MEDIA MENTIONS

Inc. Features Benesch State AG Chair Kevin Frankel on Escalating State Action Against Prediction Markets

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Featured Practices: State Attorneys General Investigations & Enforcement

Inc. magazine recently quoted Kevin Frankel, chair of Benesch's State Attorneys General Practice Group, in an article examining the rapidly escalating legal battle between states and federally regulated prediction markets such as Kalshi and Polymarket.

The article explores how state attorneys general across the country are moving swiftly to challenge prediction markets that they argue operate like unlicensed gambling platforms. States contend these markets bypass state gaming laws and consumer protections, while the federal Commodity Futures Trading Commission (CFTC) maintains that prediction markets fall under its exclusive jurisdiction as commodity derivatives. The clash has set up a high-stakes confrontation that could ultimately require resolution by the courts.

Frankel cautioned that if states ultimately succeed in asserting regulatory authority over prediction markets, the consequences for companies like Kalshi and Polymarket could be severe. "It probably means that Kalshi [and] Polymarket will either immediately be out of business or will have to swiftly get compliant with state licensure and gambling regulations," Frankel said. He added that many prediction-market platforms are built to operate nationally, explaining that "many of these companies can't operate other than nationally," making a patchwork of state-by-state regulation potentially untenable for their business models.

More: States Are Moving Fast to Fight Prediction Markets, and It Could Mean Game Over for Kalshi and Polymarket