Scientia et Ratio
ISSN 2525-8532

ONLINE BETTING GAMES IN BRAZIL: AN ANALYSIS OF THE INCOMPATIBILITY OF THE ACTIVITY WITH CONSUMER PROTECTION

JOGOS DE APOSTAS ONLINE NO BRASIL: UMA ANÁLISE DA INCOMPATIBILIDADE DA ATIVIDADE COM A PROTEÇÃO DO CONSUMIDOR

Artigo submetido em 14 de agosto de 2026

Artigo aprovado em 15 de agosto de 2026

Artigo publicado em 15 de agosto de 2026

Scientia et Ratio
Volume 6 – Número 10 – 2026
ISSN 2525-8532

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ABSTRACT : This article analyzes the incompatibility of online betting, known as *"bets* ," with constitutional and consumer protection in Brazil, considering the social, economic, and psychological impacts resulting from this activity. It starts from the understanding that betting constitutes a consumer relationship, since there is, on one side, the consumer/bettor and, on the other, the service provider. The research addresses the legislative evolution of betting, especially Law No. 13.756/2018 and the subsequent Law No. 14.790/2023, which expanded and regulated fixed-odds betting. Although the regulation has established protection mechanisms, the article questions whether such measures are sufficient given the characteristics of the activity. In this scenario, the vulnerability of the bettor stands out, which can assume a character of hyper-vulnerability, given the massive advertising, the influence of influencers, the ease of access to platforms, and the use of strategies capable of stimulating continuous consumption. The data presented indicate a significant increase in spending on gambling, household debt and default, as well as consequences related to gambling addiction and absenteeism from work. Thus, the losses go beyond the individual sphere of the gambler and affect their family, the consumer market, employment, and the State itself. In conclusion, it is argued that the regulation established by Law No. 14.790/2023 has not been sufficient to effectively ensure consumer protection. Given the apparent incompatibility between the dynamics of *online betting* and the principles of protecting the health, property, and dignity of the consumer, this article argues that banning online betting may constitute a legitimate measure of consumer protection and safeguarding social interest, especially when regulatory mechanisms are unable to prevent significant and recurring harm to the population.

Keywords: Online betting; Consumer law; Consumer vulnerability; Consumer protection; Law No. 14.790/2023.

RESUMO: O presente artigo analisa a incompatibilidade das apostas online, conhecidas como *bets*, com a proteção constitucional e consumerista no Brasil, considerando os impactos sociais, econômicos e psicológicos decorrentes dessa atividade. Partindo da compreensão de que as apostas configuram uma relação de consumo, uma vez que existe, de um lado, o consumidor/apostador e, de outro, o fornecedor do serviço. A pesquisa aborda a evolução legislativa das apostas, especialmente a Lei nº 13.756/2018 e a posterior Lei nº 14.790/2023, que ampliou e regulamentou as apostas de quota fixa. Embora a regulamentação tenha estabelecido mecanismos de proteção, o artigo questiona se tais medidas são suficientes diante das características da atividade. Nesse cenário, destaca-se a vulnerabilidade do apostador, que pode assumir caráter de hiper vulnerabilidade, diante da publicidade massiva, da atuação de influenciadores, da facilidade de acesso às plataformas e da utilização de estratégias capazes de estimular o consumo contínuo. Dados apresentados apontam aumento expressivo dos gastos com apostas, do endividamento e da inadimplência das famílias, além de consequências relacionadas à ludopatia e ao afastamento do trabalho. Assim, os prejuízos ultrapassam a esfera individual do apostador e atingem sua família, o mercado de consumo, o trabalho e o próprio Estado. Ao final, conclui-se que a regulamentação estabelecida pela Lei nº 14.790/2023 não tem sido suficiente para assegurar efetivamente a proteção do consumidor. Diante da aparente incompatibilidade entre a dinâmica das *bets* e os princípios de proteção à saúde, ao patrimônio e à dignidade do consumidor, o artigo sustenta que o banimento das apostas online pode constituir medida legítima de proteção consumerista e de tutela do interesse social, especialmente quando os mecanismos regulatórios não forem capazes de impedir danos expressivos e recorrentes à população.

Palavras-chave: Apostas online; Direito do Consumidor; Vulnerabilidade do consumidor; Proteção do consumidor; Lei nº 14.790/2023.

1. INTRODUCTION

The Consumer Protection Code establishes in its article 1: “rules for the protection and defense of the consumer, of public order and social interest, under the terms of articles 5, item XXXII, 170, item V, of the Federal Constitution and article 48 of its Transitional Provisions.”

The aforementioned regulation defines who is the consumer and who is the supplier in Chapter I, in its articles 2 and 3, adopting the Finalist Theory and characterizing the consumer as any natural or legal person who acquires or uses a product or service as the final recipient, and the supplier as the natural or legal person who develops activities of production, assembly, creation, construction, transformation, import, export, distribution or commercialization of products or provision of services.

More than three decades after its enactment, consumer relations have undergone a profound transformation, with e-commerce growing, as well as the relationship between consumers and suppliers through digital means. Similarly, crimes against consumers have also changed, because, while in the early 1990s financial fraud depended on physical means – such as the illegal lottery – the mass migration to the digital environment and the popularization of electronic payment methods, such as Pix, have altered the dynamics of these consumer offenses. [4]

Based on the above-mentioned assumption that a consumer legal relationship is formed when it is possible to see, on one side, a consumer, and, on the other, a supplier, having as its object a product or service placed on the consumer market, it is feasible to observe that online betting games, the famous *"bets"* , also constitute a consumer relationship, requiring due protection for the consumer, which is why Article 27 of Law No. 14,790, of December 29, 2023 [5] , ensures bettors all the consumer rights provided for in the Consumer Protection Code.

However, given the current economic scenario in Brazil, the question arises as to whether consumer rights are actually being protected when it comes to online gambling. According to the third edition of the Fiscal Bulletin of Brazilian States [6] , prepared by COMSEFAZ [7] in partnership with CICEF [8] , in the year 2025, there was a net outflow of 62.5 billion from Brazilian families' resources towards the gambling sector, the accumulated volume of net transfers attributed to *bets* in 2025 corresponded to approximately 0.68% of the gross national disposable income of families, the study demonstrates that this amount represents a significant transfer of family income to this sector, which directly impacts the ability of

Brazilian families to meet their financial obligations.

Data released by the Ministry of Social Security [9] demonstrate a significant growth in the granting of benefits resulting from absences [10] caused by gambling addiction, or pathological gambling, from the second half of 2024, which shows that online gambling represents not only a social and economic risk to bettors/consumers, but also a public health problem that must be treated with due seriousness, since in the end the whole of Brazilian society is the one that has been paying this bill which always ends up negatively for the vulnerable.

It is important to remember that the protection of life, health, and safety is a basic consumer right, as established in our Code. This right is not merely a legal formality; it reflects a fundamental constitutional principle that guarantees physical integrity and dignity to all of us. The Consumer Protection Code, with its eighth, ninth, and tenth articles, serves precisely to detail and operationalize this protection, establishing rules for the quality of products and services, and mechanisms for preventing and repairing damages.

Therefore, this article aims to analyze whether consumer rights are actually respected in the context of online gambling in Brazil, in light of current legislation, and whether this practice is compatible with the fundamental principles of consumer relations.

2. Consumer protection as a fundamental right.

When discussing Consumer Law, it is imperative to recognize its significant protective dimension, which transcends the importance of sub-constitutional legislation. Consumer protection is not limited to ordinary regulations that provide guarantees and protection for the consumer, because, as briefly mentioned in the introduction to this work, the Original Constituent Assembly of 1988 elevated consumer protection to the level of a guarantee and fundamental right expressly provided for in Article 5, item XXXII, of the Federal Constitution, by determining that “The State shall promote the defense of the consumer.”

In addition to the aforementioned article, which is pragmatic in nature, our Constitution also established consumer protection as one of the guiding principles of the State's Economic Activity, as provided for in Article 170, V:

"The economic order, founded on the valorization of human labor and free initiative, aims to ensure a dignified existence for all, in accordance with the dictates of social justice, observing the following principles (…) V – Consumer protection".

Thus, a dual constitutional vocation is evident: consumer protection acts simultaneously as a fundamental right of the citizen (an entrenched clause) and as a guiding principle for state intervention in the economy, harmonizing the free market with the dictates of human dignity.

Finally, complementing the aforementioned provisions, the original Constituent Assembly stipulated in Article 48 of the Transitional Constitutional Provisions Act (ADCT) that it would be the responsibility of the National Congress to draft the Consumer Protection Code. This mandate from the constituent assembly made it clear that the Brazilian legal system would not generically protect consumer relations, but rather established the need for a specific legal microsystem, of public order and social interest, entirely focused on the vulnerability of consumers in consumer relations.

This constitutional provision has given greater value to consumers, as it imposes on all branches of government – Executive, Legislative, and Judicial – the duty to address the issue with the utmost effectiveness it deserves. In the judicial sphere, it is worth noting that the courts recognize this fundamental aspect of consumer protection, as per the ruling below:

"I – The application of the rules and principles contained in the Consumer Protection Code to consumer relations is a precept enshrined in the Federal Constitution, which included consumer protection as a fundamental right (art. 5, item XXXII) and as a principle of the Economic Order (art. 170, item V). Thus, the protection that the Constitution itself conferred on the consumer makes it clear that the Consumer Protection Code must prevail even in conflict with other legal instruments and, if there is non-compliance with these rules, liability is evident (Excerpt from TJ-AM – APL 06357178220138040001 AM 0635717-82.2013.8.04.0001, Rel. Sabino da Silva Marques, First Civil Chamber. Judged and Published on 05/11/2015” [11]

It follows from the excerpt above, therefore, that consumer protection rules have primacy over other private law rules, such as the Civil Code. In this case, the CDC microsystem acts as the prevailing vector in the regulation of all consumer relations, including its application in a harmonious and complementary manner to cases of consumer relations arising from online betting, the subject of this article. In other words, the Theory of the Dialogue of Sources [12] would be applied , because the two laws complement each other: the CDC defines the consumer relationship and Federal Law No. 14,790/2023 regulates the online betting sector from various perspectives (administrative, tax and fiscal). Should they come into conflict, we believe that the provisions of the CDC should prevail, for all the reasons set out in this chapter.

3. **ONLINE GAMBLING IN BRAZIL AND LAW 14.790/2023**

To understand the current situation of online gambling in Brazil, it is necessary to first understand the historical nuances that led to this scenario. There are historical records of gambling since antiquity, arriving in Brazil through Europeans around the 16th century. [13]

Firstly, whenever online gambling is discussed, the question arises as to why it is not classified as gambling, which is considered a criminal offense according to Article 50 of Decree-Law No. 3,688/1941, as amended by Decree-Law No. 9,215/1946?

The answer to this question initially lies in Law No. 13,756, of December 12, 2018, which represents the initial milestone in the permission and regulation of online gambling in Brazil, since it introduced, in its article 29, the creation of the lottery modality called fixed-odds betting. Paragraph 1 of the aforementioned article states that fixed-odds betting consists of a betting system related to real sporting events, in which the amount the bettor can win if the prediction is correct is defined at the time the bet is placed.

It is important to point out that, initially, the legislator indicated that only sports-related bets would be considered; however, the aforementioned law does not specify who can or cannot bet, whether there is any limit to the amount that can be bet, among other gaps that demonstrate a failure regarding the protection of consumer rights.

The text of the aforementioned article 29 underwent modifications due to Provisional Measure No. 1,182, of July 24, 2023, but it was with Law No. 14,790, of December 29, 2023, that significant advances in the regulation of fixed-odds betting were observed.

Law 14.790/2023, in its article 2, I, II, clarified what constitutes a bet – defining it as: an act by which a certain value is placed at risk in the expectation of obtaining a prize – and as a fixed odds factor, establishing the amount to be received by the bettor, in case of winning, for each unit of national currency wagered. Article 3 of the Law further clarified that not only real sporting events could be the subject of bets, but also virtual *online* gaming events .

This is why *“bets”* are not considered games of chance, as they are understood as a type of lottery. It is worth noting that lotteries are permitted in Brazil, in accordance with Decree-Law No. 6,259/1944.

Despite Law 14.790/2023 demonstrating significant progress in protecting the rights of bettors/consumers, given that, in addition to those already mentioned, the regulations present changes regarding advertising, restrictions for bettors, the form and execution of bets, among other provisions, it is still questionable whether these modifications are sufficient to address the vulnerabilities of this group?

4. Consumer Vulnerability: Advertising, Influencers, and the Normalization of Betting

As mentioned in the introduction to this article, the Consumer Protection Code (CDC) is a principle-based norm, meaning it contains open and/or indeterminate concepts for application to specific cases. Article 4 lists principles that should guide consumer relations in favor of the consumer, among which the principle of Consumer Vulnerability deserves greater emphasis in the development of this article.

The aforementioned principle is set forth in item I of the aforementioned article and brings important premises due to its open nature; however, its focus is to qualify the consumer as the “weaker” party in a consumer relationship. This assumption has the power to be an “absolute presumption, not admitting evidence to the contrary” (LAGES, 2022, p. 34).

This presumption means that vulnerability is a material truth and that it does not depend on any burden of proof; the consumer, by simply fitting into the concept given by the CDC, is considered the “weaker” party in the consumer relationship, and this is seen from different perspectives: it can be from a social or economic point of view, from a technical point of view, as well as from a legal point of view, or from all of them together [14] . This disadvantage is particularly serious in the contemporary scenario of online games and betting, where users play against algorithms that lack transparency and are capable of leading the consumer into error and indebtedness, without due knowledge of how these platforms work.

Therefore, it is up to the legislator, as well as the law enforcer, to treat not only the consumer, generically speaking, but also the gambler specifically, unequally, in order to balance the scales of the consumer relationship in their favor. The gambler deserves specific treatment, considering that they fall into a qualified category of vulnerability, the so-called hyper-vulnerability.

Hyper vulnerability is a doctrinal construct that has been adopted by Brazilian courts, including the STJ, which classifies as an abusive practice “taking advantage of the weakness or ignorance of the consumer, considering their age, health, knowledge or social condition, to impose their products or services on them”, as provided for in article 39, IV of the CDC. [15]

Consumers, as the most vulnerable link, especially from a technical standpoint, are subject to various factors that can alter their behavioral psychology, including advertising.

Since antiquity, advertising has been one of the pillars of the consumer economy. The practice of promoting products to attract buyers is as old as commerce itself. But what differentiates modern advertising from everything that came before is something very specific: it has become an organized professional activity, with scientific techniques developed specifically to influence human behavior.

Modern advertising doesn’t just inform you that a product exists and how much it costs. It goes beyond that. It creates desires where none existed before. It associates products with feelings, values, and identities. It convinces people that they need things they never needed before. It transforms objects into symbols of social status, happiness, success, and belonging to certain groups. Highly specialized professionals study human behavior, consumer psychology, and decision-making mechanisms, all to create increasingly effective messages in generating desire and promoting consumption.

And here arises a very important tension with one of the most fundamental principles of traditional private law: the principle of autonomy of the will, also called pacta sunt servanda, which in Latin means that agreements must be kept. This principle starts from a beautiful premise in theory: all human beings are free, rational, and capable. Therefore, when two people voluntarily reach an agreement, that agreement is legitimate and must be fulfilled because it was the result of the free choice of both.

But for this premise to be true, it is absolutely necessary that both parties have access to the same relevant information. Freedom of choice is only real when accompanied by complete information. If I choose to buy a product without having all the information necessary to make a conscious choice, my choice is not truly free. It is a conditioned, influenced, partially manipulated choice.

And that’s exactly what modern advertising does, in a completely legal way, by the way. Advertising isn’t obligated to lie, and in fact, it can’t lie. But it’s also not obligated to reveal the whole truth. It can and usually does highlight only the positive aspects of the product, its qualities, benefits, and expected results under the best possible conditions. It doesn’t need to talk about the limitations, risks, hidden costs, or situations where the product doesn’t work as expected.

When you combine the powerful influence of advertising with the ease of installment credit, the result can be devastating for the consumer. Advertising creates desire. Credit facilitates the immediate fulfillment of that desire. And the consumer, often without clearly considering all the long-term consequences, makes the decision to buy. The result: impulsive purchases, progressive debt, commitment of future income to pay off accumulated debts and, in more serious cases, over-indebtedness, which is when debts become unpayable and the person’s financial life collapses.

Well, when we combine consumer vulnerability with the blatant and, why not, omnipresent advertising of *betting sites* , this can lead to devastating consequences for the consumer/bettor. This is because Law 14.790, in its article 14, allowed betting companies to widely advertise their services, a fact that amplified their presence in various sectors of the economy: on football shirts, stadiums, television, digital media, billboards, etc.

And its advertising, which as we saw above is the result of precise work on the target audience, can convey the idea of being a pastime, a form of entertainment, or a source of “extra income” for the consumer, perhaps even making them rich. Sometimes they go further, placing the consumer who participates in these online bets on a “superior” level compared to others, promoting social ascension for those who participate and, on the other hand, social exclusion for those who do not participate in this trend. This is popularly known as FOMO (*Fear of Missing Out*), which is the fear of "being left out" of something. Furthermore, the consumer is led to believe that their knowledge (sometimes superficial) is capable of protecting them from the risk of the event.

It is important to highlight, within the context of betting advertising and its correlation with consumer vulnerability, the exposure of children and adolescents to this practice, especially through the intermediation of so-called "influencers." In this sense, it is worth noting that:

"Recent studies show that children and adolescents do not realize that this content is advertising in nature, interpreting it as spontaneous recommendations from their peers or idols, which further reduces their critical capacity and makes commercial influence more intense and lasting."

It is in this situation that another basic principle of consumer law comes into play: State Intervention. According to this principle, the State should not remain inactive, but has a duty to act to protect consumers, especially those who are extremely vulnerable (or hyper-vulnerable). It can act through direct initiative (creating laws and regulations), indirect initiative (monitoring and control) or by encouraging the creation of representative associations. [16]

It was through legislative intervention that Law No. 14,790/2023 was enacted, with the aim of expressly regulating the matter. Section II of said Law, specifically articles 16 to 18, governs the advertising of bets, among which it is worth mentioning: (i) the need for warnings discouraging gambling; (ii) the prohibition of participation by minors under 18 years of age; (iii) the exclusion of children and adolescents as a target audience; (iv) the need to comply with the rules of conduct stipulated by CONAR – the National Council for Advertising Self-Regulation.

However, the guidelines are not limited to the aforementioned Law. As mentioned in topic 2 of this work, the Consumer Protection Code (CDC) addresses the issue of online betting, particularly in its sections III (Advertising) and IV (abusive practices). It is worth citing, for example, article 37 of the CDC, which deals with misleading advertising, as well as item IV of article 39 of the CDC, which protects consumers who are ignorant of the subject, as well as the elderly and children.

5. **The social, economic, and psychological impacts of online betting.**

The study carried out by the National Confederation of Trade in Goods, Services and Tourism (CNC), entitled “Impacts of Online Betting (Bets) on the Indebtedness and Default of Brazilian Families” [17] , pointed out that spending on online betting exceeded R$ 30 billion per month in March 2026, estimating that the default generated by spending on online betting removed approximately R$ 143 billion from the retail sector from January 2023 to March 2026, affecting around 268 thousand families.

A study conducted by IBEVAR (Brazilian Institute of Retail & Consumer Market Executives) in conjunction with FIA Business School demonstrated that online betting is currently the main cause of indebtedness for Brazilian families [18] . Analyzing data from the Central Bank from December 2011 to December 2025, it was proven that the impact of *betting* on income is greater than the effect of interest rates:

Throughout the analyzed period, a slight slowdown in the growth of household debt was observed. As expected, variations in interest rates and credit supply contribute to increased debt. However, the most striking finding is that, even after controlling for these traditional factors, the entry of betting appears as the element with the greatest impact on the acceleration of indebtedness. If the effects of credit on income are added to the effect of interest rates, the impact of betting entry is still almost double the effect of the other two factors combined. Note that part of the effects of interest rates is already present in the variations of credit on income, but it is not possible to separate them. Therefore, the effect of betting compared to the two factors combined is certainly more than double.

Considering the expansive increase in the number of bettors, given that more than 39.5 million Brazilians bet in the year 2025 [19] , it is clear that bettors/consumers face a high risk. It is important to highlight some of the basic consumer rights introduced by the Over-Indebtedness Law in 2021, namely the guarantee of responsible credit practices, financial education, and the prevention and treatment of over-indebtedness situations, preserving the minimum subsistence level. This is a very important step forward in protecting consumers who find themselves in a situation of excessive indebtedness. As demonstrated, these rights are sometimes not respected in the fixed-odds lottery consumer relationship.

Responsible lending requires credit providers, such as banks and financial institutions, to act ethically and prudently when offering loans. They must assess the consumer's ability to repay, provide clear information about the costs of credit, and avoid granting loans that could lead the consumer to over-indebtedness.

Financial education, in turn, empowers consumers to make more informed decisions about their finances, avoiding pitfalls and planning their budget. However, it is observed that there is no such analysis of gambler profiles, and the concern for the financial education of those who gamble is not felt by the providers.

Although the law seeks a balance—consumers should be prudent when taking on debt, but also protected so that their dignity is not compromised by indebtedness—in the context of *betting* , the absence of this protection is clear.

Also introduced by the Over-Indebtedness Law, the right to information about product prices per unit of measurement, such as per kilogram, per liter, per meter, or per other unit, as the case may be, constitutes a basic consumer right. This right aims to facilitate price comparison and help consumers make more economical and informed choices. By knowing the price per unit of measurement, you can compare different brands and sizes of products more effectively, even if the packaging has different volumes. However, allowing the bettor to make informed choices goes hand in hand with the very structure of the games.

In addition to the improper and disrespectful nature of basic consumer rights, *betting* has provided severe implications not only for players, but for the entire social collective, this is evident when analyzing the significant increase in the number of benefits for absences [20] caused by ludopathy, or pathological gambling, from the second half of 2024.

Gambling addiction is a psychiatric disorder where the patient loses control over gambling behavior, leading to an addiction that continues even in situations involving debt and family conflicts [21] . It has been recognized by the WHO as a public health problem because it impacts the mental health of both the addict and those around them.

The situation becomes even more worrying when we see that the main profile of gamblers are men, heads of households aged between 30 and 44 years old and poor [22] . Therefore, it is evident that when this group needs to leave their work because they do not have the psychological conditions to perform it, in addition to representing a loss of productive labor and generating a sustained financial impact on the whole society and especially on their family, when added to the scenario of indebtedness, it is possible that this consumer may adopt extreme measures seeking a way out, as is the case of suicide attempts already reported by gamblers [23] .

6. FINAL CONSIDERATIONS

In light of the considerations developed throughout this study, it is clear that the regulation of fixed-odds betting, especially through Law No. 14.790/2023, while representing an attempt to establish parameters for the operation of online gambling in Brazil, is not sufficient to ensure, in practice, the effective protection of the consumer. This stems, above all, from the very nature of the activity and the magnitude of the social, economic, and psychological impacts that may result from it.

The 1988 Federal Constitution elevated consumer protection to the status of a fundamental right and a principle of the economic order, imposing on the State the duty to promote its protection. The Consumer Protection Code, in turn, structured a microsystem designed precisely to balance relationships marked by consumer vulnerability. In the context of online betting, this vulnerability takes on even more worrying dimensions, considering the use of mass advertising, the influence of influencers, the ease of access to platforms, and the construction of a social perception that betting constitutes not only a form of entertainment, but also a possibility of obtaining income or transforming one’s own economic condition.

Although Article 27 of Law No. 14,790/2023 recognizes the rights of bettors as provided for in the Consumer Protection Code, the formal existence of these rights does not, in itself, mean that they are being effectively preserved. The experience demonstrated by the data analyzed in this work reveals an apparent incompatibility between the constitutionally guaranteed consumer protection and the economic dynamics of online betting. On the one hand, there is a presumably vulnerable consumer; on the other, an economic activity structured to stimulate the continuous placing of bets, using advertising and technological mechanisms capable of intensifying consumption.

The demonstrated economic impacts suffered by hundreds of thousands of families reinforce that this is not a matter restricted to the individual freedom of those who decide to gamble. The effects go beyond the gambler’s financial sphere and reach their family, commerce, the labor market and, ultimately, the State itself. The compromise of family income, indebtedness, default and loss of purchasing power demonstrate that the economic effects of gambling are not confined to the relationship between the gambler and the platform, producing consequences that radiate throughout society.

The increase in absences related to pathological gambling, highlighted in this article, demonstrates that the damage resulting from gambling can affect an individual’s ability to work and generate costs that end up being borne collectively.

In this context, the central question ceases to be simply whether the activity can be regulated and becomes understanding whether a given economic activity is compatible with the constitutional duty to protect the consumer when its own operating mechanisms may increase the vulnerability of those who participate in it.

Thus, considering the set of elements analyzed, this work concludes that the maintenance of *betting* in the Brazilian market should be subject to thorough review, and that banning online betting could constitute a legitimate measure to protect consumers and safeguard social interests, especially given the inadequacy of existing regulatory measures to neutralize the harm caused by the activity.

The proposed ban does not stem from a simple moral disapproval of gambling, nor from an intention to deny individuals any possibility of choice. It is based, above all, on the understanding that private autonomy cannot be analyzed in isolation when the economic activity involved presents mechanisms capable of intensely affecting the health, assets, and dignity of demonstrably vulnerable consumers. The freedom to contract and to consume finds its limits in fundamental rights themselves and in the principles that structure the constitutional economic order.

In this sense, when regulatory and oversight instruments prove incapable of preventing an activity from causing significant and recurring harm to a substantial portion of the population, state intervention may cease to be merely regulatory and assume a restrictive character. The Constitution itself, by simultaneously establishing free enterprise and consumer protection as the foundations and principles of the economic order, does not authorize economic freedom to be exercised to the detriment of human dignity and the protection of those in vulnerable positions.

Therefore, the hypothesis defended in this article is that banning online betting, instead of representing an affront to economic freedom, could constitute an instrument for realizing the constitutional protection of the consumer. It is acknowledged that any prohibition would produce its own challenges, especially related to oversight, the existence of clandestine platforms, and the need for public policies aimed at preventing and treating gambling addiction.

However, such difficulties do not eliminate the need to discuss the adequacy of the currently adopted model. On the contrary, they reinforce the need for any public policy on the subject to be built upon consumer protection and social interest, and not exclusively from the perspective of revenue collection, economic exploitation, or market freedom.

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