

Cockfighting

filed under: cockfighting kiva

Are you promoting or financing a cockfight? If so, you should really be aware of a few legal issues you might face along the way. I recently ran into them head on.

A while ago, our Peruvian partner posted this cockfighting loan on our site. Immediately, two things happened. 1) a swathe of lenders rushed to finance the cockfighter and 2) some very angry people wrote in to protest. Later, our sad weekly newspaper wrote about it.



Occasionally, I do customer service. I was doing it much more over the holidays. Things have slowed down a little bit since February so I only take the most controversial issues. I'm also an armchair attorney. The cockfighting loan has raised some interesting legal questions that our real attorneys helped answer.

First of all, is cockfighting legal in California? No sir. In addition to the state law, it's banned at a federal level. The (federal) Animal Welfare Act of 2007 came in part as a response to the Michael Vick case. In layman's terms, it holds that we must not (1) advertise or promote an animal fighting venture in interstate or foreign commerce (2) sponsor or exhibit an animal in a fighting venture in interstate or foreign commerce (3) buy, sell or transport an animal for fighting in interstate or foreign commerce (4) buy, sell or transport a weapon designed to be used by an animal in interstate or foreign commerce. This part of The Act specifically refers to any sharp instrument attached to the leg of a bird.

All of these points are bounded to the realm of "interstate or foreign commerce." Interstate commerce involves transport between two states. Foreign commerce involves transport between the USA and any foreign country. Thus, individual states may permit animal fighting, but federal government specifically prevents any animal fighting activity that crosses a state border.

In addition to Michael Vick, Amazon.com and the US Postal Service have recently been hit with animal fighting-related charges. Who would have thought? Amazon.com is accused of selling magazines that promote cockfighting. The USPS is accused of transporting them between states. The Humane Society leveled the charges and is seeking to forbid any periodicals which promote animal fighting.

So is it legal to send money abroad to further cockfighting in another country? I think so. Foreign commerce must involve the shipment of items to the USA or from the USA. In the Kiva cockfighting case, no such movement occurred. Sure, a Peruvian MFI staff member promoted a cockfighting venture on a website served up in the USA. Sure, funds flowed from PayPal accounts of lenders in the USA. However, no items were shipped. Thus, if we take the Animal Welfare Act as our guide, it seems pretty clear that Kiva did not run afoul of the law.

"Never lead with legal." That's a phrase I've heard a few times lately and I think it's right. Strategy should guide decisions with the law being a critical filter for approving such decisions. The fact that we can get away with cockfighting loans on our site shouldn't be the key driver of our decision whether to allow them in the future.

The real question is whether or not permitting these loans is a good strategic choice. In particular, does this somehow help Kiva achieve its mission of connecting people to alleviate poverty? It's debatable. I think that allowing our partner to decide which loans to post without much interference is a good thing. We can be paternalistic when we start imposing our moral framework upon societies half a world away. Cockfighting in Peru is legal and part of a rich cultural tradition. It may not be humane or palatable from a Western perspective, but that misses the point. Kiva, the organization, should not be making those decisions. Our lenders should be the ones voting with their dollars.

We've had tobacco farms, butchers, and taxi cab loans on the site. For these and more, our lenders have complained. I understand their disgust most of the time. Still, I also understand that Seitan is not such a hot commodity in Uganda and that the Prius is not the most practical option in Bulgaria.

A word of caution: Don't even consider promoting or sponsoring a cockfight in the USA. Especially don't try to transport anything related to the fight from a state to state or out of the country. Also, don't buy cockfighting magazines. Also, don't spend too much time thinking about cockfighting. To be honest, you are best to stay away from the subject entirely. I know it has wasted a lot of my time!

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Thanks for taking the time to research this and share your thoughts, Matt! I know there's lots of things I'd rather be doing than researching comparative law in relation to cockfighting, but maybe that's just me :)

Line in the sand

Is there any particular business type that would be simply too controversial for Kiva even if it is considered legal in the respective country? An obvious example would be prostitution where it is legal. If so, does your organization have a policy outlining these delineations?

kiva in mexico

I am a Mexican young person, I have investigated in the project of kiva, 8 years ago me a tree friends have de opportunity of forming a foundation, this foundation have de objective to construct houses in communities of extreme poverty. I have the possibility of investing in a project like the one of you in Mexico, but we can put together force and knowledge the project could be more interesting and big. I will like to have a meeting with you to present my proyect and see what could we do together, i have de possibility to make a trip to your office any time. This could change the lifes of many mexican, please answer this, this was the only way i can comunicate with you. my email is tgebara@crecer.com.mx

thank you for the time.