

Andrew Hinkes Discusses Prediction Market Litigation and CFTC Authority with *Bloomberg Law*

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Winston & Strawn partner Andrew Hinkes was quoted in a *Bloomberg Law* article discussing the regulation of prediction markets and the scope of the Commodity Futures Trading Commission's authority. States argue that event contracts, which let traders wager on binary outcomes, are essentially gambling and subject to state gaming regulation, while the platforms contend they are swaps and thus fall under the CFTC's federal "swap" rules. The CFTC filed an amicus brief in *North American Derivatives Exchange Inc., v. The State of Nevada*, an action currently pending in the United States Court of Appeals for the Ninth Circuit, arguing that event contracts are subject to the Commodity Exchange Act, and thus that state law on the same topic is pre-empted.

The US Supreme Court's 2024 decision in *Loper-Bright Enterprises v. Raimondo* weakened the deference courts were previously directed to give to agency interpretations under *Chevron USA v. Natural Resources Defense Counsel*, prompting closer scrutiny of what Congress intended under the Commodity Exchange Act. What a regulator says "does not carry as much weight in the court's interpretation of statutory law as it would have in a pre-Loper Bright world where Chevron deference was still good law," Andrew said.

[Read the full article.](#)

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