

Global Gambling Law: Winning in a Liability-Heavy, Cross-Border Minefield

A strategic analysis for legal and compliance executives navigating the transformative 2025-2028 regulatory landscape

The Perfect Storm: Three Forces Reshaping Global Gambling Law

The global gambling legal landscape is undergoing a profound transformation. Three dominant trends are fundamentally altering operator risk profiles and market dynamics.



Regulated Market Shift

Governments worldwide are abandoning prohibition in favor of licensed, regulated frameworks. Brazil added 215 million consumers overnight. Ontario's model outperforms monopoly provinces. This shift creates opportunity but demands sophisticated compliance infrastructure.



Liability Escalation

Courts are imposing massive civil liability beyond regulatory fines. Sweden's €527,395 refund order and UK GDPR rulings establish that data analytics create legal "knowledge" of vulnerability. The era of regulatory-only consequences has ended.



Cross-Border Enforcement Wars

Jurisdictional conflicts are intensifying. The EU Commission is targeting Malta's protective Bill 55. Curaçao courts enforce foreign judgments. Grey-market profits are transforming into retroactive debt across multiple jurisdictions.

Data = Knowledge = Liability: The New Imputed-Knowledge Standard

Landmark 2025 rulings in Sweden and the UK have fundamentally redefined operator liability by establishing that algorithmic data collection creates legal "knowledge" of player vulnerability. This represents a seismic shift from discretionary duty-of-care debates to strict, data-driven liability.

July 1, 2025: Sweden

T 607-24 ('Nätkasinot')

Swedish Supreme Court orders Betsson to refund **€527,395** to VIP player. Ruling: automated systems showing loss of control create "imputed knowledge" under Contracts Act Section 33. Aggressive marketing to vulnerable players voids contracts.

1

2

January 23, 2025: UK

RTM v. Sky Betting & Gaming

High Court rules operator failed to obtain valid UK GDPR consent from recovering addict. Player's compulsive condition impaired autonomy, making consent invalid. Opens new civil litigation avenue separate from regulatory action.

These decisions establish a critical principle: operators cannot hide behind "we didn't know" when their own analytics reveal the vulnerability. The implications extend beyond these jurisdictions, setting precedents that courts worldwide may follow.

The Grey-Market Refund Cascade: Contract Nullity Across the EU

Courts in multiple EU jurisdictions are systematically ordering operators to refund player losses incurred during pre-regulation periods, based on the legal theory that gambling contracts with unlicensed operators were void from inception for violating public policy.

Netherlands	Austria	Germany
Status: Active enforcement	Status: Consistent Supreme Court rulings	Status: Federal Court of Justice precedent
Key Ruling: Overijssel District Court (April 2024)	Challenge: Enforcement blocked by Malta courts (February 2025)	Key Change: GlüNeuRStV 2021 implementation
Operators Affected: PokerStars, Bwin	Operators Affected: Multiple unlicensed foreign operators	Operators Affected: Pre-2021 participants
Period: Pre-October 1, 2021	Period: Historical grey-market activity	Period: Before Interstate Treaty
Basis: Contracts null for violating public policy	Basis: Contract voidness	Basis: Violation of prior prohibition

📌 **Financial Exposure:** Operators active in these markets before licensing face potentially billions in aggregate liability. This is not theoretical risk—it is actively materializing in court-ordered refunds across the continent.

Malta's Shield Is Cracking: The EU Commission Infringement Battle

Malta's 'Bill 55' (Article 56A of the Gaming Act) was designed to protect its licensed operators from foreign refund judgments by empowering Maltese courts to refuse enforcement if such judgments undermine services lawfully provided from Malta. This protective shield is now under direct assault from the European Commission.

01

June 2025: EU Launches Infringement

European Commission initiates formal proceedings, arguing Bill 55 illegally obstructs Brussels I Recast Regulation and undermines mutual trust in EU judgment recognition.

02

Mid-August 2025: Malta Response Deadline

Malta must provide formal response to Commission's reasoned opinion explaining how Bill 55 complies with EU law.

03

September 2025: Influential AG Opinion

Advocate General Emiliou issues opinion in related case C-440/23 suggesting national protective shields are weak, bolstering consumer refund claims.

04

Expected 2026-2027: CJEU Ruling

If Malta's response is unsatisfactory, Commission escalates to Court of Justice. An adverse ruling could render Bill 55 unenforceable, exposing Malta-based operators to billions in liability.

U.S. Market: Licensed But Not Lawsuit-Proof

The post-PASPA expansion has created regulated markets in 38 states, but licensing does not immunize operators from civil litigation. Recent court decisions reveal a critical split in judicial approaches to operator liability.



Michigan Opens the Door

Davis v. BetMGM (Michigan Supreme Court, July 2025)


State licensing does **not** prevent consumers from suing operators for common-law claims like breach of contract and fraud. Players can seek judicial remedies for issues like withheld winnings, ensuring accountability under traditional contract and tort law.



New Jersey Slams It Shut

Sam Antar v. BetMGM (Third Circuit, April 2025)

New Jersey law imposes **no** common-law duty on casinos to protect patrons from developing gambling habits. Court defers to state's regulatory framework for responsible gaming, rejecting civil liability for compulsive gambling losses.

 **Strategic Implication:** Operators must tighten terms and conditions and prepare for contract disputes in states like Michigan, while understanding that protection from addiction-based claims remains strong in jurisdictions like New Jersey.

Advertising Under Siege: The "Strong Appeal" Test and Platform Co-Liability

Global regulators are imposing unprecedented restrictions on gambling advertising to protect minors and vulnerable populations. Creative freedom is evaporating, replaced by strict youth-protection standards and shared liability models that extend responsibility to platforms and affiliates.

UK's ASA Enforces "Strong Appeal" Standard

September 2025: Midnite sanctioned for AI-generated footballer parody deemed to have strong appeal to under-18s. December 2022: Ladbrokes penalized for featuring Premier League players. Key principle: Even AI-generated celebrity depictions must pass the test. Platform age-gating is insufficient defense.

Italy's €14M+ Platform Liability Campaign

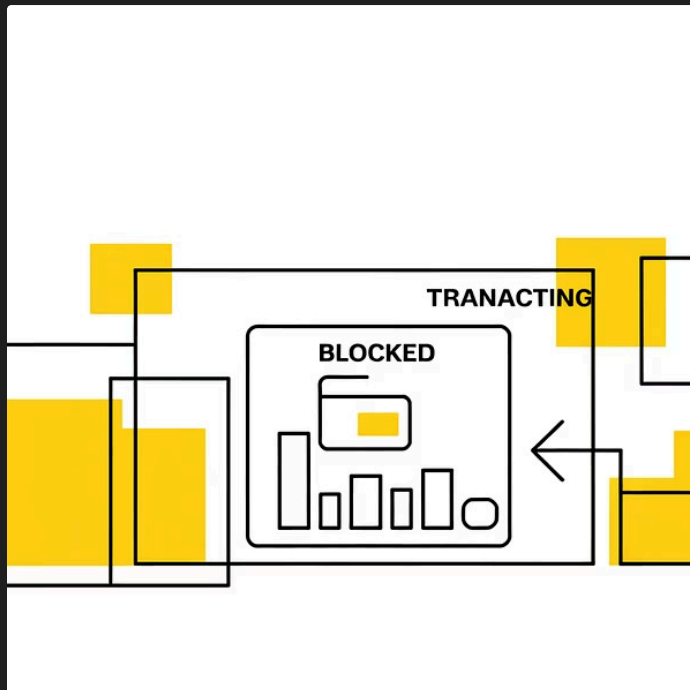
AGCOM has aggressively enforced the 'Dignity Decree' advertising ban by fining major tech platforms: Meta (€5.85M), Google (€4.9M+), X/Twitter (€1.35M), Twitch (€1.3M). Establishes clear precedent that platforms share responsibility for non-compliant gambling ads on their services.

Bonus Caps and VIP Restrictions Tighten

UK: New rules effective December 19, 2025, ban cross-selling and cap wagering at 10× bonus. Sweden: VIP targeting of vulnerable players triggers direct civil liability. Ontario: AGCO fines of \$110K (BetMGM) and \$100K (DraftKings) for inducement violations.

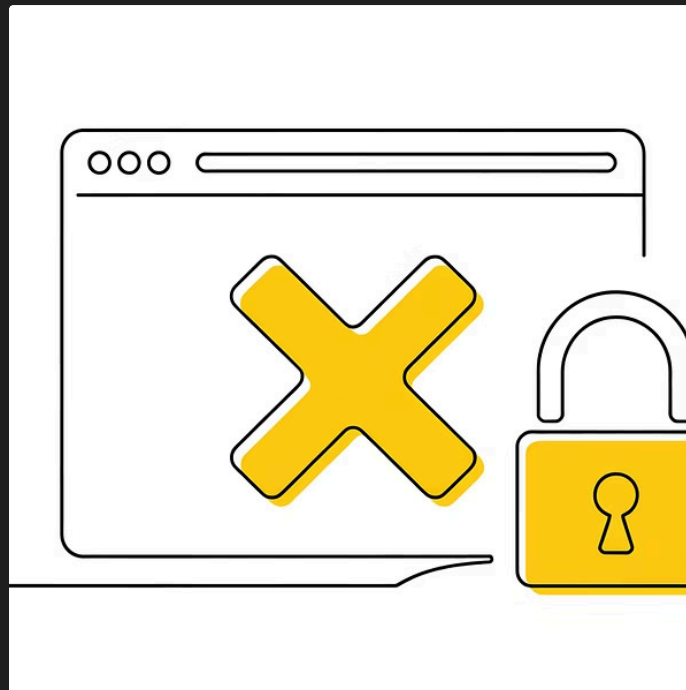
Financial Blockades: Cutting Off the Oxygen Supply to Illegal Operators

Payment blocking, merchant category code (MCC) enforcement, and ISP filtering have evolved from experimental tactics to standard regulatory weapons. These technical and financial blockades are fundamentally disrupting the business model of unlicensed operators worldwide.



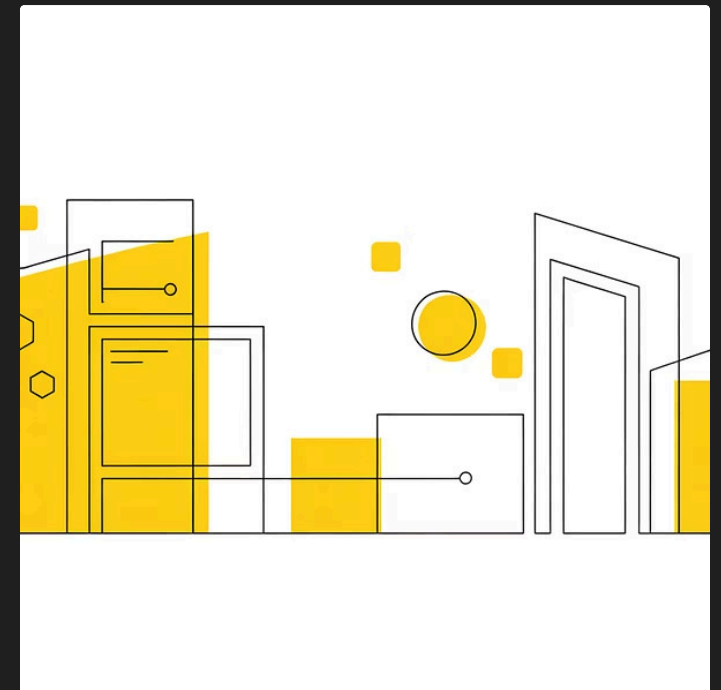
U.S.: UIGEA & MCC 7995

The Unlawful Internet Gambling Enforcement Act (2006) and its implementing Regulation GG prohibit payments for unlawful internet gambling. MCC 7995 allows banks to identify and decline gambling transactions. August 2025: 50 state AGs demand DOJ use UIGEA to block payments and seize assets from offshore operators.



Australia: ACMA's ISP Powers

Australian Communications and Media Authority actively uses Telecommunications Act powers to request ISP-level blocking of illegal offshore casino, betting, and affiliate sites. This directly cuts consumer access and disrupts business operations for non-licensed operators.



Brazil's Dual-Front Approach

Law 14,790/2023 mandates financial institutions block transactions to illegal sites. Partnered with telecom regulator Anatel to improve website blocking. Creates comprehensive enforcement by disrupting both access and money flow simultaneously.

Spain's DGOJ imposed over **€77 million** in fines in H2 2024 alone, primarily against unlicensed operators, coupled with closure orders and market bans. This dual approach—blocking access and payments—is becoming the international standard.

Brazil's National Roll-Out: 215 Million Consumers Enter the Legal Market

Brazil's establishment of a national licensing regime for fixed-odds sports betting and online casino games, effective January 1, 2025, under Law No. 14,790/2023, represents the single largest market opportunity in recent global gambling history. This move legalizes online gaming and creates a unified regulatory framework administered by the Secretaria de Prêmios e Apostas (SPA/MF).

Regulatory Framework Highlights

- **Federal Licensing:** Operators must obtain national license from SPA/MF
- **Comprehensive Rules:** Dense regulations covering payments, advertising, technical standards, and player protection
- **Active Judiciary:** Supreme Federal Court (STF) actively shaping market, limiting state-level licenses to territorial boundaries while protecting multi-state lottery operations
- **First-Mover Advantage:** Opportunity for operators to establish brand presence in massive, newly regulated market

Market Size & Opportunity

215M

Potential consumers

Overnight access to one of the world's largest populations

2025

Market launch year

First full year of licensed operations

📌 **Strategic Priority:** Operators should prioritize first-wave license applications and build localized compliance teams to capture market share during the critical establishment phase. Rapidly evolving regulations from SPA/MF require continuous monitoring and adaptive compliance strategies.

Ontario's "Conduct & Manage" Blueprint: A Model for Provincial Regulation

Ontario has pioneered a sophisticated public-private partnership model that satisfies Canadian constitutional requirements while creating a competitive, commercially viable market. The structure's judicial validation provides a potential roadmap for other provinces.



Provincial Control

Province retains ultimate "conduct and manage" authority through Alcohol and Gaming Commission of Ontario (AGCO) oversight, satisfying Criminal Code requirements



Commercial Agreements

Private operators enter into commercial agreements with iGaming Ontario (iGO), a subsidiary of AGCO, creating competitive market structure



Legal Validation

Mohawk Council of Kahnawà:ke v. iGaming Ontario (May 2024): Ontario Superior Court upholds model, ruling province is "operating mind" of scheme

The decision provides significant legal certainty and has made Ontario the **largest and most competitive** regulated online gaming market in Canada. The next frontier: a pending Court of Appeal decision on "open liquidity" that could allow Ontario players to join international peer-to-peer games like poker, potentially transforming the market size and attractiveness.

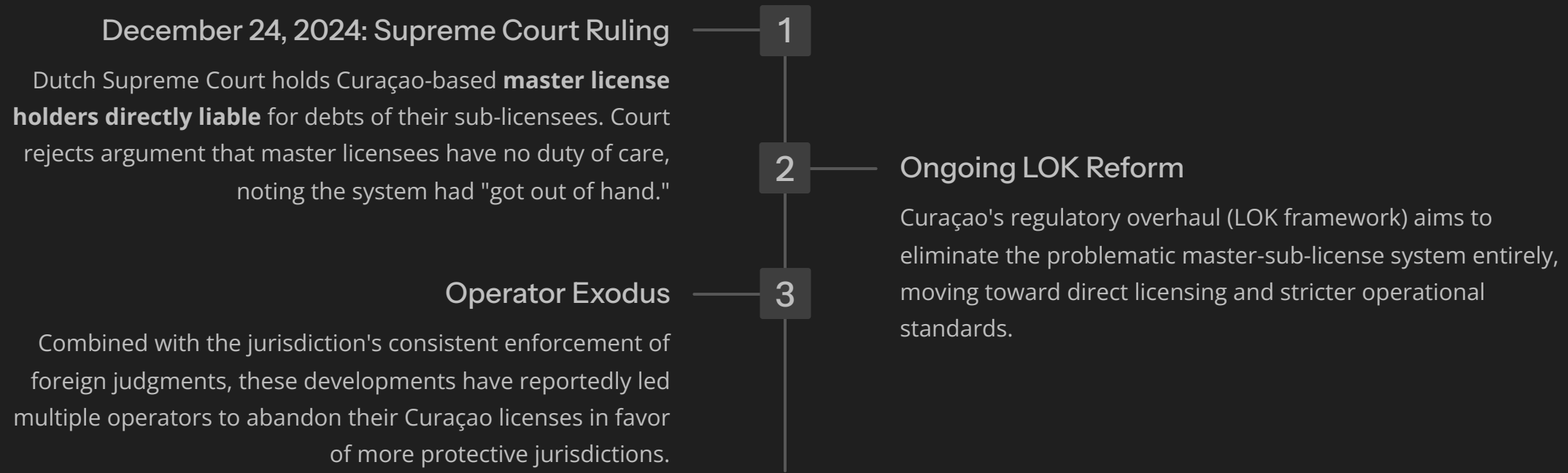
Tribal Gaming's Mobile Monopoly Path: The West Flagler Precedent

The D.C. Circuit's 2023 ruling in *West Flagler v. Haaland* validated Florida's innovative "hub-and-spoke" model, which legally "deems" mobile bets placed anywhere in the state to occur on tribal land if the servers are located there. This creates a potential pathway for tribes in other states to negotiate statewide mobile betting monopolies, fundamentally altering market structure and competitive dynamics.

<p>The "Hub-and-Spoke" Model</p> <p>Physical servers located on tribal land serve as the legal "hub." All mobile bets placed anywhere in the state are legally deemed to occur at the hub location, regardless of where the player is physically located.</p>	<p>Indian Gaming Regulatory Act (IGRA) Compliance</p> <p>Model satisfies IGRA's requirement that gaming occur "on Indian lands." Federal court validation provides legal foundation for tribes to negotiate exclusive statewide mobile rights with state governments.</p>	<p>Strategic Shift for Operators</p> <p>In states with strong tribal gaming presence, market access may require B2B technology partnerships with tribes rather than direct-to-consumer licensing. Lobbying efforts should pivot from open competition to securing these strategic partnerships.</p>
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Curaçao's Liability U-Turn and the Death of the Master-License Shield

In a stark contrast to Malta's protective stance, Curaçao courts have consistently recognized and enforced foreign judgments, creating a high-risk environment for operators using Curaçao licenses. This risk was dramatically amplified by a landmark December 24, 2024, Dutch Supreme Court ruling.



📌 **Risk Assessment:** Curaçao-licensed operators face substantially higher legal exposure than Malta-licensed counterparts, particularly for past grey-market activity in EU jurisdictions. The master-license liability ruling creates potential chain-reaction exposure for entire licensing hierarchies.

Strategic Playbook: License & Liability Matrix for 2026-2028

Navigating the global gambling legal landscape requires a sophisticated, jurisdiction-specific strategy that balances market opportunity against legal risk. This matrix provides actionable guidance for expansion, retention, and exit decisions.

Brazil	Newly Regulated	First-mover advantage, 215M consumers	Rapidly evolving SPA/MF rules	Prioritize first-wave license bid
Ontario	Mature Regulated	Open liquidity potential for poker/DFS	Strict AGCO enforcement	Prepare for liquidity sharing
EU (ex-Malta)	Fragmented Regulated	Established player base	Retroactive refund liability	Book contingent liabilities
Malta	Licensing Hub	Established framework	EU infringement vs. Bill 55	Reconsider as primary base
United States	State-by-State	Large, growing market (38 states)	Civil litigation, tribal monopolies	Tighten T&Cs, explore tribal B2B
India	Prohibition (Challenged)	Massive potential if ban overturned	Supreme Court uncertainty	Monitor, avoid entry until clarity
South Africa	Prohibition (Pending)	Dark-horse if Remote Gambling Bill passes	Bill may not pass	Lobby and prepare for licensing

Operationalizing "Responsible by Design": From Compliance to Core Product

The Swedish and UK rulings make it clear: collecting data that reveals vulnerability creates legal knowledge and liability. Operators must move beyond discretionary, manual reviews and embed automated responsible gaming controls as core product features, not compliance afterthoughts.



Real-Time Automated Monitoring

Implement systems to identify risky behaviors (chasing losses, escalating stakes, unusual hours) in real-time using algorithmic pattern recognition across all player accounts.



Triggered Intervention Protocols

Link monitoring to automatic interventions: cooling-off periods, deposit limit suggestions, immediate cessation of marketing and profiling for flagged players. No manual review delay.



Data Protection by Design

Embed fairness, transparency, and lawful basis into all AI systems. Align with ICO guidance. Ensure consent mechanisms meet heightened standards for vulnerable populations under UK GDPR precedent.



Documentation & Audit Trail

Maintain comprehensive records of all monitoring, interventions, and decision-making processes to defend against both regulatory investigations and civil litigation. Data is both risk and shield.

Liability Shield: Proactive, automated responsible gaming measures are no longer optional—they are essential legal defenses. The Swedish precedent establishes that failure to act on data-revealed vulnerability exposes operators to massive refund liability.

Winning the Minefield: Executive Action Items for 2026-2028

This complex legal landscape demands immediate, coordinated action across legal, compliance, product, and commercial functions. Success requires integrating legal foresight into every business decision.

- 1

Conduct Jurisdiction-Specific Risk Audit

Engage external counsel to assess exposure in each market where you operated before regulation. Book contingent liabilities for potential refund claims, especially in Netherlands, Germany, Austria. Consider specialized insurance or escrow accounts.
- 2

Upgrade RG to "Product Core" Status

Elevate responsible gaming from compliance function to core product feature. Invest in real-time monitoring AI and automated intervention systems. Treat this as competitive moat, not cost center.
- 3

Recalibrate Marketing for Youth Protection

Conduct comprehensive audit of all advertising against strictest global standards (UK ASA "strong appeal" test). Implement pre-clearance for all campaigns. Train affiliates on joint liability. Shift spend toward first-party channels.
- 4

Reassess Licensing Jurisdiction Strategy

If Malta-based, evaluate migration options given EU infringement risk. If Curaçao-licensed, urgently assess master-license liability exposure post-Dutch Supreme Court ruling. Consider multi-jurisdictional license portfolio to hedge regulatory risk.
- 5

Pursue Strategic M&A and Partnerships

Target provincial licensed assets in fragmented markets (Argentina). Explore B2B partnerships with tribes in U.S. states post-*West Flagler*. Position for Brazil first-wave licenses and Ontario open liquidity opportunity.

The operators who will thrive in 2026-2028 are those who treat legal complexity as strategic advantage, not operational burden. Integrate compliance into product design, turn data into a liability shield, and move decisively on jurisdictional opportunities before the window closes. The minefield is navigable—but only with sophisticated legal strategy, proactive risk management, and operational excellence.