



# the Quill

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## *Bet on it: Odds in favor of Online Sports Betting Industry*

### **Introduction**

**The Sports betting industry in Nigeria** has grown in leaps and bounds in recent times. The idea of placing bets on sporting events was initially seen as alien and illegal by most Nigerians irrespective of the global trends and practice recognizing this activity.

Today, not only are there thriving licensed online sport betting platforms owned and operated by Nigerians, some of them are currently expanding their operations to include the offline market. Sports promotions and betting is a legal business globally, not only in Nigeria.

It has become a properly regulated industry with almost all state governments of the federation having one form of parastatal, agency or board charged with oversight functions on all betting activities within their territories.

### **Nigerian Gaming Laws**

**Lottery:** Until recently, only two forms of gambling—casinos and the national lottery - were legalized and regulated in Nigeria. It was illegal for the people of Nigeria to bet on any other games of chance or skill. However, these strict gambling laws did not prevent hundreds and thousands of illegal gambling outlets from operating within Nigeria. Bettors thus had to carefully investigate their bookie before placing bets in Nigeria.

Nigeria launched its first online lottery in 2004, following which over 1,200 lottery terminals mushroomed all over the country. Only players above the age of 18 could place bets on these games and the draws were conducted on TV on Saturdays.

**Betting:** Sports Betting is an aspect of gaming which involves predictions and betting on the

outcome of sport activities and other events.

Nigerians are fond of betting on almost anything under the sun. However, football is their favorite game and Nigerian football fans enjoy placing bets in favor of their favorite teams.

Until 2005 sports betting was illegal in Nigeria, owing to which Nigerian football punters had to rely on offshore online bookmakers (Ladbrokes, Gamebookers, William Hill, etc) to place bets on their favorite football teams.

### **Licensing Matters**

The National Lottery Act 2005 was passed into law to provide the legal framework for all national lottery programs in Nigeria. To fully carry out the provisions of the Act, s.1(1) established the National Lottery Regulatory Commission (NLRC) to "regulate the operation and business of the national lottery in Nigeria".

## **CONTACT US:**

3rd Floor, Kajola House  
Phase II, 62/64 Campbell  
Street, Lagos Island, Lagos

**Tel:** 01-2771710, 2798234  
**Email:** [counsel@soandclegal.com](mailto:counsel@soandclegal.com)  
**Web:** [www.soandclegal.com](http://www.soandclegal.com)



Holders of national licenses are permitted by law to carry on lottery business anywhere in the country. There are currently 15 national lottery licensees in Nigeria.

Due to the gaps which became apparent in the regulation of lottery in Nigeria, almost all state governments of the federation enacted laws creating one form of parastatal, agency or board charged with oversight functions on all betting activities within their territories.

Legislative backing for this is premised upon the provisions of the Constitution as neither the exclusive legislative list nor the concurrent legislative list (which are outlined in the second schedule to the Constitution) include gaming. By implication, such a matter not being ancillary to any of those in the exclusive list is left to the legislative competence of the state legislature.

### **Legislative Dichotomy**

Of recent, dispute has arisen as regards authority to legislate and regulate lotteries in Nigeria including online betting. It is currently subject to legal debate and is in fact the question of on-going litigation in the case of AG Lagos v. AG Federation (*suit no: 01/2008*).

It should be noted that the Federal High Court decided in the case of National Lottery Regulatory Commission v. AG Lagos (*FHC/L/CS/1258/2012*) that “it is well established that National Lottery is Interstate Commerce”.

The National Assembly has exclusive authority to legislate on Interstate Trade and Commerce pursuant to paragraph 62 (a) of the

Second Schedule of the 1999 Constitution of the Federal Republic of Nigeria. The National Lottery Act 2005 is a valid and constitutional enactment of the National Assembly. Any grantee of a national license is free to carry on its trade between states without liability to obtain another approval or license from the State Government.

The argument of the Lagos State Government is that the position taken by the states that the National Sports Lottery Act is unconstitutional has been vindicated by the very recent decision of the Court of Appeal in the case of Edet v. Chagoon (2008) 2 NWLR (Pt. 1070) 85. In that case the Court of Appeal held that Pools betting and Casino Gaming (Prohibition) Act is not within the legislative competence of the National Assembly. The Court held that pools betting and casino are matters not listed on the Exclusive and Concurrent List and therefore fall within the residual competence of States. Pools betting and lottery belong to the same class of items, all being games of chance.

### **National License vs. State License**

The NLRC asserts that holders of a national license have inherent authority to carry on their lottery business nationwide. However, it is still a pre-requisite of state governments that state licenses be obtained in order to **physically** operate within the states.

However, with the advent of online gaming, a Lagos based and licensed sports betting firm, for instance, is legally accessible from any other state of the federation

irrespective of the fact that such a firm is not licensed in the other state. The authority for this is the international trend of sports betting across national borders as well as the non-feasibility of controlling accessing via the internet of sports betting sites in another state of the federation or banning such activity on the ground of the absence of licenses.

Most sport betting operators have State Licenses, enabling them to have a presence in multiple states of the Federation. Others however, holding a single license, are still open to players outside their license state, due to their online presence which is not limited by physical barriers.

Note however, that in order to have any form of physical presence e.g. retail shops, kiosks, etc across states, operators must obtain state licenses.

### **Place your bets!!**

The professionalization of sports and the astronomical growth in sports-related cash flows, combined with technological advances, have caused an explosion of the global sports betting market.

Though the average number of participants in sports betting per week in Nigeria cannot be categorically determined, it has been reported that about 60 million Nigerians between 18 and 40 years of age may be spending up to N1.8 billion on sports betting daily. Undoubtedly, with over 10, 000 existing retail outlets for existing operators (with a steady flow of new entrants), it is clear that sport betting in Nigeria is a sure bet.

