choice, given that the apps rarely disclose the relevant settings clearly.

As set forth below, these practices cause substantial consumer injury. They deprive consumers of meaningful control over the advertising delivered to their personal devices, increase exposure to marketing for products associated with addiction and significant financial and psychological harms, and increase youth exposure to gambling advertising despite evidence linking such exposure to future gambling participation and gambling-related harm. These injuries are not reasonably avoidable, and any countervailing benefits are minimal given the ease with which operators can provide separate controls for marketing and non-marketing communications.

The requested rule would not prohibit gambling advertising, restrict access to lawful products or prevent businesses from communicating with their customers. Rather, it would simply apply longstanding consumer-protection principles to a modern advertising technology by requiring meaningful consent, effective opt-out mechanisms, and basic transparency regarding marketing push notifications. Such requirements fall squarely within the Commission's authority to prevent unfair practices that cause substantial and unavoidable consumer injury. The undersigned public interest organizations urge the Commission to initiate a rulemaking proceeding and adopt the protections requested in this petition.

Contents

I. Interests of Petitioners

Pursuant to 5 U.S.C. § 553(e) and 16 C.F.R. § 1.9, the National Consumers League ("NCL" or "League"), on behalf of itself, the Campaign for Fairer Gambling, the National Council for Problem Gambling, the Public Health Advocacy Institute and Truth in Advertising, Inc., respectfully petitions the Federal Trade Commission ("FTC" or "Commission") to initiate a trade regulation rulemaking under Section 18 of the FTC Act (15 U.S.C. § 57a) to prohibit unfair practices related to the use of smartphone push notifications to market sports betting and prediction market applications, collectively referred to herein as "wagering applications."

NCL is America's oldest consumer advocacy organization, dedicated to protecting and promoting the rights of consumers and workers since 1899. NCL has advocated on behalf of consumers regarding tech policy for decades and gambling issues for several years. Following the 2018 U.S. Supreme Court decision in *Murphy v. National Collegiate Athletic Association*, the League contributed to the Sports Fans Coalition's Sports Bettors' Bill of Rights as a template for basic consumer protections around sports gambling.[1] In 2025, NCL released a first-of-its-kind report documenting the unfair practices the top three sports betting apps use in their marketing via smartphone push notifications.[2]

The Campaign for Fairer Gambling ("CFG") aims to advance a politically bipartisan and scientifically evidence-based practice to enhance consumer protections across the gambling sector. CFG's national campaign strives to reduce gambling related harm through smarter gambling policies from independent, experienced voices focused on data-driven solutions.

The National Council on Problem Gambling ("NCPG" or "Council") is the sole national advocate for those suffering from a gambling problem and their loved ones. NCPG's mission is to lead state and national stakeholders in the development of comprehensive policy and programs for all those affected by problem gambling. The Council's vision is to improve health and wellness by reducing the personal, social and economic costs of problem gambling. NCPG is neither for nor against legalized gambling.

The Public Health Advocacy Institute ("PHAI" or "Institute") is a 501(c)(3) nonprofit organization focusing on improving public health through law and policy change. The Institute is focused on the rapid proliferation of sports gambling, including intense predatory marketing of a known addictive product. PHAI supports this petition as an important iterative step to protect consumers from marketing practices that are likely to harm consumers.

Truth in Advertising, Inc. ("TINA.org") is a nonprofit, nonpartisan consumer advocacy organization dedicated to combatting false, deceptive and unfair marketing practices. It advances this mission by filing legal complaints with state and federal regulators, publishing

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[1] "Sports Bettors' Bill of Rights," Sports Fans Coalition, (Aug. 1, 2018). https://static1.squarespace.com/static/670ec2f25e95e40d018a8b49/t/672291f90ce18107811d8cf3/1730318842164/Sports_Bettors_Bill_of_Rights_White_Paper.pdf

[2] "Pushing Addiction: The Use of Push Notifications to Advertise Sports Betting," National Consumers League (Jul. 28, 2025). https://nclnet.org/advertising-sports-betting-with-smartphone-notifications-what-ncl-learned-and-how-regulators-can-act/

ad alerts and investigative news stories, and tracking false advertising class actions nationwide. TINA.org has closely monitored the marketing of sports betting and prediction market platforms, publishing multiple ad alerts and tracking dozens of related class actions. It supports this petition because push notifications delivered without consumers' consent, and that are effectively unavoidable, constitute an unfair marketing practice that can exploit consumers—particularly those vulnerable to addiction—while undermining meaningful choice. Clear FTC rules are needed to promote transparency, curb manipulative digital marketing, and ensure a fair marketplace.

II. Factual Basis for a Rule

A. Sports Betting and Prediction Market App Usage Is Widespread and Growing Rapidly

In recent years, sports betting and prediction market participation has expanded dramatically, transforming what was once perhaps a fringe hobby into a mainstream consumer activity. Since the removal of federal barriers to state-authorized sports betting, the industry has experienced extraordinary growth in both participation and revenue. In 2025, sports betting revenue reached almost $17 billion, representing a 23% increase from the previous year.[3] During the same time period, the total sports betting handle—the aggregate amount wagered by consumers—rose to $167 billion, representing an 11% increase from 2024.[4] These figures reflect not only a growing market, but also increasing consumer engagement with wagering.

This rapid growth has been fueled by the widespread availability and popularity of mobile sports betting apps, which allow consumers to place wagers instantly from their smartphones, and are now available in 32 states and the District of Columbia.[5] Surveys confirm the widespread usage of online sports betting platforms. Twenty-seven percent of Americans now maintain active accounts with an online sports betting company, and that figure jumps to 52% among men ages 18 to 49.[6] According to a Pew Research survey, 10% of American adults placed an online-sports bet in 2024, and 21% of men under age 30 participated in online sports betting during this period.[7] These data make clear that online sports betting has become commonplace for a substantial segment of the population.

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[3] "Commercial Gaming Revenue Hits $78.7 Billion in 2025, Driving Record $18.1 Billion in Gaming Taxes Nationwide," American Gaming Association (Feb. 26, 2026).
https://www.americangaming.org/commercial-gaming-revenue-hits-78-7-billion-in-2025-driving-record-18-1-billion-in-gaming-taxes-nationwide/

[4] *Id.*

[5] *See* map labeled "Sports Betting" located at "State of Play," American Gaming Association (accessed Mar. 31, 2026). https://www.americangaming.org/research/state-of-play-map/

[6] "22% of All Americans, Half of Men 18-49, Have Active Online Sports Betting Account," Siena College Research Institute*,* (Feb. 18, 2025).
https://sri.siena.edu/2025/02/18/22-of-all-americans-half-of-men-18-49-have-active-online-sports-betting-account/

[7] "Americans increasingly see legal sports betting as a bad thing for society and sports," Pew Research Center, (Oct. 2, 2025).
https://www.pewresearch.org/short-reads/2025/10/02/americans-increasingly-see-legal-sports-betting-as-a-bad-thing-for-society-and-sports/

Two companies—DraftKings and FanDuel—dominate this online market, accounting for about 72% of all sports betting activity.[8] Their applications consistently rank among the most popular sports apps in the United States with more than 10 million combined downloads and user engagement reflected in more than 6 million app reviews.[9] Another popular app, BetMGM, has exceeded 1 million downloads and nearly 40,000 user reviews.[10] The scale of these download and engagement figures demonstrates the degree to which sports betting apps have become integrated into everyday consumer behavior.

Prediction markets have similarly experienced explosive growth and consumer engagement. Unlike traditional sports betting applications, prediction market platforms are generally available nationwide[11] and allow users to speculate on the outcomes of both sporting events and non-sporting events. Since 2024, monthly notional trading volume—the value of all contracts traded on prediction markets—has surged from approximately $100 million[12] to more than $24 billion,[13] representing a 240-fold increase in just two years. For comparison, the average monthly handle for legal sportsbooks in 2025 was around $14 billion.[14]

As of January 2026, two apps controlled approximately 65% of the prediction market: Kalshi held approximately 36% while Polymarket controlled roughly 29%.[15] During the week of January 12–18, 2026, total notional volume across these two leading prediction market platforms

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8 "U.S. Sports Betting Data: Market Share Stats By Brand, Gross Gaming Revenue, Parlay Handle, Hold," Casino Reports (Mar. 25, 2026). https://www.casinoreports.com/us-sports-betting-market-stats-database/

9 The DraftKings Sportsbook & Casino app is currently the fourth most popular Sports app in Apple's App Store and has been downloaded more than five million times through Google Play, generating over 226,000 user reviews; DraftKings Sportsbook & Casino on Apple App Store, *DraftKings,* Accessed March 31, 2026. https://apps.apple.com/us/app/draftkings-sportsbook-casino/id1375031369.; DraftKings Sportsbook & Casino on Google Play (accessed Mar. 31, 2026). https://play.google.com/store/apps/details?id=com.draftkings.sportsbook&hl=en_US;
The FanDuel Sportsbook & Casino app similarly ranks among the most popular Sports apps, with more than five million Google Play downloads and approximately 385,000 user reviews; FanDuel Sportsbook & Casino on Apple App Store (accessed Mar. 31, 2026). https://apps.apple.com/us/app/fanduel-sportsbook-casino/id1413721906; FanDuel Sportsbook & Casino on Google Play (accessed Mar. 31, 2026). https://play.google.com/store/search?q=fanduel&c=apps&hl=en_US;

10 BetMGM – Sportsbook & Casino on Apple App Store (accessed Mar. 31, 2026). https://apps.apple.com/us/app/betmgm-sportsbook-casino/id1430875409; BetMGM - Online Sports Betting on Google Play (accessed Mar. 31, 2026). https://play.google.com/store/apps/details?id=com.playmgm.nj.sports&hl=en_US

11 "Prediction Markets: What Are They?" Riverside County Law Library (Feb. 20, 2026). https://rclawlibrary.org/news/prediction-markets-what-are-they

12 "Prediction Markets, The Next Frontier of Financial Markets," Keyrock and Dune (Dec. 2025). https://hs-5154532.f.hubspotemail.net/hubfs/5154532/Prediction%20Markets%2c%20The%20Next%20Frontier%20of%20Financial%20Markets-1.pdf

13 "Trading volume on prediction markets has soared in recent months," Pew Research Center (May 27, 2026). https://www.pewresearch.org/short-reads/2026/05/27/trading-volume-on-prediction-markets-has-soared-in-recent-months/

14 *See* "US Sports Betting in 2025 Reaches Record Highs, Driven by New York and Illinois," Sports Handle (Feb. 26, 2026). https://sportshandle.com/us-sports-betting-in-2025-reaches-record-highs-driven-by-new-york-and-illinois/

15 "Kalshi, Polymarket Break Records in $5.9B Week for Prediction Markets," DeFi Rate (Jan. 19, 2026). https://defirate.com/news/kalshi-polymarket-break-records-in-5-9b-week-for-prediction-markets

approached $6 billion, with Kalshi reporting a 7% week-over-week increase and Polymarket reporting nearly 17% growth.[16]

The popularity of prediction market platforms is also reflected in mobile app rankings and user adoption. In March 2026, the Polymarket app ranked as the sixth most popular app in the Sports category of Apple's App Store, surpassing both DraftKings and FanDuel at the time.[17] Although Apple has since moved Polymarket to the Finance category, it remains highly ranked and has also accumulated more than 500,000 downloads on Google Play.[18] Kalshi's mobile application likewise ranks among the most popular Finance apps in the Apple App Store with approximately 79,000 consumer ratings and more than one million downloads on Google Play.[19]

Taken together, these figures demonstrate that wagering applications are no longer niche products. Millions of Americans hold active accounts, billions of dollars move through these platforms annually, and leading sports betting and prediction market apps consistently rank among the most popular in their app-store categories—making them a mainstream and highly visible component of everyday digital life.

B. U.S. Children and Teenagers Are Increasingly Engaging with Online Betting Platforms

Available evidence indicates that gambling activity is becoming increasingly common among minors.[20] A 2026 survey found that 33% of respondents ages 21 to 44 reported placing a sports bet before reaching age 21, compared to only 11% of respondents ages 55 and older.[21] Not surprisingly, this generational disparity coincides with the rapid expansion of online and mobile wagering platforms, which have made betting opportunities more accessible than at any point in history. In addition, leading prediction market platforms have utilized marketing strategies that directly appeal to younger audiences, including advertisements incorporating internet memes, trending slang, and TikTok-based promotional content featuring young individuals.[22]

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[16] *Id.*
[17] Polymarket on Apple App Store (accessed Mar. 31, 2026).
https://apps.apple.com/us/app/polymarket/id6648798962
[18] Polymarket on Google Play (accessed Mar. 31, 2026).
https://play.google.com/store/search?q=polymarket&c=apps&hl=en_US
[19] Kalshi: Trade News & Sports on Apple App Store (accessed Mar. 31, 2026).
https://apps.apple.com/us/app/kalshi-trade-news-sports/id1632713844
Kalshi: Trade News & Sports on Google Play (accessed Mar. 31, 2026).
https://play.google.com/store/search?q=kalshi&c=apps&hl=en_US
[20] "Exposure of adolescent and youth to Gambling advertising: a systematic review," Universidad de Murica (Jan. 1, 2021). https://revistas.um.es/analesps/article/view/42892
[21] "National Survey Finds Widespread Gambling Participation Before Age 21 Amid Public Concern About Youth Exposure Risk," National Council on Problem Gambling (Mar. 2, 2026).
https://www.ncpgambling.org/news/survey-finds-widespread-gambling-participation-before-age-21/
[22] "Prediction markets and sports betting apps are luring in teens. Here's why experts are concerned," Fast Company (May 28, 2026).
https://www.fastcompany.com/91549778/prediction-markets-sports-betting-apps-luring-teens-heres-why-experts-concerned;
"Kalshi is aggressively advertising on TikTok, seemingly targeting young people while promising a 'money hack,'" Media Matters (Mar. 30, 2026).
https://www.mediamatters.org/tiktok/kalshi-aggressively-advertising-tiktok-seemingly-targeting-young-people-whil

A 2026 survey by Common Sense Media demonstrates the extent of youth engagement with gambling activities.[23] The survey found that:

- 36% of boys ages 11 to 17 reported gambling in 2025.
- Gambling increased steadily with age, ranging from 32% among 11-year-old boys to 49% among 17-year-old boys.
- 34% of boys who gambled participated in sports-related gambling.
- 12% of all boys reported engaging in sports-related gambling regardless of whether they identified as regular gamblers.

These findings indicate that sports betting and related wagering activities are reaching a significant number of minors despite legal age restrictions intended to limit youth participation.

Prediction markets raise additional concerns regarding gambling among minors because these platforms provide access to wagering-like products, only through a regulatory framework that differs from the one applicable to traditional sports betting. Specifically, while most states restrict sports betting to individuals age 21 and older, leading prediction market platforms generally permit participation by those age 18 and older.[24] And while online sports betting is only available in states that legalized the activity, prediction markets have offered their products nationwide without regard to existing restrictions on gambling activities. As a result, prediction markets create a lawful avenue through which many individuals who are too young or geographically unable to participate in traditional sports betting can nevertheless speculate on sporting events and other real-world outcomes.

Media reports also corroborate the rise of wagering among youth. Journalists have documented teenagers losing hundreds or even thousands of dollars trading prediction market contracts.[25] And other news stories have suggested greater trading volume on Kalshi for college football markets compared to professional leagues such as the NFL and NBA—a pattern attributed to unusually strong engagement from younger users.[26] As these platforms continue to expand, their growing reach among younger consumers raises significant concerns about underage exposure to gambling-related activities and the normalization of wagering behavior among minors.[27]

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e-promising; "Prediction Market Advertising Trends," American Gaming Association (June 2, 2026), https://www.americangaming.org/resources/prediction-market-advertising-trends/. ("These 'prediction market' ads often feature students using their sports betting products. The same companies even tried to recruit a 15-year old child to promote them.")

[23] "Betting on Boys: Understanding Gambling Among Adolescent Boys," Common Sense Media (Jan. 29, 2026). https://www.commonsensemedia.org/sites/default/files/research/report/2026-betting-on-boys-report_final-for-web.pdf

[24] "Frequently Asked Questions," Kalshi (accessed Jul. 10, 2026). https://kalshi.com/faq; "Terms of Use," Polymarket.com (Jul. 6, 2026). https://polymarket.com/tos

[25] "'The ads got to me': College-age adults are rushing to prediction market sites. Addiction experts are alarmed," CNN (May 28, 2026). https://www.cnn.com/2026/05/28/economy/prediction-markets-kalshi-young-adults

[26] "College students and teens could be fueling the prediction markets boom," CNBC (Jan. 15, 2026). https://www.cnbc.com/2026/01/15/prediction-markets-college-students-teens-could-be-fueling-the-boom.html

[27] Thomas et al., "Protecting children and young people from contemporary marketing for gambling," Health Promotion International (Mar. 18, 2023). https://pmc.ncbi.nlm.nih.gov/articles/PMC10024482/

C. App Operators Use Push Notifications as a Powerful Marketing Tool to Compel Continued Engagement

The widespread adoption of sports betting and prediction market applications gives operators of wagering apps a direct line of communication to millions of consumers through their smartphones. Once consumers download an app and create an account, brands can directly market wagering propositions to their users through emails, text messages, in-app promotions, and push notifications, among other ways. Research has found that sports betting advertising and inducements are generally associated with increased wagering activity, including a greater likelihood of placing a bet and higher spending when betting.[28] And marketing through push notifications, in particular, is a uniquely effective mechanism for influencing consumer behavior.

Industry research consistently demonstrates that push notifications increase user engagement, retention, and spending.[29] Microsoft reported that personalized push notifications can increase consumer engagement by as much as 300%.[30] A 2024 consumer-engagement study found that push notifications increased app sessions per user by 182%, purchases per user by 116%, and average user lifetime by 73%—citing notifications' high visibility and ability to prompt users to re-engage following inactivity.[31] Similarly, an analysis of 63 million app users found that consumers receiving daily push notifications exhibited retention rates 820% higher than consumers receiving no such notifications.[32]

For wagering apps specifically, push notifications are a particularly powerful marketing tool because they can prompt immediate engagement with the platforms. In 2025, NCL undertook a review of push notifications sent by the three leading sports betting applications, DraftKings, FanDuel, and BetMGM,[33] and found that, in the aggregate, 93% of all notifications contained marketing content.[34] Of the 108 notifications reviewed, 62% included "bet pushes"—messages explicitly pushing consumers to place a wager, often using direct calls to action such as "bet now."[35] Fifty percent promoted bonuses, bonus bets, odds boosts or similar gambling

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[28] Browne et al., "The impact of exposure to wagering advertisements and inducements on intended and actual betting expenditure: An ecological momentary assessment study," Journal of Behavioral Addictions (Mar. 28, 2019). https://pmc.ncbi.nlm.nih.gov/articles/PMC7044597/

[29] Wicaksana, Aisyah, and A'yun, "Designing Effective Mobile Push Notifications: Machine Learning Insights into User Engagement," Journal of Digital Business and Innovation Management (Dec. 2024). https://ejournal.unesa.ac.id/index.php/jdbim/article/view/65899

[30] "Mobile push notifications: Help or hindrance," Microsoft Azure (Mar. 3, 2016). https://azure.microsoft.com/en-us/blog/mobile-push-notifications-help-or-hindrance/

[31] "Why Push Notifications Are Important to Your Cross-Channel Strategy," Braze (Jun. 10, 2024). https://www.braze.com/resources/articles/why-push-notifications-are-important-to-your-cross-channel-strategy

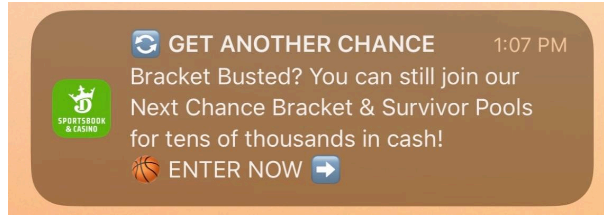
[32] "How Push Notifications Impact Mobile App Retention Rates," Airship (2019). https://grow.urbanairship.com/rs/313-QPJ-195/images/airship-how-push-notifications-impact-mobile-app-retention-rates.pdf. Alternative URL: https://www.scribd.com/document/830719531/推送-社交媒体研究

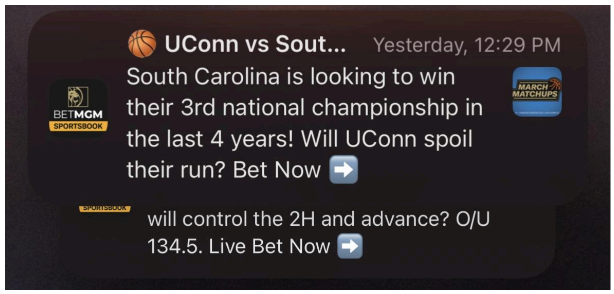
[33] "2025 Received Sports Betting Notifications," National Consumers League on Google Sheets (originally collected 2025, published Jul. 10, 2026). https://docs.google.com/spreadsheets/d/1buYMQdWcAhKMV4iOtI6O_x1RY_5yRN2C/edit?usp=sharing&ouid=103059213718914614285&rtpof=true&sd=true

[34] "Pushing Addiction: The Use of Push Notifications to Advertise Sports Betting," National Consumers League (Jul. 2025). https://nclnet.org/wp-content/uploads/2025/07/Sport-Betting-Report-July-25-2025-Final-version.pdf

[35] *Id.*

inducements, while 28% advertised specific betting odds and 15% promoted riskier wagers than those consumers had previously placed (i.e., parlays).[36]





Despite the predominance of marketing content in these notifications, consumers often lack a way to stop receiving these advertisements without also forfeiting important account-related communications. For many sports betting and prediction market applications, the only available option to stop receiving marketing messages is to disable all push notifications through the smartphone's operating-system settings. Doing so, however, prevents consumers from receiving critical non-marketing messages, including notifications regarding login attempts, account access, cash balance withdrawals, and security events or data breaches. As a result, consumers are forced to choose between receiving a steady stream of gambling advertisements or losing access to important account and security information—if users are even aware of the relevant settings at all.

NCL's 2025 review found that neither DraftKings, FanDuel, nor BetMGM provided consumers with a dedicated setting to disable marketing push notifications while continuing to receive transactional or security-related messages. Subsequently, after NCL's report was published, DraftKings introduced a marketing-notification toggle.[37] However, FanDuel and BetMGM still do not offer consumers this basic control—despite these companies providing mechanisms for consumers to opt out of marketing emails and text messages while still allowing consumers to receive non-marketing communications through those channels.[38]

Companies like FanDuel and BetMGM are exploiting a loophole in federal law that does not explicitly require mobile apps to obtain separate consumer consent for marketing push notifications or offer a dedicated opt-out mechanism for marketing push notifications, even as they implement these same features for email and SMS marketing under the CAN-SPAM Act of 2003 and the Telephone Consumer Protection Act of 1991 ("TCPA").[39] Further complicating the

[36] *Id.*
[37] "Gambling online? Try turning off push notifications," Mashable (Nov. 9, 2025). https://mashable.com/article/sports-betting-notifications-draftkings-fanduel
[38] *Id.*
[39] 15 U.S.C. §§ 7701-7713. https://www.govinfo.gov/content/pkg/USCODE-2024-title15/pdf/USCODE-2024-title15-chap103.pdf; 47 U.S.C. § 227.

landscape is the fact that the two leading smartphone manufacturers have differing policies regarding user consent for push notifications, demonstrating the need for harmonization via federal rule.[40]

Some applications voluntarily request broad notification permissions but without clearly disclosing that consumers will receive frequent advertising messages.[41] For example, NCL found that BetMGM requested notification permissions without specifically informing consumers that those notifications would largely consist of marketing content.[42] And while DraftKings did disclose that notifications would include promotional offers, it did not disclose the extent of the advertising consumers would receive.[43] NCL's review found that approximately 98% of DraftKings notifications contained advertising content and roughly 86% included direct inducements to place a wager, yet DraftKings' disclosure does not give any indication of this frequency.[44]

Prediction market applications appear to employ similar practices to sports betting apps. NCL's review of Kalshi and Polymarket found that neither platform sought separate consent for promotional push notifications as distinct from security, transactional, or relationship messages.[45] Instead, both apps bundled marketing notifications together with essential account communications under a single notification permission request.[46] Polymarket likewise does not provide a dedicated setting allowing consumers to opt out of marketing push notifications while continuing to receive account-related alerts. Screenshots posted online by Kalshi and Polymarket users further show both apps using push notifications to promote specific prediction contracts and encourage additional trading activity.[47]

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https://www.govinfo.gov/content/pkg/USCODE-2024-title47/pdf/USCODE-2024-title47-chap5-subchapII-partI-sec227.pdf

[40] Apple's developer guidelines require apps to receive consent first, with the exception of "trial notifications," which Apple allows developers to assume "provisional authorization" from consumers and enables to an app to "automatically grant [itself] authorization" to deliver notifications "quietly" ("Asking permission to use notifications," Apple [accessed Mar. 31, 2026]. https://developer.apple.com/documentation/UserNotifications/asking-permission-to-use-notifications). As a result of this policy environment, one of the apps examined in NCL's report (FanDuel) delivers push notifications "quietly" to iPhone consumers without first receiving consent. Android's developer guidelines do not appear to have this same loophole, but NCL cannot confirm how these sports betting companies have implemented these guidelines into their practices on Android devices since NCL only used Apple devices for the League's study ("Notifications," Android, [accessed Mar. 31, 2026]. https://developer.android.com/design/ui/mobile/guides/home-screen/notifications).

[41] *See* Appendix Figures 1 and 2

[42] *See* Appendix Figure 1

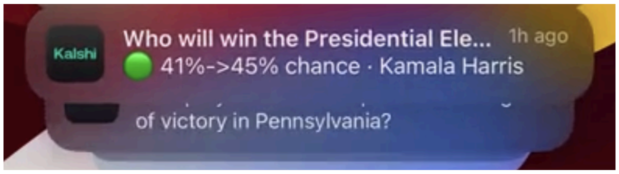
[43] *See* Appendix Figure 2

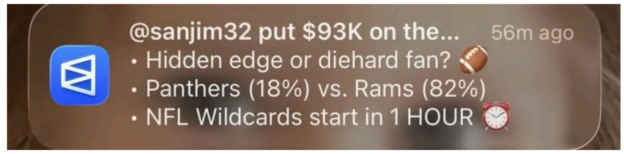
[44] "Pushing Addiction: The Use of Push Notifications to Advertise Sports Betting," National Consumers League, pg. 4 (Jul. 2025). https://nclnet.org/wp-content/uploads/2025/07/Sport-Betting-Report-July-25-2025-Final-version.pdf

[45] For example, this overview of Kalshi's sign up process shows the bundling of marketing notifications with security, transactional, or relationship notifications. "Kalshi Sign Up Review: How It Really Works," GamblingHarm.org (Feb. 10, 2026). https://gamblingharm.org/kalshi-sign-up-review/;
"Transactional or relationship messages" in this petition has the same meaning as found under 15 U.S.C. § 7702(17), including messages related to a preexisting commercial transaction, safety or security information, and to deliver goods or services that the recipient is entitled to receive under the terms of a preexisting transaction.

[46] *See* Figure 1 in appendix.

[47] *See* User Post by Dangerous-Ad3651, "I swear to god the notifications," Reddit (Nov. 4, 2024). https://www.reddit.com/r/Kalshi/comments/1gjrcu4/i_swear_to_god_the_notifications/; "How Betting App Push





Taken together, these tactics deprive consumers of meaningful control over gambling-related advertising delivered directly to their mobile devices. By bundling marketing messages with essential account communications and failing to provide a mechanism to opt out of promotional notifications alone, sports betting and prediction market operators force consumers to accept pervasive wagering advertisements in order to receive important security and transactional information. The result is a design that maximizes consumer exposure to gambling inducements while eliminating any practical means of escape.

D. Wagering-Related Push Notification Practices Substantially Injure Consumers

The consumer injury caused by gambling-related push notifications must be understood in the context of modern mobile wagering. Since the widespread legalization of mobile sports betting, gambling operators have increasingly relied on smartphone-based marketing tools to drive engagement and encourage repeated wagering. Public-health experts have identified mobile betting platforms as presenting unique risks because they facilitate continuous, frictionless access to gambling and create near-constant opportunities for consumer engagement.[48] Push notifications are among the most effective marketing tools used to drive this consumer engagement. Delivered directly to consumers' mobile devices and designed to prompt immediate interaction, push notifications allow operators to place gambling advertisements before consumers throughout the day and encourage repeated participation in wagering activities. When the public is deprived of meaningful control over such marketing communications, consumers are subjected to a persistent stream of gambling inducements promoting a product associated with substantial financial, psychological, and social harms.[49]

This injury is especially acute for consumers with gambling disorders. Unlike passive advertising encountered while browsing the internet or watching television, push notifications arrive on the

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Notifications Fuel Gambling Addiction," GamblingHarm.org (Jan. 21, 2026). https://gamblingharm.org/push-notifications-addiction/

[48] "As Online Betting Surges, So Does Risk of Addiction," Hopkins Bloomberg Public Health (Dec. 19, 2025). https://magazine.publichealth.jhu.edu/2025/online-betting-surges-so-does-risk-addiction

[49] "Gambling disorder in the age of mobile sports betting," National Institute on Drug Abuse (Nov. 14, 2025). https://nida.nih.gov/about-nida/noras-blog/2025/11/gambling-disorder-in-the-age-of-mobile-sports-betting; *See also* "Sports Betting and Prediction Markets Will Produce a Lot of Losers," Markkula Center for Applied Ethics (May 7, 2026), https://www.scu.edu/ethics-spotlight/the-ethics-of-prediction-markets/sports-betting-and-prediction-markets-will-produce-a-lot-of-losers/ ("How is all this affecting young people, especially young men, who are the most impacted by the surge in sports betting. Some have become addicted to the activity, and are being harmed by turning away from their studies, losing social connectedness, and losing money, in some cases a lot of money. . . . some people are prone to becoming addicted and will waste money, and risk falling into the trap of anxiety and depression. Here are two things to keep in mind about Gen Z …. First, the percentage of sports bettors who make any money at all after seriously betting for a year is 2%. The rest lose money and those with gambling problems due to addiction lose everything or almost everything. Second, the percentage of people who become gambling addicts is three times higher for Gen Z than for the rest of the population …")

lock screen of a consumer's personal mobile device and are designed to capture immediate attention—prompting engagement that might not otherwise occur.

Research has consistently found strong associations between gambling disorders and serious mental-health consequences. By way of example, a 2023 peer-reviewed study reported that individuals with gambling disorders experience the highest suicide rate of any addiction disorder.[50] The study further found that 19% of individuals with gambling disorders had contemplated suicide within the prior year, compared to 4.1% of the general population, while 4.7% with gambling disorders had attempted suicide compared to 0.6% of the entire population.[51]

Moreover, the harms associated with gambling extend beyond the individual gambler. A 2024 study found a 10% increase in intimate partner violence in households engaged in sports betting following losses by the household's preferred team.[52] Gambling is also associated with significant financial hardship. A 2024 study (later revised in 2026) found that online access to sports betting was associated with a 25% increase in bankruptcy rates relative to jurisdictions where consumers had access only to retail betting opportunities.[53]

Recent survey data further demonstrates the extent of consumer injury associated with sports betting. A 2025 survey found that 25% of sports bettors were unable to pay a bill because of gambling losses and 30% reported carrying debt attributable to sports betting.[54] Among those with gambling-related debt, more than half reported owing at least $500.[55] The same survey found that 25% of respondents worried that they could not control their gambling behavior, 12% had taken out high-interest payday loans to fund betting activity, and 9% had sought treatment for a gambling addiction.[56] Additional survey data similarly reflects widespread gambling-related harms. In 2025, 23% of sports bettors reported that they considered themselves addicted to sports betting, a figure that rose to 37% among Generation Z bettors.[57] Nearly half of sports bettors and partners of sports bettors reported experiencing mental-health issues attributable to sports betting activity.[58]

Against this backdrop, repeated push notifications encouraging consumers to place additional wagers are not merely benign advertisements. They are highly effective behavioral prompts delivered directly to consumers' personal devices and specifically designed to increase

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[50] Vijayakumar and Vijayakumar, "Online gambling and suicide: Gambling with lives," Indian Journal of Psychiatry (Jan. 2023). https://pmc.ncbi.nlm.nih.gov/articles/PMC9983450/
[51] *Id.*
[52] Matsuzawa and Arnesen, "Sports Betting Legalization Amplifies Emotional Cues & Intimate Partner Violence," SSRN (Oct. 30, 2024). https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4938642
[53] Hollenbeck, Larsen, and Proserpio, "The Financial Consequences of Legalized Sports Gambling," SSRN (Feb. 24, 2026). https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4903302
[54] "2025 Sports Betting Survey: 1 in 4 Sports Bettors Have Missed Bill Payments Due to Wagers," U.S. News (Jul. 23, 2025). https://www.usnews.com/banking/articles/2025-sports-betting-and-debt-survey
[55] *Id.*
[56] *Id.*
[57] "The high stakes of sports betting: financial fallout and family strain," Intuit Credit Karma (Feb. 6, 2025). https://www.creditkarma.com/about/commentary/the-high-stakes-of-sports-betting-financial-fallout-and-family-strain
[58] *Id.*

engagement with a product that carries significant risks of addiction, financial distress, and other serious harms. By forcing consumers to continue receiving these inducements in order to obtain essential account information, app operators encourage addictive gambling activity and exacerbate existing gambling-related harms.

E. Wagering-Related Push Notification Practices Increase Youth Exposure to Gambling Marketing and Normalize Wagering Behavior Among Minors

The notification practices documented above impose heightened risks on younger consumers. The FTC has long recognized that children are particularly vulnerable to advertising and marketing practices.[59] This concern is especially acute in the context of gambling-related products because younger individuals are generally less able to appreciate long-term risks,[60] more susceptible to persuasive marketing,[61] and more likely to engage with mobile applications

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[59] Notice of Proposed Rulemaking, "Children's Advertising," Federal Trade Commission, 43 FR 17967 (Apr. 27, 1978). https://archives.federalregister.gov/issue_slice/1978/4/27/17966-17974.pdf#page=2; "FTC Policy Statement on Deception," Federal Trade Commission (Oct. 14, 1983). https://www.ftc.gov/system/files/documents/public_statements/410531/831014deceptionstmt.pdf; "Protecting Kids from Stealth Advertising in Digital Media," Federal Trade Commission (Sept. 2023). https://www.ftc.gov/system/files/ftc_gov/pdf/p214505kidsadvertisingstaffperspective092023.pdf; *See also* Lapierre et al., "The Effect of Advertising on Children and Adolescents," Pediatrics, vol. 140, supplement 2 (Nov. 2017). https://doi.org/10.1542/peds.2016-1758V. (At S153, "For decades, researchers have recognized children as a vulnerable consumer group because of their budding developmental abilities."); Campbell, "Rethinking Children's Advertising Policies for the Digital Age," Georgetown University Law Center (Jan. 26, 2017) https://scholarship.law.georgetown.edu/facpub/1945/. (At 40, "Because they are just developing their cognitive capabilities, children are more trusting than adults and thus, more vulnerable to 'commercial pitches' by program hosts, a practice known as 'host selling.'")

[60] "Understanding the Risks: Why Teens Are Vulnerable," Responsible Gambling Council (accessed Jul. 10, 2026). https://responsiblegambling.org/parents/understanding-the-risks/. ("The teenage brain is still developing until roughly age 24-25, particularly the areas responsible for decision-making, impulse control, and assessing risk. This makes teens naturally more inclined to take risks and seek out rewarding experiences – including gambling."); "Risks of introducing gambling to youth," Massachusetts Department of Public Health (accessed Jul. 10, 2026). https://www.mass.gov/info-details/risks-of-introducing-gambling-to-youth. ("Since their prefrontal cortexes [the brain's logic center] aren't fully developed, youth often have difficulty assessing risk and making healthy choices for themselves. So that 'win' on a mobile app or Roblox game today can lead to unhealthy real-life gambling, and all its negative side effects, tomorrow."); "Gambling Can Have Long-Lasting Effects on Youth," Pause Before You Play (Dec. 16, 2024). https://pausebeforeyouplay.org/2024/12/gambling-can-have-long-lasting-effects-on-youth/. ("[W]hen exposed to gambling before their brains are fully developed, teens are not always equipped to weigh the risks."); "'The Ads Got to Me': College-age Adults Are Rushing to Prediction Market Sites. Addiction Experts Are Alarmed," CNN (May 28, 20026). https://www.cnn.com/2026/05/28/economy/prediction-markets-kalshi-young-adults. ("Health experts say the part of the brain responsible for impulse control isn't fully developed until age 25, and research indicates that young people are more susceptible to developing gambling addictions. … Compounding the risk, many college-age adults gain access to larger sums of money through student loans, effectively expanding the pool of funds they can use for gambling.")

[61] Packer et al., "Advertising and Young People's Critical Reasoning Abilities: Systematic Review and Meta-analysis," Pediatrics, vol. 150 (Nov. 15, 2022). https://pmc.ncbi.nlm.nih.gov/articles/PMC9724173/. ("Evidence shows that the attitudes of young people were influenced by advertising. Critical reasoning abilities did not appear to be fully developed during adolescence and not found to be protective against the impact of advertising. … [A]dvertising influences the attitudes of young people of all ages, suggesting a need to protect older as well as younger children."); McGrane et al., "What is the Evidence That Advertising Policies Could Have an Impact on Gambling-Related Harms? A Systematic Umbrella Review of the Literature," 215 Public Health 124-130 (Feb. 2023). https://www.sciencedirect.com/science/article/pii/S0033350622003420. ("Gambling advertising restrictions

as a primary means of communication and entertainment.[62] Research further shows that exposure to gambling advertising is associated with more favorable attitudes toward gambling, increased intentions to gamble, and greater likelihood of future gambling participation and gambling-related harm.[63]

These concerns are particularly significant given evidence that substantial numbers of minors already participate in sports-related gambling activities and that prediction market platforms may lawfully permit participation by individuals who are too young to engage in traditional sports betting.[64] By delivering promotional messages directly to mobile devices that serve as a primary channel of communication and engagement for younger consumers, push notification practices increase youth exposure to gambling marketing and reinforce the perception that wagering is a routine or non-harmful activity. Because early exposure to gambling advertising is associated with later gambling participation and gambling-related harms, these practices create a substantial risk of long-term consumer injury.[65]

Practices that maximize advertising exposure without meaningful consumer controls are especially harmful when directed at a population, like young consumers, that is both uniquely susceptible to persuasive marketing and at a heightened risk of gambling-related harm.

III. Legal Basis for a Rule

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could reduce overall harm and mitigate the impact of advertising on gambling-related inequalities. Public health harm prevention strategies should include policies which limit exposure to advertising, particularly among children and vulnerable groups.")

[62] "Technology and Communication: How Are Teens Doing?" Children's Services Council of Broward County. (accessed. Jul. 10, 2026). https://www.cscbroward.org/categories/family-resources/technology-and-communication-how-are-teens-doing/. ("Teens have embraced internet communication as a social resource needed for daily living. Due to the wide range of machinery available for youth they depend on the use of social media sites, mobile phones, applications, computers, video games, and video cameras as their primary source of interaction."); Faverio et al., "Teens' Experiences on TikTok, Instagram and Snapchat," Pew Research Center (Apr. 15, 2026). https://www.pewresearch.org/internet/2026/04/15/teens-experiences-on-tiktok-instagram-and-snapchat/. (A 2025 survey of teenagers ages 13 to 17 found "Roughly nine-in-ten or more say entertainment is a reason they use TikTok, Instagram or Snapchat. … Beyond entertainment, most also turn to these sites to keep in touch with friends and family and connect with others who share their interests."); "Gambling Addiction: Growing Mental Health Concern Fueled by Online Betting, Prediction Markets," Baptist Health Brain & Spine Care (May 13, 2026). https://baptisthealth.net/baptist-health-news/gambling-addiction-growing-mental-health-concern-fueled-by-online-betting-and-prediction-markets. ("In recent years, the legalization and expansion of online sports betting across much of the United States has made wagering easier than ever. Meanwhile, prediction markets – platforms where users bet on the likelihood of real-world events such as elections or economic trends – are gaining traction, blurring the line between investing and gambling. This shift has dramatically increased exposure, especially among younger adults who are already accustomed to digital engagement and gamified experiences.")

[63] "The effect of gambling marketing and advertising on children, young people and vulnerable adults," GambleAware (Mar. 2020). https://www.gambleaware.org/our-research/publication-library/articles/the-effect-of-gambling-marketing-and-advertising-on-children-young-people-and-vulnerable-adults/

[64] *See* Section II.B. of this petition

[65] Parrado-González & León-Jariego, "Exposure to gambling advertising and adolescent gambling behaviour. Moderating effects of perceived family support," International Gambling Studies, vol. 20, pg. 214-230 (Jan. 11, 2020). https://www.tandfonline.com/doi/abs/10.1080/14459795.2020.1712737

A. Unconsented and Unavoidable Push Notifications for Wagering Applications Constitute an Unfair Practice Under Section 5 of the FTC Act

Section 18 of the FTC Act authorizes the Commission to promulgate trade regulation rules defining with specificity acts or practices that are unfair or deceptive in or affecting commerce.[66] The delivery of wagering-related marketing push notifications without meaningful consent and without a practical mechanism for consumers to stop receiving such advertisements while still continuing to receive essential account communications constitutes an unfair practice under the Commission's longstanding unfairness framework.[67]

Under that framework, an act or practice is unfair if it causes or is likely to cause substantial injury to consumers, the injury is not reasonably avoidable by consumers themselves, and the injury is not outweighed by countervailing benefits.[68] Each element is satisfied here.

First, consumers face substantial injury. Because major wagering apps bundle promotional push notifications with essential account communications, consumers cannot opt out of gambling advertising without also losing access to critical security and transactional alerts. This persistent, unavoidable exposure increases the likelihood of additional wagering and elevates the risk of gambling-related harms—including financial distress, high-risk borrowing, mental health consequences, intimate partner violence, and self-harm.[69] The practice also exposes minors and young adults to gambling promotions delivered directly to their mobile devices despite extensive evidence that early exposure to gambling advertising increases the likelihood of future participation and gambling-related harm.[70] Consumers additionally face injury when missing important security, transactional, and relationship messages after being forced to block all notifications as a setting to specifically disable marketing messages was unavailable, hidden, or otherwise unknown to the consumer.

Second, the injury is not reasonably avoidable. Three out of five of the dominant wagering apps offer no mechanism to opt out of promotional notifications while retaining access to account and security alerts.[71] The harms of this all-or-nothing design are compounded by how consent is obtained. One applications automatically enables notifications by default, while others solicit

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[66] 15 U.S.C. § 57a. Unfair or deceptive acts or practices rulemaking proceedings. https://www.govinfo.gov/content/pkg/USCODE-2024-title15/pdf/USCODE-2024-title15-chap2-subchapI-sec57a.pdf

[67] "FTC Policy Statement on Unfairness," Federal Trade Commission (Dec. 17, 1980). https://www.ftc.gov/legal-library/browse/ftc-policy-statement-unfairness

[68] *Id.*

[69] *See* Section II.D. of this petition

[70] *See* Section II.E. of this petition

[71] *See* Appendix Figure 1; Consumers may still receive important relationship messages via email if they disable all notifications for an app via their phone's general settings. However, their inboxes too are likely filled with commercial spam from the very same betting and prediction market companies, as well as the hundreds of other businesses' that have obtained the average consumer's email address. Further, it is possible, as is the case with NCL testers, that emails from the betting and prediction market apps will go to users' spam or junk folders, which email service provides typically suppress notifications to consumers that a new email has arrived in such folders. Relying on consumers to receive time-sensitive relationship messages via email will undoubtedly result in many users missing such communications. Instead, app developers can and should simply add greater controls for users to opt in and out of certain push notification categories, including promotional notifications. The direct cost of such toggles is likely marginal, given that they already provide them for email and SMS communications.

permissions without disclosing that nearly all notifications will consist of advertising.[72] Even where consent is sought, consumers are not offered separate choices for notifications delivering marketing and notifications regarding account communications, making any consent obtained through such bundled mechanisms meaningless as a control over gambling advertising exposure.[73]

Third, there is no countervailing benefit sufficient to outweigh the harm. Separate notification preferences for promotional and transactional communications are technically straightforward—many businesses already provide them for email and text, and DraftKings and Kalshi now do for push notifications. Petitioners are unaware of any evidence that bundling these notification types produces benefits for consumers or competition; the primary effect appears to be to reduce consumer autonomy and ensure continued engagement with risky gambling products.

Finally, the prevalence requirement for Commission rulemaking is satisfied. NCL's research shows that the overwhelming majority of notifications sent by major sports betting applications contain marketing content,[74] and the dominant operators in both the sports betting and prediction market industries all fail on at least one of three counts: obtaining meaningful consent before delivering promotional push notifications, adequately disclosing the nature and frequency of such notifications, or providing an effective opt-out that preserves non-marketing alerts.[75]

B. Existing Federal Consumer-Protection Law Demonstrates the Legitimacy of Regulating Push-Notification Advertising by Wagering Applications

The rulemaking requested in this petition would not significantly expand consumer-protection legal principles. In fact, the core provisions—meaningful consent and opt-out—have become the expectation for consumers since the 1990s. For decades, Congress and federal agencies have recognized that consumers have a legitimate interest in avoiding unwanted commercial solicitations and that businesses may be required to obtain consent and provide meaningful cessation mechanisms when delivering marketing communications through emerging technologies. Push notifications are simply the latest medium through which commercial advertising is delivered directly to consumers.

Federal law has long distinguished between marketing communications and transactional or relationship communications, reflecting a consistent consumer-protection principle: consumers should be able to avoid unwanted advertising without forfeiting access to communications necessary to maintain or use a product or service. The TCPA, for example, restricts the delivery of marketing calls and text messages without prior consent and requires businesses to honor consumers' decisions to stop receiving promotional communications.[76] The CAN-SPAM Act

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[72] *See* Appendix Figure 1
[73] *Id.*
[74] "Pushing Addiction: The Use of Push Notifications to Advertise Sports Betting," National Consumers League, fig. 1 (Jul. 2025). https://nclnet.org/wp-content/uploads/2025/07/Sport-Betting-Report-July-25-2025-Final-version.pdf
[75] *See* Appendix Figure 1
[76] 47 U.S.C. § 227. Restrictions on use of telephone equipment. https://www.govinfo.gov/content/pkg/USCODE-2024-title47/pdf/USCODE-2024-title47-chap5-subchapII-partI-sec

similarly requires commercial email senders to provide recipients with a clear opt-out mechanism and prohibits continued transmission of marketing messages after a consumer has exercised that choice.[77] Because push notifications serve the same essential marketing function as commercial email and text messages, and are in many respects more intrusive, these same consumer-protection principles should apply with equal force.

The medium through which a commercial message is delivered should not alter the underlying consumer-protection principles that have been enforced for decades. Indeed, there is little meaningful difference between a promotional text message, a marketing email message, and a gambling advertisement delivered through a push notification—each is a commercial communication delivered directly to a personal device for the purpose of compelling consumer action.

The Commission has long exercised its authority under §§ 5 and 18 of the FTC Act (and other statutes) to apply established consumer-protection principles to emerging technologies.[78] Additionally, federal agencies are often the originators of key consumer protection policies, with Congress later codifying more explicitly into statute the regulators' applications of unfair and deceptive authorities.[79] The requested rule is a straightforward application of these authorities

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227.pdf; 47 C.F.R. § 64.1200 Delivery restrictions. https://www.ecfr.gov/current/title-47/chapter-I/subchapter-B/part-64/subpart-L/section-64.1200.

[77] 15 U.S.C. §§ 7701-7713. https://www.govinfo.gov/content/pkg/USCODE-2024-title15/pdf/USCODE-2024-title15-chap103.pdf

[78] 16 C.F.R. Part 461—Rule on Impersonation of Government and Business. https://www.ecfr.gov/current/title-16/chapter-I/subchapter-D/part-461. (Promulgated in 2024 under authorities including §§ 5 and 18 of the FTC Act to address the rise in AI-enabled impersonation scams delivered through digital channels); Advance Notice of Proposed Rulemaking, "Rule Concerning the Use of Prenotification Negative Option Plans," Federal Trade Commission, Project No. P064202 (Mar. 13, 2026). https://www.federalregister.gov/documents/2026/03/13/2026-04952/rule-concerning-the-use-of-prenotification-negative-option-plans. (effort to modernize negative option regulations under §§ 5 and 18 of the FTC Act to better apply to digital formats); 16 C.F.R. Part 255—Guides Concerning the Use of Endorsements and Testimonials in Advertising. https://www.ecfr.gov/current/title-16/chapter-I/subchapter-B/part-255. (Revised in 2023 and applies longstanding truth-in-advertising principles to social media influencer marketing, AI-generated endorsements, and virtual influencers under authorities including §§ 5 and 18 of the FTC Act); "Native Advertising: A Guide for Businesses," Federal Trade Commission (Dec. 2015). https://www.ftc.gov/business-guidance/resources/native-advertising-guide-businesses. (Guide to apply established deception standards under § 5 of the FTC Act to sponsored content formatted to resemble editorial material on digital platforms); ".com Disclosures[:] How to Make Effective Disclosures in Digital Advertising," Federal Trade Commission (issued Mar. 2013). https://www.ftc.gov/system/files/documents/plain-language/bus41-dot-com-disclosures-information-about-online-ad electronic vertising.pdf. (Applying consumer-protection disclosure principles under § 5 of the FTC Act to online and mobile advertising formats)

[79] *Ex*. The FTC worked for years to combat unfair and deceptive telemarketing practices, including by establishing a Telemarketing Fraud Database in 1987. ("Proposed remarks of Federal Trade Commissioner Christine A. Varney [b]efore the American Telemarketing Association Legislative Conference," Federal Trade Commission, [Apr. 3, 1995]. https://www.ftc.gov/system/files/documents/public_statements/694461/19950403_varney_telemarketing_rule.pdf) and bringing several enforcement actions under Section 5 of the FTC Act, ("1992 Annual Report," Federal Trade Commission, pg. 14 [1992]. https://www.ftc.gov/sites/default/files/documents/reports_annual/annual-report-1992/ar1992_0.pdf; "Fighting Telemarketing Scams," Hastings Communications and Entertainment Law Journal, pg. 371, [1994]. https://repository.uclawsf.edu/cgi/viewcontent.cgi?article=1396&context=hastings_comm_ent_law_journal), all

and continues the commonsense tradition of updating public safeguards to keep pace with technological advancements. The petitioned rule would neither prohibit gambling advertising nor restrict access to lawful products. Rather, it would simply require operators to obtain meaningful consent before delivering gambling-related marketing push notifications and provide consumers with a practical means of discontinuing those advertisements, if desired, while still allowing consumers to continue receiving essential account communications.

The justification for such protections is even stronger where, as here, the underlying product carries a substantial risk of addiction and consumer harm. Federal policy has long reflected the view that when a product carries significant addiction risk, the government has greater reason to scrutinize marketing practices that increase exposure to it or encourage its use—as reflected in the longstanding federal approach to tobacco advertising.[80] Gambling disorder is recognized by the American Psychiatric Association as an addictive disorder, grouped in the DSM-5-TR alongside tobacco-related, opioid-related, and other substance-use disorders.[81] The Commission's authority under Section 18 exists precisely to address commercial practices that exacerbate such injuries.

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before passage of the Telemarketing and Consumer Fraud and Abuse Prevention Act in 1993. Contemporarily, the Commission has codified its Trade Regulation Rule on Unfair or Deceptive Fees, (Final Rule, "Trade Regulation Rule on Unfair or Deceptive Fees," Federal Trade Commission [Jan. 10, 2025]. https://www.federalregister.gov/documents/2025/01/10/2024-30293/trade-regulation-rule-on-unfair-or-deceptive-fees), with Congress seemingly on track to codify much of the ticketing provisions of the rule via the TICKET Act (TICKET Act, H.R.1402, 119th Cong. [passed the House on Apr. 29, 2025]. https://www.congress.gov/bill/119th-congress/house-bill/1402/all-actions; TICKET Act, S.281, 119th Cong. April 29, 2025 [passed out of Senate committee on Apr. 29, 2025]. https://www.congress.gov/bill/119th-congress/senate-bill/281/all-actions).
Other agencies like the U.S. Department of Transportation have also exemplified this policymaking process with important consumer protections originating as discretionary rulemakings to prohibit unfair and deceptive practices later enjoying ratification by Congress, including rules regarding tarmac delays, (14 C.F.R. § 259.4 Contingency Plan for Lengthy Tarmac Delays. https://www.ecfr.gov/current/title-14/chapter-II/subchapter-A/part-259; For full history of the original 2011 regulation, *see* Final Rule, "Tarmac Delay Rule," U.S. Department of Transportation, [May 3, 2021]. https://www.federalregister.gov/documents/2021/05/03/2021-08850/tarmac-delay-rule) and automatic ticket refunds (14 C.F.R. § 260.6 Refunding fare for flights cancelled or significantly delayed or changed by carriers. https://www.ecfr.gov/current/title-14/chapter-II/subchapter-A/part-260/section-260.6; 14 C.F.R. § 399.80[l] Unfair and deceptive practices of ticket agents. https://www.ecfr.gov/current/title-14/chapter-II/subchapter-F/part-399/subpart-G/section-399.80; 49 U.S.C. § 42305 Refunds for cancelled or significantly delayed or changed flights. https://www.govinfo.gov/content/pkg/USCODE-2024-title49/pdf/USCODE-2024-title49-subtitleVII-partA-subpartii-chap423-sec42305.pdf).

[80] *See* 15 U.S.C. § 1335. Unlawful advertisements on medium of electronic communication. https://www.govinfo.gov/content/pkg/USCODE-2024-title15/pdf/USCODE-2024-title15-chap36-sec1335.pdf. (Prohibiting cigarette advertising on any medium of electronic communication subject to FCC jurisdiction); *See also* 15 U.S.C. § 1333. Labeling. https://www.govinfo.gov/content/pkg/USCODE-2024-title15/pdf/USCODE-2024-title15-chap36-sec1333.pdf. (Requiring mandatory health warning labels in cigarette advertising).

[81] "In addition to the substance-related disorders, this chapter also includes gambling disorder, reflecting evidence that gambling behaviors activate reward systems similar to those activated by drugs of abuse and that produce some behavioral symptoms that appear comparable to those produced by the substance use disorders." *from* "Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, Text Revision," American Psychiatric Association, pg. 543 (Mar. 18, 2022). https://psychiatryonline.org/doi/epdf/10.1176/appi.books.9780890425787.x16_Substance_Related_Disorders

Requiring meaningful consent before gambling-related marketing push notifications are delivered—and ensuring that consumers may opt out of such advertisements without losing access to essential account and security communications—is a modest requirement that neither limits the content of gambling advertisements nor restricts their dissemination. It simply ensures consumers retain control over whether highly intrusive, device-based marketing is delivered directly to them.

IV. Action Requested

Petitioners request that the FTC initiate a Section 18 rulemaking to prohibit prevalent unfair practices in the use of push notifications to market wagering applications, including sports betting and prediction market products. There are three main components of such a rule:

1. A requirement to obtain consumer consent to receive marketing push notifications, separate from other security, transactional, or relationship notifications.
2. A requirement for marketers to provide a simple opt-out mechanism for marketing push notifications.[82]
3. A requirement for marketers to disclose the frequency of marketing notifications the app delivers to consumers who provide consent.

Regarding disclosure of marketing frequency, it is important that app operators use an FTC-provided template so that marketers do not construe the disclosure as another advertising opportunity. For example, “Tap ‘yes’ so we can send you daily discounts” should be insufficient for compliance with the proposed rule.

The proposed rule language below is adapted from existing statute and rules on analogous marketing mediums, including email and text messages. Petitioners request the Commission add the following (or similar) language to Title 16 of the Code of Federal Regulations, Chapter I, Subchapter D.

“PART 466—RULE ON UNFAIR PUSH NOTIFICATION MARKETING FOR WAGERING APPLICATIONS

§ 466.1
Consent required.

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[82] Apple's App Tracking Transparency (“ATT”) framework provides a useful analogue and demonstrates that consumers readily avail themselves of built-in privacy and consumer-protection tools when such controls are presented in a clear, unavoidable, and easy-to-use manner. After Apple required mobile applications to present consumers with a standardized request seeking permission to track their activity across apps and websites, studies found that approximately 65% to 86% of consumers declined those requests (“ATT opt-in rates: The latest benchmarks by app category and country,” Adjust, [Jul. 15, 2025]. https://www.adjust.com/blog/att-opt-in-rates-2025/; “ATT opt-in rates 2024: down, down, down [but here’s how to improve],” Singular [Aug. 21, 2024]. https://www.singular.net/blog/att-opt-in-rates-2024/). Following implementation of ATT, the share of trackable Apple traffic in the United States fell from approximately 73% to 18% (Kraft, Skiera, & Koschella, “Economic Impact of Opt-in versus Opt-out Requirements for Personal Data Usage: The Case of Apple’s App Tracking Transparency [ATT]” [Oct. 7, 2023]. https://www.ftc.gov/system/files/ftc_gov/pdf/3-Skiera-Economic-Impact-of-Opt-in-versus-Opt-out-Requirements-for-Personal-Data-Usage.pdf).

(a) *Express written consent required for marketing via push notifications*. In connection with promoting or offering for sale a wagering application, it is a violation of this Rule and an unfair or deceptive act or practice in violation of Section 5 of the FTC Act for a sender or any person acting on behalf of a sender to fail to obtain a recipient's express written consent to receive marketing push notifications before marketing to the recipient via push notifications. In obtaining such prior express written consent, the sender must:

(1) Disclose that the recipient will receive push notifications containing marketing material for a wagering application;

(2) Obtain the recipient's consent separately from any other consent request, including requesting consent to send push notifications generally, to send push notifications for security purposes, or to send notifications for any other reason;

(3) Disclose that rejecting a request to receive marketing push notifications will not affect the recipient's receiving of notifications for non-marketing purposes; and

(4) Disclose the frequency of marketing push notifications the recipient will receive with the following template: "In [YEAR], [APP] sent an average of [NUMBER] marketing push notifications per week."

(i) The year referenced in the disclosure required by § 466.1(a)(4) shall not be older than the previous calendar year. Advertisers are encouraged to use the latest available data.

(ii) Alternatively, the app may disclose the average number of weekly notifications it is scheduled to send per user over the next six months if the operator does not have historical data, particularly if the app is a new product, with the following template: "[APP] is programmed to send an average of [NUMBER] marketing push notifications per week."

(b) *Per-app consent.* The consent required by paragraph (a) of this section may only apply to one digital application.

§ 466.2
Cessation mechanism required.

(a) *Opt out mechanism required in app.* In connection with promoting or offering for sale a wagering application, it is a violation of this Rule and an unfair or deceptive act or practice in violation of Section 5 of the FTC Act for a sender or any person acting on behalf of a sender to fail to provide an in-app mechanism for recipients to opt out of receiving marketing push notifications. Such opt out mechanism must be easily accessible after the app launches.

(b) *Opt out link required in push notification destination pages*. Each destination page for a marketing push notification must:

(1) Inform recipients that they may opt out of marketing push notifications and still be able to receive non-marketing notifications; and

(2) Include a link that redirects the recipient to the opt out mechanism required in paragraph (a) of this section or another opt out mechanism that is compliant with paragraph (c) of this section.

(c) *Prohibition on charging a fee or imposing other requirements on recipients who wish to opt out.* Neither a sender nor any person acting on behalf of a sender may require that any recipient pay any fee, provide any information other than the recipient's opt-out preferences, or take any other steps except clicking or tapping on the in-app mechanism required in paragraph (a) of this section in order to:

(1) Submit a request not to receive future marketing push notifications from a sender or;

(2) Have such a request honored.

§ 466.3
Primary purpose determination.

(a) *Determining primary purpose of a push notification.* A push notification shall be deemed to be a marketing push notification based on the criteria in paragraphs (a)(1) through (3) of this section:

(1) If a push notification message or the destination page consists exclusively of a commercial advertisement or promotion of a commercial product or service, then the "primary purpose" of the push notification shall be deemed to be marketing.

(2) If a push notification message or the destination page contains both a commercial advertisement or promotion of a commercial product or service, as well as transaction or relationship content, then the "primary purpose" of the push notification shall be deemed to be marketing if:

(i) A recipient reasonably interpreting the subject line of the push notification message would likely conclude that the message contains the commercial advertisement or promotion of a commercial product or service;

(ii) The push notification message's transaction or relationship content does *not* appear, in whole or in substantial part, at the beginning of the body of the message or at the beginning of the destination page; or

(iii) A recipient reasonably interpreting the body of the message would likely conclude that the primary purpose of the message is the commercial advertisement or promotion of a commercial product or service. Factors illustrative of those relevant to this interpretation include the placement of content that is the commercial advertisement or promotion of a commercial product or service, in whole or in substantial part, at the beginning of the body of the message; the proportion of the message dedicated to such content; and how color, graphics, type size and style are used to highlight commercial content.

§ 466.4
Definitions.

(a) *Wagering application* means any software application, mobile program, or digital platform that facilitates, promotes, or enables a user to place a bet or wager on the outcome of a sporting event, game, contest, or other real-world occurrence, including any application operated by or on behalf of a licensed sportsbook, fantasy sports operator, or prediction market exchange, whether offered directly to consumers or through a third-party marketplace.

(b) *Destination page* means the first location that a push notification directs a recipient to after the recipient taps or clicks on a push notification.

(c) *Express written consent* means an agreement, in writing, that bears the signature of the marketing recipient that clearly and conspicuously authorizes no more than one identified seller to deliver or cause to be delivered marketing push notifications to the recipient.

(d) *Marketing push notification* means any electronic push notification, the primary purpose of which is the commercial advertisement or promotion of a commercial product or service (including content on an app operated for a commercial purpose). Marketing push notifications are not transactional or relationship messages.

(e) *Transactional or relationship messages* means messages:

(1) To facilitate, complete or confirm a commercial transaction that the recipient has previously agreed to enter into with the sender;

(2) To provide warranty information, product recall information, or safety or security information with respect to a commercial product or service used or purchased by the recipient;

(3) With respect to a subscription, membership, account, loan, or comparable ongoing commercial relationship involving the ongoing purchase or use by the recipient of products or services offered by the sender, to provide —

(i) Notification concerning a change in the terms or features;

(ii) Notification of a change in the recipient's standing or status; or

(iii) At regular periodic intervals, account balance information or other type of account statement;

(4) To provide information directly related to an employment relationship or related benefit plan in which the recipient is currently involved, participating, or enrolled; or

(5) To deliver goods or services, including product updates or upgrades, that the recipient is entitled to receive under the terms of a transaction that the recipient has previously agreed to enter into with the sender."

V. Conclusion

For the foregoing reasons, NCL, CFG, NCPG, PHAI, and TINA.org urge the Commission to initiate a rulemaking proceeding to prohibit the delivery of unfair marketing push notifications by wagering applications without meaningful consumer consent and a practical opt-out mechanism. The requested rule is modest and squarely within the Commission's authority; the harms the proposal would address are substantial, widespread, and growing.

Respectfully submitted,

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VI. Appendix

Figure 1: Comparing Notification Practices of Largest Betting and Prediction Apps (May 2026)

	FanDuel	DraftKings	BetMGM	Kalshi	Polymarket
Obtains Consent For Notifications Generally	x [1]	✓	✓	✓	✓
Separate Consent for Marketing Notifications Specifically	x	x	x	x	x
Dedicated Opt-Out for Marketing Notifications	x	✓	x	✓	x
Disclosure of Marketing Notifications	x	✓ [2]	x	x [3]	x

[1] Only tested on iPhone. Android developer guidelines require consent before delivering notifications, but NCL cannot confirm whether FanDuel adheres to these guidelines (See footnote 36)

[2] Framed as "Turn on notifications, and we'll keep you in the know with exclusive offers like deposit matches, bonus bets, and more." But this does not disclose that 98% of notifications will be these marketing offers. (See Figure 2)

[3] The farthest notification in the graphic the app displayed says "Claim your $25 bonus!" but otherwise the primary text only states "Stay updated on your predictions, winning payouts, and new topics." (See Figure 2)

Figure 2: Only Two of Five Leading Apps Attempt Disclosure But Are Still Inadequate