



Esports Laws of the World

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Introduction

DLA Piper's Esports Laws of the World is the result of fantastic teamwork with our colleagues worldwide, which shows the commitment of our firm to provide our clients with innovative tools to support their business.

The esports market has been booming over the last few years, but unfortunately, or fortunately, in some cases, regulations have not been able to catch up. Gambling, sports, and prize promotion/advertising rules might apply to esports events, impose restrictions or grant exemptions, depending on how and where they are organized. There are indeed a number of variables. Is the esports tournament online or land-based? Is a country recognizing esports as an official sport? Can any type of prize be awarded to participants? What are the technical requirements to be complied with? And what is the actual risk of local penalties?

At the same time, there are several different actors in the esports market. From event organizers to media companies, including online platforms, to sponsors and video game publishers which have different roles, responsibilities, and the need to preserve and maximize their profits and exploitation rights. Even stringent contracts and corporate structures might not be enforceable if in contrast with local laws, endangering the profitability of the entire investment.

And the same issues arise in contracting players. These might be players who could become extremely popular in quite a short period of time also through online streaming platforms and channels of communications that are rapidly changing. As such, the appropriate contracting of their services is paramount to avoid subsequent challenges.

DLA Piper Esports Laws of the World is not meant to give a comprehensive review of all the laws affecting esports worldwide, and it should not be considered as a replacement of legal advice. It should be noted that regulation in this area is constantly changing and we expect to regularly update the guide, and ensure that it is responsive to clients' requests and feedback.

We aim to provide a guide that will be able to help flag potential issues and possible solutions. They will be then deeply assessed with the primary contact of the relevant jurisdiction indicated in the guide, so that potential risks are adequately tackled and opportunities can be taken.



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Argentina

Governing law

What are the main applicable governing laws, sports laws or codes for esports (if any)?

With regard to the applicability of gambling laws:

There is no comprehensive regulation of esports in Argentina. At the federal level, the Criminal Code – article 301 bis – provides penalties for those who exploit or organize games of chance without the appropriate legal authorization. However, under Argentina's constitutional system, the regulation of esports falls within the jurisdiction of the different provinces, several of which have issued laws on the matter. For example, the province of Buenos Aires has enacted Law 15,079 which regulates gambling on online games, including those based on the ability of the players as well as those based on pure chance.

With regard to the applicability of prize promotion regulations to esports activities:

Decree 274 of 2019 prohibits the offer of participation in games of chance, where such participation is subject to a condition that certain goods or services must be purchased by the participant. This prohibition extends to online games.

With regard to the advertisement of esports related activities:

The relevant provincial laws and regulations include restrictions on advertisements related to unauthorized esports. These restrictions are generally applicable if the advertisement is directed at customers located in the relevant province.

In addition, the federal rules on advertisements – particularly Decree 274 of 2019 – may apply to the

advertising of esports related activities, especially if such advertisement is misleading, false or otherwise implies unfair competition.

With regard to the protection of intellectual property rights as part of esports activities:

Argentine intellectual property rights are fully applicable to esports. The reach of such rights depends on the type of right involved. The Patent Law expressly regulates the types of conduct where the effects in Argentina constitute a violation of Argentine patents. In the case of copyright, the principle of protection, based on the Berne Convention, is generally applicable, and protection will thus extend to conduct taking place within Argentina or specifically directed to the Argentine market. The Trademark Law does not include express rules on the matter, but generally it will be applicable when trademark use takes place in Argentina or when marketing is specifically directed to the Argentine market.

With regard to the processing of personal data as part of esports activities:

The Personal Data Protection Law – Law 25,326 – and its regulations are fully applicable to esports activities. In particular, these rules would be applicable to personal data obtained in connection with persons located within the Argentine territory.

Extra-territoriality

Are national laws enforceable against entities operating abroad?

Argentine laws may be enforceable against entities operating abroad. However, the possibility of extraterritorial enforceability differs depending on the type of law involved. Punitive laws, such as Article 301 bis of the Criminal Code, on illegal gambling, apply to

conduct taking place in Argentine or having effects in Argentina such that these effects are the constituent elements of a criminal violation. Similar rules on extraterritoriality are applicable to regulatory statutes. Intellectual property laws are applied extraterritorially on the basis of the principle of protection, pursuant to which the different intellectual property statutes or the case law developed under such statutes determine the international reach of the intellectual property right governed by the relevant statute.

Argentine courts will generally not directly apply their jurisdictional power extraterritorially; rather, they will act through the relevant foreign courts, as provided by applicable treaties or by the general rules on international judicial cooperation.

Technical requirements of esports tournaments

Do videogames need any certification to be used as part of esports tournaments?

There is no general certification requirement for videogames. However, under certain provincial statutes, videogames which imply the possibility of bets or gambling are subject to license requirements.

Sponsorship of esports tournaments

Are particular requirements applicable to sponsorship agreements relating to esports tournaments?

Sponsorship of esports tournaments is legal provided it complies with the general rules on advertising. However, if the esports tournament involved is illegal, the sponsor may be subject to the penalties applicable to the organizers of the tournament, if the sponsor has made the tournament possible or has otherwise facilitated or encouraged the illegal activities involved in such tournament.

Participation in esports tournaments

Can players pay any price to participate in esports tournaments?

The payment of a price to participate in an esports tournament is generally legal. However, if the tournament offers prizes or other payments to participants, the organization of such tournaments may be subject to the provincial regulations applicable to esports, which may require special licenses for the organization or offer of the tournament.

Selection of participants

Is it possible to place any restrictions to the players that can participate in an esports tournament?

Selection of participants is possible if it is based on non-discriminatory criteria. Some provincial regulations restrict the access of minors to esports.

Contracting esports players

Are there particular requirements for T&Cs of esports tournaments?

T&Cs of esports tournament have to comply with several sets of legal requirements, namely:

- Requirements imposed by provincial regulations applicable to esports;
- General requirements imposed by the Civil and Commercial Code;
- Requirements applicable under consumer protection rules; and
- Requirements on false or misleading advertisements.

Selection of winners

Are there any requirements for the selection of winners and award of prizes for esports tournaments?

The selection of winners and the award of prizes must comply with the rules of the tournament informed by the organizers. Violation of these rules may constitute a contractual breach, a violation of the provincial regulations on esports and, under certain circumstances, criminal fraud.

Sanctions against players

Can esports tournament organizers impose sanctions against players involved in match-fixing, corruption or illegal gambling during a tournament?

These sanctions may be imposed if they were foreseen in the contractual or other rules governing the tournament.

Prizes of esports tournaments

Is there any restriction on the type of prizes that can be awarded as part of esports tournaments?

If the prize is significant, whether in cash or otherwise, the tournament may be classified as a form of gambling and governed by the provincial and other rules applicable to gambling.

Online vs. offline esports tournaments

Are different regulations applicable to online esports tournaments compared to land-based esports tournament?

Several provinces have enacted special regulation applicable to esports. These regulations generally require special licenses for the marketing of esports reaching participants in such provinces. The provinces also have special regulations for certain offline sports, which are generally inapplicable to esports.

Other local requirements

Are there any other key local requirements?

The organization or exploitation of esports requires, under the laws of several provinces, special licenses granted by local authorities. This may require participation in a bidding process.

In addition, payments made for the participation in esports are subject to special tax rules, and may be subject to withholdings.

Timing

Is there the need to comply with specific timing to ensure compliance (other than reviewing the terms and conditions)?

In the jurisdictions in which esports are especially regulated, and in which licenses are required, the license must normally be obtained before any activity governed by the relevant regulations takes place.

Translations

Are the terms of the esports tournament required to be translated by law?

The rules on consumer protection and advertising may require that the terms of tournaments whose participants qualify as consumers should be in Spanish. A similar requirement may be applicable under the provincial regulations on on-line gambling.

Penalties for non-compliance

What are the penalties for non-compliance?

The penalty for illegal gambling, under Article 301 bis of the Criminal Code is imprisonment for a term ranging between 3 months and 6 years. In addition, non-compliance with the provincial regulations on esports may result in fines which vary depending on the province involved.

Key contact



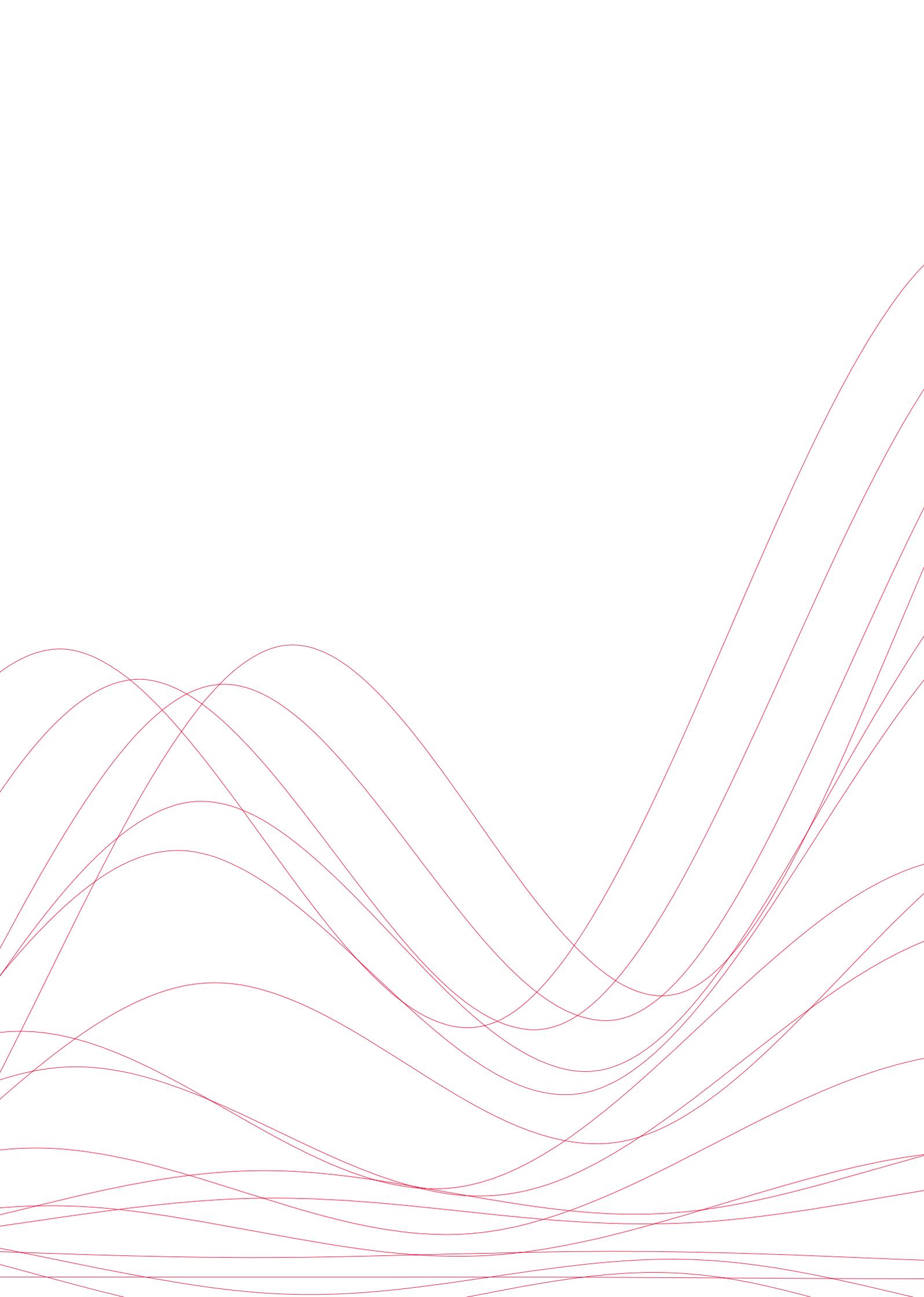
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Australia

Governing law

What are the main applicable governing laws, sports laws or codes for esports (if any)?

With regard to the applicability of gambling laws:

In Australia, gambling is governed by Federal, State and Territory legislation. As a general rule, skill games (with no element of chance) are not classified as a

gambling activity and as such are not regulated under the relevant gambling laws. The only jurisdiction in which esports have been specifically designated under the gambling legislation is the Northern Territory.

For completeness, below is the legislation relevant to gambling generally in each Australian jurisdiction, but noting that most of these don't appear to apply to esports at present:

NAME	
Commonwealth	<ul style="list-style-type: none"> • <i>Interactive Gambling Act 2001 (Cth)</i> • <i>Broadcasting Services Act 1992 (Cth)</i> • <i>Broadcasting Services (Online Content Service Provider Rules) 2018 (Cth)</i>
Victoria	<ul style="list-style-type: none"> • <i>Gambling Regulation Act 2003 (Vic)</i> • <i>Crimes Act 1958 (Vic) s 195C</i>
New South Wales	<ul style="list-style-type: none"> • <i>Unlawful Gambling Act 1998 (NSW) s 5(1)(a)</i> • <i>Betting and Racing Act 1998 (NSW)</i>
Queensland	<ul style="list-style-type: none"> • <i>Wagering Act 1998 (Qld)</i> • <i>Interactive Gambling (Player Protection) Act 1998 (Qld)</i> • <i>Criminal Code (QLD) s 230A</i>
ACT	<ul style="list-style-type: none"> • <i>Interactive Gambling Act 1998 (ACT)</i> • <i>Unlawful Gambling Act 2009 (ACT)</i> • <i>Racing and Sports Bookmaking Act 2001 (ACT)</i> • <i>Unlawful Gambling Act 2009 (ACT) s 7(1)(a)</i>
South Australia	<ul style="list-style-type: none"> • <i>Authorised Betting Operations Act 2000 (SA)</i> • <i>Lottery and Gaming Act 1936 (SA) s 59</i>
Tasmania	<ul style="list-style-type: none"> • <i>Gaming Control Act 1993 (Tas)</i>
Western Australia	<ul style="list-style-type: none"> • <i>Betting Control Act 1954 (WA)</i> • <i>Bookmakers Betting Levy Act 1954 (WA)</i> • <i>Gaming and Wagering Commission Act 1987 (WA) s 42(1), 42(2), 42(3)(b)</i>
Northern Territory	<ul style="list-style-type: none"> • <i>Unlawful Betting Act 1989 (NT)</i> • In the Northern Territory, esports official tournaments or competitions are a 'declared sport' for the purposes of bookmaking licences. This is the only jurisdiction in Australia to make such a declaration so far • <i>Gaming Control Act 1993 (NT) s 54(1)</i>

With regard to the applicability of prize promotion regulations to esports activities:

In Australia, prize promotions are governed by Commonwealth, State and Territory legislation.

Games of skill do not require licenses and are generally unregulated across all Australian jurisdictions.

The laws and regulations that apply to a prize promotion for a game of chance will depend on where the prize promotion is advertised and made available to entrants. If a prize promotion is to be advertised nationally, the promoter will need to comply with the laws and regulations in each State and Territory.

NAME	
Commonwealth	<ul style="list-style-type: none"> • <i>Australian Consumer Law, set out in Schedule 2 of the Competition and Consumer Act 2010 (Cth)</i> • <i>Privacy Act 1988 (Cth)</i> • <i>Spam Act 2003 (Cth)</i> • <i>Do Not Call Register Act 2006 (Cth)</i>
ACT	<ul style="list-style-type: none"> • <i>Lotteries Act 1964 (ACT)</i> • <i>Gambling and Racing Control (Code of Practice) Regulation 2002 (ACT)</i>
New South Wales	<ul style="list-style-type: none"> • <i>Lotteries and Art Unions Act 1901 no 34 (NSW)</i> • <i>Licensing and Registration (Uniform Procedures) Act 2002 (NSW)</i> • <i>Lotteries and Art Unions Regulation 2007 (NSW)</i>
Northern Territory	<ul style="list-style-type: none"> • <i>Gaming Control Act 2000 (NT)</i> • <i>Gaming Control (Community Gaming) Regulations 2011 (NT)</i> • <i>Northern Territory Code of Practice for Responsible Gambling</i>
Queensland	<ul style="list-style-type: none"> • <i>Charitable and Non-Profit Gaming Act 1999 (Qld)</i>
South Australia	<ul style="list-style-type: none"> • <i>Lottery and Gaming Act 1936 (SA)</i> • <i>Lottery and Gaming Regulations 2008 (SA)</i>
Tasmania	<ul style="list-style-type: none"> • <i>Gaming Control Act 1993 (Tas)</i> • <i>Gaming Control Regulations 2004 (Tas)</i>
Victoria	<ul style="list-style-type: none"> • <i>Gambling Regulation Act 2003 (Vic)</i> • <i>Gambling Regulation Regulations 2005 (Vic)</i> • <i>Gambling Regulation Amendment Regulations 2012 (Vic)</i>
Western Australia	<ul style="list-style-type: none"> • <i>Gaming and Wagering Commission Act 1987 (WA)</i> • <i>Gaming and Wagering Commission Regulations 1988 (WA)</i>

With regard to the advertisement of esports related activities:

In Australia, advertising is governed by Commonwealth, State and Territory legislation.

NAME	
Commonwealth	<ul style="list-style-type: none"> • <i>Australian Consumer Law in the Competition and Consumer Act 2010 (Cth)</i> • <i>Spam Act 2003 (Cth)</i> • <i>Interactive Gambling Act 2001 (Cth)</i> • <i>Telecommunications Act 1997 (Cth)</i> • <i>Telecommunications (Consumer Protection and Service Standards) Act 1999 (Cth)</i> • <i>Broadcasting Services Act 1992 (Cth)</i> • <i>Radiocommunications Act 1992 (Cth)</i> • <i>Broadcasting Services (Online Content Service Provider Rules) 2018 (Cth)</i> • <i>Australian Association of National Advertisers (AANA) Code of Ethics</i> • <i>AANA Wagering Advertising & Marketing Communication Code</i> • <i>AANA Code For Advertising & Marketing Communications To Children</i>
<i>Classification (Publications, Films and Computer Games) Act 1995 (Cth)</i> and related Enforcements Acts in each Australian State and Territory , as follows:	<ul style="list-style-type: none"> • <i>Classification (Publications, Films and Computer Games) (Enforcement) Act 1995 (ACT)</i> • <i>Classification of Publications, Films and Computer Games Act 1995 (NT)</i> • <i>Classification (Publications, Films and Computer Games) Enforcement Act 1995 (NSW)</i> • <i>Classification of Computer Games and Images Act 1995 (Qld)</i> • <i>Classification (Publications, Films and Computer Games) Enforcement Act 1995 (Tas)</i> • <i>Classification (Publications, Films and Computer Games) Act 1995 (SA)</i> • <i>Classification (Publications, Films and Computer Games) (Enforcement) Act 1995 (Vic)</i> • <i>Classification (Publications, Films and Computer Games) Enforcement Act 1996 (WA)</i>

In addition to the above, each Australian State and Territory has legislation/regulations in place relating to the advertising of gambling, for example:

NAME
<ul style="list-style-type: none"> • <i>Gambling and Racing Control (Code of Practice) Regulation 2002 (ACT)</i> • <i>Gaming Control Act 1993 (NT)</i> • <i>Betting and Racing Act 1998 (NSW)</i> • <i>Gaming Machine Act 1991 (Qld)</i> • <i>Gaming Control Act 1993 (Tas)</i> • <i>Independent Gambling Authority Act 1995 (SA)</i> • <i>Gambling Regulation Act 2003 (Vic)</i> • <i>Gaming and Wagering Commission Act 1987 (WA)</i>

With regard to the protection of intellectual property rights as part of esports activities:

There is no legislation that applies **only** to the intellectual property rights in or related to esports. The relevant Australian statutes in respect of intellectual property (including those used in or in relation to esports) are:

NAME
<ul style="list-style-type: none"> • <i>Copyright Act 1968 (Cth)</i> – setting out Australian law on copyright and related rights • <i>Patent Act 1990 (Cth)</i> – setting out Australian law on patent and related rights • <i>Trade Mark 1995 (Cth)</i> – setting out Australian law on trade mark and related rights

Of these, the Copyright Act is likely to be the most relevant, as different elements of the game may be protected by copyright (e.g. player names, team names and logos, character images, soundtrack, etc.) and the broadcast of the tournament will be protected by copyright also.

With regard to the processing of personal data as part of esports activities:

Australia regulates data privacy and protection through a mix of federal, state and territory laws. The Federal Privacy Act 1988 (Cth) ("**Privacy Act**") and its Australian Privacy Principles (APPs) apply to private sector entities with an annual turnover of at least AU\$3,000,000, and all Commonwealth Government and Australian Capital Territory Government agencies.

Under the Privacy Act, the Privacy Commissioner has authority to conduct investigations, including own motion investigations, to enforce the Privacy Act and seek civil penalties for serious and egregious breaches or for repeated breaches of the APPs where an entity has failed to implement remedial efforts.

Most States and Territories in Australia (except Western Australia and South Australia) have their own data protection legislation applicable to State government agencies, and private businesses that interact with State government agencies.

Extra-territoriality

Are national laws enforceable against entities operating abroad?

The laws and codes relating to prize promotion apply where a prize promotion is advertised to, or entry is otherwise available to, persons located in the relevant State or Territory, regardless of where the promoter is based.

In terms of gambling laws, the *Interactive Gambling Act 2001* (Cth) specifically extends its application to companies located overseas which provide or advertise interactive gambling services to Australian customers.

Australia's intellectual property laws are enforceable against overseas entities where the infringing conduct takes place in Australia and in some cases where the conduct takes place outside Australia but is targeted at Australia (e.g. websites where costs are displayed in AU\$ or where the foreign conduct is advertised to Australia specifically).

Technical requirements of esports tournaments

Do videogames need any certification to be used as part of esports tournaments?

There is no dedicated certification for the usage of video games in esports tournaments, apart from the certifications necessary for their sale and exhibition to the public, such as those provided by the *Classification (Publications, Films and Computer Games) Act 1995* (Cth) (the "**Commonwealth Classification Act**").

The Australian classification system is a cooperative scheme between all Australian States and Territories, with each State and Territory having a Classification Enforcement Act to ensure compliance with the Commonwealth Classification Act. The Enforcement Acts set out how computer games can be sold, hired, exhibited and advertised in each State and Territory. The Classification Board makes classification decisions about computer games under the Classification Act, and under the *Broadcasting Services Act* for internet content.

An esports tournament may need to be registered under the Commonwealth Classification Act if it wholly or mainly involves or relates to the "demonstration of computer games". The tournament must comply with restrictions under both the Commonwealth Classification Act and the *Classification (Publications, Films and Computer Games) (Conditional Cultural Exemption Rules) Instrument*, though it is possible to apply for a variation of the relevant requirements.

Furthermore, if esports tournaments are subject to gambling or prize promotion regulations, a certification may be necessary depending on the activities to be undertaken and the regulatory regime of the relevant State or Territory.

Sponsorship of esports tournaments

Are particular requirements applicable to sponsorship agreements relating to esports tournaments?

There are no specific rules applicable to sponsorship agreements for esports tournaments.

Tobacco sponsorship and advertising in Australian sport is prohibited under the *Tobacco Advertising Prohibition Act 1992* (Cth).

A number of other industries, including alcohol, food and beverage, and gambling have voluntary industry codes of practice that apply to limit advertising, which includes sponsorship of sporting events.

Participation in esports tournaments

Can players pay any price to participate in esports tournaments?

There is no legislation currently regulating this issue.

Selection of participants

Is it possible to place any restriction to the players that can participate in an esports tournament?

Yes, provided such restrictions are reasonable and non-discriminatory. The relevant terms and conditions of entry must also clearly set out any eligibility requirements for participation in the esports tournaments.

Esports tournaments that involve games with age ratings (e.g. shooting or combat games) should restrict players from competing or spectating if they are under the minimum age set by the Australian Classification Board.

Organisers of esports tournaments should keep in mind age restrictions relevant to the classification of the games to be played under the Commonwealth Classification Act.

Contracting esports players

Are there particular requirements for T&Cs of esports tournaments?

The terms and conditions of esports tournaments are bound by Australia's national consumer law, known as the Australian Consumer Law ("ACL"), included in Schedule 2 of the Competition and Consumer Act 2010 (Cth). Under s 18 of the ACL, an entity can be held liable for misleading and deceptive conduct if the terms and conditions are not clearly explained and displayed to a customer. To avoid this, the conditions of the tournament must be prepared prior to its commencement and be clearly displayed for all participants to see during the course of the event. The tournament must be conducted in accordance with those conditions.

Selection of winners

Are there any requirements for the selection of winners and award of prizes for esports tournaments?

No. However, the relevant terms and conditions of entry must clearly set out how winners are determined and prizes will be awarded, to ensure that entrants are not misled. Further, depending on the nature of the prizes awarded, certain laws and regulations may apply (see below).

Sanctions against players

Can esports tournament organizers impose sanctions against players involved in match-fixing, corruption or illegal gambling during a tournament?

Organizers can only enforce contractual provisions set out by the T&Cs of the relevant tournament.

Prizes of esports tournaments

Is there any restriction on the type of prizes that can be awarded as part of esports tournaments?

No, subject to the following comments.

Assuming that esports tournaments do not involve any element of chance in the determination of winners, they would not be regulated by, or subject to, prize restrictions under Australian trade promotion laws.

Practically, organisers of esports tournaments should explicitly state that their tournament is a "game of skill" in advertising/marketing collateral and the relevant terms and conditions of entry, to ensure that these requirements are not enlivened.

The following general considerations also apply:

- prizes should be awarded as they are advertised and described in the tournament's terms and conditions of entry, to ensure that entrants are not misled, such as for travel prizes where all relevant details should be disclosed (destination, class of travel, name of accommodation, duration etc.);
- where goods or services are awarded as a prize e.g. gaming accessories, they will be subject to standard consumer guarantees that apply under the Australian Consumer Law; and

- where an age or other restriction applies under State or Commonwealth law that would prevent an individual from procuring a prize, organisers should ensure that prizes comply with these restrictions e.g. tobacco products, firearms/ammunition, explosives, weapons, regulated health services such as cosmetics and liquor, among others.

There are some types of prizes that are prohibited in particular States and Territories, which should be checked depending upon the location of any tournament.

Online vs. offline esports tournaments

Are different regulations applicable to online esports tournaments compared to land-based esports tournaments?

Online esports tournaments may be subject to the *Interactive Gambling Act 2001* (Cth).

Other local requirements

Are there any other key local requirements?

The applicability of gambling laws is the main consideration for esports tournament organisers. This will vary from event to event, as each game requires a varying degree of skill, and each State or Territory has different laws surrounding the types of games that are classified as gambling and are therefore unlawful without a permit.

If a game involves any element of chance (e.g. the ability to pick up "loot boxes") it would be advisable to seek local advice regarding the possible applicability of Australian trade promotion laws before proceeding with an esports tournament.

Esports are a growing market for traditional betting agencies, where customers can bet on the outcome of specific esports matches or tournaments. In this regard, esports competitors are treated in the same ways as competitors in traditional sports, with match-fixing considered a criminal offence in Australia.

There are no specific laws relating to live esports tournaments. However, any event which involves a large number of people in a venue may require local permits for use of the space, advertising in public spaces or the broadcast/playing of music or other media at the venue, among others.

Finally, as Australia's laws in relation to esports are yet to mature (for example the Australian esports Association has a draft Code of Conduct that has yet to be finalised) it is likely that there will be key changes to the local requirements for esports in the next few years, so local advice on the current requirements will be essential prior to conducting a tournament.

Timing

Is there the need to comply with specific timing to ensure compliance (other than reviewing the terms and conditions)?

There are no specific timings to comply with. However, where applicable, organisers will need to ensure that the appropriate permits or approvals have been obtained prior to the esports tournament.

Translations

Are the terms of the esports tournament required to be translated by law?

All terms must be available in English.

Penalties for non-compliance

What are the penalties for non-compliance?

Penalties for breaching gambling laws or "unlawful" games regulations range from a fine (50 – 200 penalty units) to imprisonment (6 – 24 months), depending on the specific breach of law and Australian State or Territory.

Failure to obtain relevant permits may result in fines as determined by the relevant local authorities.

Under the ACL, penalties for misleading and deceptive conduct can amount to the greater of: AU\$10 million, three times the value of the benefit received by the company (including any affiliates) from the offence that led to the penalty; or if the benefit cannot be determined by the court, then 10% of the annual turnover of the company in the past 12 months (calculated as the 12 month period ending at the month in which the company committed or began committing the offence). The maximum penalty for an individual is AU\$500,000.

For breaches of intellectual property laws the penalties can include: (i) an injunction to prevent further breaches, (ii) damages (the financial loss to the rights holder) or an account of profits (the net profit made by the infringer, and (iii) additional (punitive) damages if the conduct is flagrant.

Under the *Spam Act 2003* (Cth), the maximum fine for a company with no prior record is AU\$110,000 for a single offence, or AU\$220,000 where two or more contraventions occur on one day. If the company contravenes the same provision again, it may be liable to pay up to AU\$1,100,000 a day.

Under the Commonwealth gambling legislation, criminal penalties of up to AU\$1,050,000 for an individual or AU\$5,250,000 for a corporation apply as well as civil penalties of up to AU\$1,575,000 for an individual or AU\$7,900,000 for a corporation.

A breach of the various State *Gambling Acts* can also attract criminal sanctions.

Key contacts

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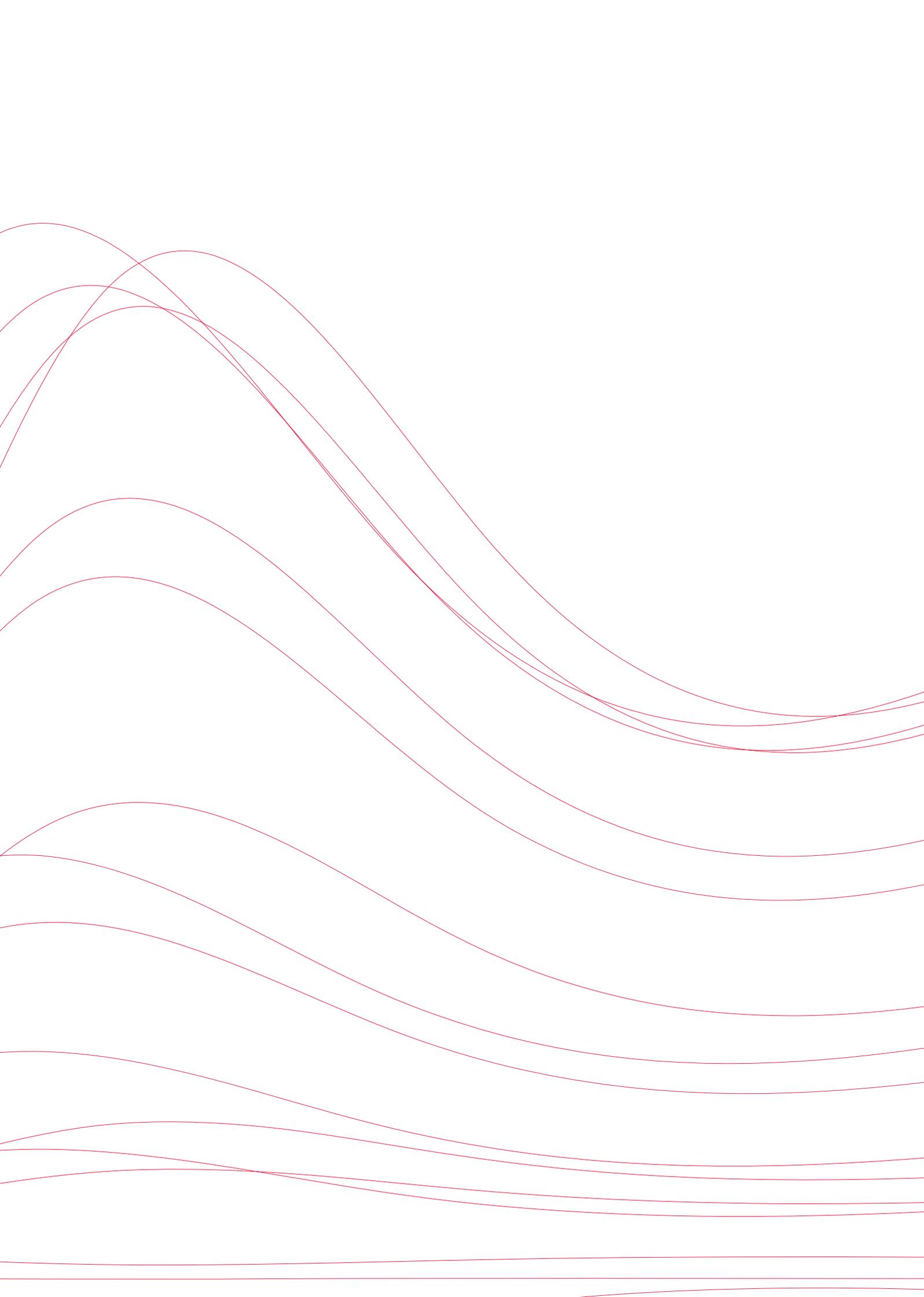
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Austria

Governing law

What are the main applicable governing laws, sports laws or codes for esports (if any)?

With regard to the applicability of gambling laws:

NAME
Austrian Gambling Act (<i>Glücksspielgesetz</i> – Federal Gazette No. 620/1989, as amended by the Federal Gazette 62/2019) providing for the monopoly of the federal state legislator for the organization and exercise of games of luck
Austrian Criminal Code (<i>Strafgesetzbuch</i> – Federal Gazette No. 60/1974, as amended by the Federal Gazette 70/2018), in particular Section 168 (1) providing criminal sanctions for the illegal offering of gambling activities

With regard to the applicability of prize promotion regulations to esports activities:

NAME
Austrian E-Commerce Act (<i>E-Commerce-Gesetz</i> – Federal Gazette No. 152/2001, as amended by the Federal Gazette No. 34/2015) (relevant where prize promotions are offered online).
Austrian Gambling Act (<i>Glücksspielgesetz</i> – Federal Gazette No. 620/1989, as amended by the Federal Gazette 62/2019) providing for the monopoly of the federal state legislator for the organization and exercise of games of luck
Austrian Criminal Code (<i>Strafgesetzbuch</i> – Federal Gazette No. 60/1974, as amended by the Federal Gazette 70/2018), in particular Section 168 (1) providing criminal sanctions for the illegal offering of gambling activities

With regard to the advertisement of esports related activities:

NAME
Austrian Consumer Protection Act (<i>Konsumentenschutzgesetz</i> – Federal Gazette No. 140/1979, as amended by the Federal Gazette No. 58/2018)
Austrian Unfair Competition Act (<i>Gesetz zum unlauteren Wettbewerb</i> – Federal Gazette No. 448/1984, as amended by the Federal Gazette No. 109/2018)
Austrian Audiovisual Media Services Act (<i>Audiovisuelle Mediendienste-Gesetz</i> – Federal Gazette 84/2001, as amended by the Federal Gazette 86/2015)

With regard to the protection of intellectual property rights as part of esports activities:

NAME

Austrian Copy Right Act (*Urheberrechtsgesetz* – Federal Gazette BGBl 111/1936, as amended by Federal Gazette No. 105/2015), setting out Austrian law on copyright and connected rights as well as user licences.

With regard to the processing of personal data as part of esports activities:

NAME

Regulation (EU) 2016/679 (GDPR) on the protection of data of natural persons with regard to collecting, processing and free movement

Austrian Data Protection Act (*Datenschutzgesetz* – Federal Gazette No. 165/1999, as amended by the Federal Gazette No. 14/2019)

Extra-territoriality

Are national laws enforceable against entities operating abroad?

Entities operating abroad shall comply with Austrian law in cases of esports events either situated and organized in Austria or addressed to Austrian players and/or consumers, even if they are also open to players/and or consumers of other jurisdictions.

There is no case law on this matter. However, Austrian law governing the set-up of an esports event is applicable in case such event is carried out in Austria or at least targets the Austrian market. Furthermore, the courts will apply and enforce domestic provisions in relation to prize promotions which are published on foreign media, but directed at the domestic public, especially if published on the internet.

The applicability of Austrian law can lead to significant obligations under administrative law, tax law or consumer and youth protection regulations.

Technical requirements of esports tournaments

Do videogames need any certification to be used as part of esports tournaments?

Esports tournaments are not specifically regulated by Austrian law. Therefore, there is no dedicated certification for the usage of video games in esports tournaments on a federal law level.

However, if an esports event is to be organized and carried out in Austria, the state-specific laws must be observed. On a state law level the Pan-European Game Information Certification requirements (“**PEGI**”) for video

games for the state of Vienna and Corinthia and the entertainment software self-control certification (“**ESC**”) requirements for video games in the state of Salzburg are applicable.

When organizing an esports event, the certification regulations of the respective state in which the esports event is carried out should therefore be assessed and taken into account.

Sponsorship of esports tournaments

Are particular requirements applicable to sponsorship agreements relating to esports tournaments?

There are no specific requirements applicable to sponsorship agreements for esports tournaments. In general, statements or symbols of any kind related to direct or indirect sponsorship are subject to the principles of truth and fairness under competition law.

Otherwise the sponsorship agreements will be governed by the general Austrian civil law.

Participation in esports tournaments

Can players pay any price to participate in esports tournaments?

There are no requirements or regulations specifically addressing sponsorship agreements for esports tournaments.

However, in case the participants are obliged to pay an entry fee, the prize promotion shall be based on skills and not chance. Any obligation to pay an entry fee to participate and where prize promotions

rely on chance to a certain degree might trigger the licensing requirements under the Austrian Gambling Act.

Therefore, agreements with players and tournament provisions need to be structured to avoid the risk of licensing under the Austrian Gambling Act.

Selection of participants

Is it possible to place any restriction to the players that can participate in an esports tournament?

There are no requirements or applicable regulations regarding the participation restrictions. In general, the criteria for selecting participants needs to be fair, objective, transparent and non-discriminatory.

Depending on the game and the Austrian state in which the esports event is taking place, the state regulations on youth protection (*Jugendschutzgesetz*) might apply. Such regulations typically refer to obligations on the host organizing the event and may contain specific age limitations (also in connection with PEGI and ESC classifications). This may apply to the participating eAthletes as well as the spectators of the event.

Contracting esports players

Are there particular requirements for T&Cs of esports tournaments?

There are no particular requirements for T&Cs of esports tournaments under Austrian law. The Austrian Consumer Protection Act only provides general rules for Terms and Conditions and its applicability will depend on whether the eAthletes qualify as entrepreneurs or consumers in this context.

Selection of winners

Are there any requirements for the selection of winners and award of prizes for esports tournaments?

The conditions for both skills competitions and prize draws, including the award of prizes, must be transparent to the participants.

The applicable laws on prize promotions do not include a provision regarding the selection of judges or judging for skill competitions. Nevertheless, the conditions for skill competitions and prize draws have to be transparent and easily accessible for participants.

Sanctions against players

Can esports tournament organizers impose sanctions against players involved in match-fixing, corruption or illegal gambling during a tournament?

Organizers may only enforce contractual provisions set out by the T&Cs of the tournament.

Prizes of esports tournaments

Is there any restriction on the type of prizes that can be awarded as part of esports tournaments?

There are no specific restrictions on the type of prizes to be awarded in an esports tournament. The prize may be awarded as cash or non-cash benefits.

If eAthletes are paying in cash to participate in an esports tournament which contains elements of chance and obtain a winning in cash or non-cash with economic value, there is a risk that the tournament might trigger licensing requirements under the Austrian Gambling Act.

Online vs. offline esports tournaments

Are different regulations applicable to online esports tournaments compared to land-based esports tournaments?

Each state in Austria provides specific event law regulations. In order to carry out a land-based esports event in Austria, the tournament's host must comply with such provisions by obtaining approval of or notifying the competent authority prior to realizing the event.

This may not apply for online esports tournaments, provided that there is no relevant nexus to Austria. Apart from that, there are no specific provisions regulating online eSport tournaments in Austria.

For online esports tournaments it is advisable to contact the competent authority beforehand in order to clarify whether approval requirements for the event are applicable.

Other local requirements

Are there any other key local requirements?

In Austria, esports is currently not recognized as a sport and therefore exemptions are not applicable. Additionally, there is no dedicated law regime applicable to esports.

As a consequence, a deeper review of the mechanics of esports tournaments is necessary to avoid challenges.

Timing

Is there the need to comply with specific timing to ensure compliance (other than reviewing the terms and conditions)?

It might be necessary to obtain a license under the respective state law in which the esports tournament shall be carried out. In such cases the license must be obtained before actually realizing the event.

Translations

Are the terms of the esports tournament required to be translated by law?

In cases of business-to-consumer T&Cs or other information to be provided to consumers the T&Cs or the other provided information must be in German

language. Furthermore, such provisions or materials must be transparent and must be easily accessible to the consumers.

In case of business-to-business T&Cs or other information provided to the business partner the use of German is recommended but not mandatory.

Penalties for non-compliance

What are the penalties for non-compliance?

According to Section 168 (1) of the Austrian Criminal Code, the organization of a game in which profits and losses exclusively or predominantly depend on chance or which is expressly prohibited may result in monetary fines of up to 360 times of the conducting person's average daily income or imprisonment of up to six months.

Section 52 of the Austrian Gambling Act provides for administrative penalties in cases of violation of the rules set forth therein. The monetary sanctions range from EUR 22,000 to EUR 60,000 for each offense.

Any violation of the Austrian provisions on unfair competition may be subject to damages or interim injunction or an injunction law suit.

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Belgium

Governing law

What are the main applicable governing laws, sports laws or codes for esports (if any)?

With regard to the applicability of gambling laws:

NAME
Act of 7 May 1999 on games of chance, bets, gaming establishments and the protection of players
Royal Decree of 4 May 2018 on games of chance about virtual sporting events in the fixed gaming establishments class IV
Royal Decree of 25 October 2018 on conditions for the operation of games of chance and betting by means of information society tools
Belgian Code of Economic Law, Book VI, concerning Consumer Protection and Market Practices
Articles 301, 302, 303 and 304 of the Belgian Penal Code, which sanction illegal gambling activities

With regard to the applicability of prize promotion regulations to esports activities:

NAME
Belgian Code of Economic Law, Book VI, concerning Consumer Protection and Market Practices

With regard to the advertisement of esports related activities:

NAME
Code of Economic Law, Book VI, concerning Consumer Protection and Market Practices
Royal Decree of 25 October 2018, on the procedures for operating games of chance and bets using information society instruments.

With regard to the protection of intellectual property rights as part of esports activities:

NAME
Code of Economic Law, Book XI, concerning Intellectual Property

With regard to the processing of personal data as part of esports activities:

NAME
Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data
Act of 30 July 2018 on the protection of natural persons with regard to the processing of personal data

Extra-territoriality

Are national laws enforceable against entities operating abroad?

The enforcement risk against foreign operators is rather high. Indeed, games of chance are heavily regulated and enforced by the Belgian Gaming Commission, including through actions against operators established abroad.

Technical requirements of esports tournaments

Do videogames need any certification to be used as part of esports tournaments?

There is no certification requirement for videogames under Belgian law. The certification of videogames is entirely voluntarily and based on self-regulation.

Sponsorship of esports tournaments

Are particular requirements applicable to sponsorship agreements relating to esports tournaments?

There are not any specific requirements applicable to sponsorship agreements for esports tournaments. The general rules on online advertisements for games of chance introduced by the Royal Decree of 25 October 2018 apply.

Participation in esports tournaments

Can players pay any price to participate in esports tournaments?

Article 2 of the Act of 7 May 1999 defines a game of chance as *“any game by which a stake of any kind is committed, the consequence of which is either loss of the stake by at least one of the players or a gain of any kind in favour of at least one of the players, or organisers of the game and in which chance is a factor, albeit ancillary, for the conduct of the game, determination of the winner*

or fixing of the gain”. This means that under Belgian law the constitutive elements of a game of chance are: a game, a stake which can be lost or won and chance.

The price that players need to pay to participate in an esports tournament may be qualified as a stake. If the other elements are also present, the esports tournament shall qualify as a game of chance. Pursuant to Article 4 § 1 of the Act of 7 May 1999, it is prohibited to exploit a game of chance or an establishment for games of chance without having first obtained a license from the Belgian Gaming Commission, regardless of the form, the place or the (direct or indirect) manner in which they are offered.

Selection of participants

Is it possible to place any restriction to the players that can participate in an esports tournament?

Criteria of selection of participants need to be objective, transparent, and non-discriminatory.

Contracting esports players

Are there particular requirements for T&Cs of esports tournaments?

There are no specific rules concerning the T&Cs of esports tournaments under Belgian law.

If the esports tournament is directed to consumers, the T&Cs should be drafted in accordance with Belgian consumer laws. Where the esports tournament only targets professional players, the rules on unfair commercial practices against other persons than consumers apply. The relevant legislation can be found in Book VI on market practices and consumer protection.

Additionally, the mechanics of the esports tournament shall be structured to avoid the applicability of gambling laws and shall, in any case, comply with data protection regulations and intellectual property laws.

Selection of winners

Are there any requirements for the selection of winners and award of prizes for esports tournaments?

There are currently no laws governing the selection of winners but it is strongly recommended to set out requirements (e.g. age) and restrictions in a terms and conditions document, especially as esports will often be played by young consumers (filing the terms and conditions with a notary public is not required by law).

There is no formal requirement to involve an external jury, judge or panel to select the winners, but doing so may decrease the risk of disputes afterwards.

Sanctions against players

Can esports tournament organizers impose sanctions against players involved in match-fixing, corruption or illegal gambling during a tournament?

Organizers can only enforce contractual provisions set out by the T&Cs of the tournament.

Prizes of esports tournaments

Is there any restriction on the type of prizes that can be awarded as part of esports tournaments?

Generally, none.

Online vs. offline esports tournaments

Are different regulations applicable to online esports tournaments compared to land-based esports tournaments?

Where the Belgian gambling laws apply, the online esports tournaments can fall under the online gambling licensing regime.

Other local requirements

Are there any other key local requirements?

In its report of 2017, the Belgian Gaming Commission has dedicated a section to bets on esports tournaments. Bets on the esports tournaments that do not qualify as a game of chance are considered as bets on events and not as bets on sport events. The consequence thereof is that the bets should be made in a class IV gaming establishments. Bets on sporting events, on the other hand, can also be made in other commercial undertakings, as long as they do not sell alcohol for consumption on site.

Bets on sporting events and on horse racing, as a sideline activity by newspaper traders, natural or legal persons, who are registered as commercial enterprises in the Crossroads Bank for Enterprises, as long as they are not accepted in places where alcoholic beverages are sold for consumption on the spot.

The Belgian legislator has also adopted a Royal Decree on virtual sporting events on 4 May 2018. Virtual sporting events are automatic games of chance of which the outcome is solely determined by a remote server.

Timing

Is there the need to comply with specific timing to ensure compliance (other than reviewing the terms and conditions)?

If the esports tournament qualifies as a game of chance, the organizer should obtain a license from the Belgian Gaming Commission. In addition, sufficient time should be set aside to deal with data protection issues (e.g. ensuring an appropriate privacy policy is in place and including appropriate tick box functionality for consents).

Translations

Are the terms of the esports tournament required to be translated by law?

Yes, Dutch and French language versions are required if the esports tournament targets consumers.

Penalties for non-compliance

What are the penalties for non-compliance?

In the case of unlawful operation of games of chance:

- For individuals: fines from €800 (approx. US\$896) to €800,000 (approx. US\$896,223) and/or imprisonment from 6 months to 5 years;
- For companies: fines from €24,000 (approx. US\$26,887) to €1,600,000 (approx. US\$1,792,450).

In the case of advertising, facilitating the operation or recruiting players for unlawful games of chance:

- For individuals: fines from €208 (approx. US\$233) to €200,000 (approx. US\$224,056) and/or imprisonment from 1 month to 3 years;
- For companies: fines from €4,000 (approx. US\$4,481) to €576,000 (approx. US\$645,281).

Finally, there is the possibility that the personal data processing aspects of the esports tournament could breach GDPR, which has maximum fines of up to the higher of:

- €20 million (approx. US\$22.4m); or
- 4% of the promoter's worldwide annual revenue.

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Brazil

Governing law

What are the main applicable governing laws, sports laws or codes for esports (if any)?

With regard to esports:

NAME
Bill of Law no. 383/2017 (Senate) provides for the recognition of esports as a valid category of sports.
Bill of Law no. 7747/2017 (Chamber of Deputies) provides for the recognition of esports as a valid category of sports.
Bill of Law no. 3450/2015 (Chamber of Deputies) provides for the recognition of esports as a valid category of sports.
Several Bills of Law in local states, such as the states of Rio de Janeiro (no. 319–2019 RJ), São Paulo (no. 1512–2015 SP) and Bahia (23334–2019 BA), for example
Federal Law no. 9,615/98 (“Lei Pelé”) provides for general rules on sports in Brazil

With regard to the applicability of gambling laws:

NAME
Criminal Misdemeanors Act Law No. 3,688/1941 (Lei de Contravenções Penais). In accordance to with this law, the practice of “games of chance is forbidden. Games of chance which are defined as (i) a game in which loosing or winning depends exclusively or mainly on the element of luck, (ii) bets on horses outside the racetrack or other places where such races are authorized, and (iii) bets over any other sports competition.
Federal Law No. 13.756/2018, recently enacted by the Brazilian government, authorizes the Ministry of Finance to elaborate on rules for licensing the exploration of sports betting in Brazil. This is still subject to further regulation.
Particularly in relation to poker games, Brazilian regulation is very inconsistent. There are court decisions which support that this game is considered a sport and, therefore, its practice would be allowed in Brazil under certain limitations, as well as court decisions that support that poker is a gambling game, which means that its practice would be prohibited in Brazil. In this sense, from a conservative perspective, we assume that poker is considered a gambling game and, therefore, its practice is subject to the provisions of the Criminal Misdemeanors Act.

With regard to the applicability of prize promotion regulations to esports activities:

NAME
Federal Law No. 5.768, of December 20, 1971 (‘First General Regulation on Promotions’)
Decree No. 70.951/72, of August 9, 1972 (‘Decree 70.951’) (provides specific regulations on Promotions)

NAME
Ordinance MF No. 41/2008, of February 19, 2008 ('Ordinance 41') Updated general regulation of promotions
Ordinance MF No. 422/2013 (related exclusively to Cultural Competitions)
Federal Law No. 13,756/2018, of December 18, 2018 (provides new regulations on Promotions – changes the competence to deal with matters relating to Promotions from CAIXA to SEFEL/MF)

With regard to the advertisement of esports related activities:

NAME
Federal Law no. 8,078/90 (the 'Consumer Protection Code')
Brazilian Code of Self-regulating Advertisement of the Advertisement Self-Regulatory Council (CONAR)

With regard to the protection of intellectual property rights as part of esports activities:

NAME
Federal Law no. 9,279/96 setting out Brazilian law on industrial property regulating, among others, trademarks and patents
Federal Law no. 9,610/98 setting out Brazilian law on copyright and connected rights

With regard to the processing of personal data as part of esports activities:

NAME
Federal Law 13,709/18 providing regulation on data protection in Brazil (LGPD).

Extra-territoriality

Are national laws enforceable against entities operating abroad?

The general presumption in Brazil is against the extraterritoriality of its laws – i.e. being understood that when a statute does not give a clear indication of extraterritorial application, it has none.

However, some Brazilian laws contain extraterritorial effects, such as the Brazilian General Data Protection Regulation ("LGPD"), which applies to personal data collected from individuals located in Brazil, to any data processing carried out in Brazil, and to the offering of goods and services to individuals located in Brazil.

The Consumer Protection Code also sets out grounds for any consumer relation with Brazilian consumers, whether it happens locally or through the internet. This law provides protective concepts related to consumer relations and rights, as well as obligations to service providers.

In this same sense, the Brazilian Internet Act (Federal Law no. 12,965/2014), aside from regulating the procedure and establishing standards for disclosure of

Internet metadata and private communications content, provides that internet service providers which are engaged in services offered to Brazilian consumers must abide by Brazilian law. This is the case for *"data collected in national territory and to the content of communications, when at least one of the terminals [devices] is located in Brazil"* and *"even if the activities are carried out by a foreign-based legal entity, provided that it offers services to the Brazilian public or at least one member of the same economic group has an establishment in Brazil"*.

Based on this, in general, entities operating abroad shall comply with Brazilian laws in case esports events are addressed to Brazilian competitors/consumers or takes place in Brazil.

Technical requirements of esports tournaments

Do videogames need any certification to be used as part of esports tournaments?

Firstly, it is important to highlight that esports are still not regulated in Brazil. Despite the existence of different bills of law aiming to recognize it as a modality of sports and regulate its operations, currently esports

tournaments in Brazil are usually operated and ruled by the publishers of the videogames, which owns the copyrights of the videogames.

Based on this, there is no specific certification for the usage of videogames in esports tournaments in Brazil, other than regular existing certifications for sale (such as age rating classification).

In general, the authority in charge of approving prize promotion operations in Brazil already recognize esports tournaments as a modality of sport and, therefore, not a contest subject to its analysis and certification. However, this should be assessed under each specific scenario for confirmation of the authority.

Sponsorship of esports tournaments

Are particular requirements applicable to sponsorship agreements relating to esports tournaments?

In general, Federal Law no. 11,438/2006, also known as the Law of Sports Incentive, provides that individuals and corporations can encourage sports, Olympics, Paralympics and other projects approved by the government through donations or sponsorships, in which a percentage may be deducted from the amount due to Income Tax. However, as esports tournaments are usually organized by self-sufficient private companies, it is unlikely that the sponsorship of such tournaments is granted by public authorities.

Furthermore, CONAR provides guidelines and orientations regarding advertisements and brand association, including some limitations in determined circumstances, such as in cases of brands of tobacco and alcoholic beverages, which shall not be associated with Olympic sports.

Participation in esports tournaments

Can players pay any price to participate in esports tournaments?

As esports tournaments are usually organized by the videogame publishers, at this point, there is no restriction for requesting the payment of participation fees from players and competitors.

Selection of participants

Is it possible to place any restriction to the players that can participate in an esports tournament?

Yes, there is no regulation restricting the autonomy of organizers to define the selection, participation and classification criteria of players and teams in a particular tournament.

In any case, it is recommended that the criteria for selection of participants are objective, transparent and clearly informed to participants.

Contracting esports players

Are there particular requirements for T&Cs of esports tournaments?

Existing legislation in Brazil is also silent in this regard in relation to esports tournaments. If intended for Brazilian consumers and participants, T&Cs shall be drafted in accordance with all applicable Brazilian laws (such as consumer and data protection laws, for example).

In case the esports tournament is eventually understood as a modality of contest, subject to the prize promotion regulations, then T&Cs shall be drafted also in accordance with the necessary information and applicable laws regarding promotions.

Selection of winners

Are there any requirements for the selection of winners and award of prizes for esports tournaments?

Requirements for the selection of winners and award of prizes are subject to general laws and are usually defined by the publishers/esports tournaments organizers.

Sanctions against players

Can esports tournament organizers impose sanctions against players involved in match-fixing, corruption or illegal gambling during a tournament?

Leading organizers of esports tournaments pre-define the rules for participation in a tournament under its regulation, which implies the provision of sanctions against players and teams whose behavior may be framed as unethical, anti fair play or illegal.

Prizes of esports tournaments

Is there any restriction on the type of prizes that can be awarded as part of esports tournaments?

As esports tournaments are generally not considered subject to prize promotion regulations, then no restriction on the type of prizes that can be awarded is provided by the current legislation.

In case prize promotion regulations are applicable, prizes would need to be restricted to the options provided by the law, including not being permitted to pay the prize in cash.

Online vs. offline esports tournaments

Are different regulations applicable to online esports tournaments compared to land-based esports tournaments?

In Brazil, due to the lack of regulations regarding esports tournaments, no distinction is provided by applicable laws in relation to online or land-based esports tournaments.

Other local requirements

Are there any other key local requirements?

As mentioned above, esports are currently not regulated in Brazil. Different bills of law are under discussion, both in federal and state spheres, yet not having support from the Brazilian esports community, which fears the bureaucratization of the tournaments and the practice of the sport. In general, private entities organizing the competitions are entitled to define the rules and practices of the esports tournaments in Brazil.

Based on this scenario, a case-by-case analysis of prospective esports tournaments is recommended to assess the intended mechanics and its compliance with the Brazilian requirements and local laws.

Timing

Is there the need to comply with specific timing to ensure compliance (other than reviewing the terms and conditions)?

Specific timing for the performance of contests applies only if they are subject to prize promotion regulations and the need to register the contest with the competent authority. In this case, the contest should be filed for authorization at least 40 days in advance of the intended initial date.

Translations

Are the terms of the esports tournament required to be translated by law?

Yes, under Brazilian law, documents need to be translated for Brazilian Portuguese.

Penalties for non-compliance

What are the penalties for non-compliance?

Infringement may arise in cases of misleading advertisements, consumer law violations, copyrights violations, prize promotion regulations breaches, etc. However, due to the lack of specific regulation, no explicit penalty is provided in this regard and possible penalties should be analyzed on a case-by-case scenario.

Key contacts



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Canada

Governing law

What are the main applicable governing laws, sports laws or codes for esports (if any)?

With regard to the applicability of gambling laws:

NAME

The *Criminal Code*, RSC, 1985, c C-46 (the "***Criminal Code***") provides criminal sanctions for lotteries and games of chance, with limited exceptions.

If conducted without a licence, an activity will result in criminal sanctions if all three of the following elements are present: (1) a contestant provides consideration to participate, (2) the game is one of chance or mixed chance and skill and (3) the contestant could win a prize of goods, wares or merchandise.¹ There is also a section of the *Criminal Code* that prohibits contests with a purchase requirement and a prize that exceeds the purchase requirement, regardless of chance.

Game of chance or mixed chance and skill: If the game is one of pure skill, then the *Criminal Code's* gambling prohibitions will not apply. A recent Ontario Court of Appeal decision clearly stated that a game will be considered to be of mixed chance and skill where there is any degree of chance.² The Supreme Court of Canada would seem to agree with the Ontario Court of Appeal, as it has stated that it is not necessary to determine which of skill and chance is the dominant characteristic, since 'games' include those of chance and those of mixed skill and chance.³

Prize: Under some sections of the *Criminal Code*, prize encompasses all property. However, under the game of chance provision, only "goods, wares or merchandise" appear to be prohibited. A New Brunswick Court of Appeal case stated that money is not included in "goods, wares or merchandise".⁴ This case may suggest that if the prize is money, then the *Criminal Code's* gambling prohibition may not apply. However, this case has not been cited for that proposition since it was delivered in 1995, so it would be inadvisable to rely upon it.

The provisions relating to lotteries differ slightly from the offence noted above. The lottery provisions apply if there is consideration, a mode of chance and a prize consisting of any property.⁵ These provisions will not apply if there is any element of skill.⁶

Exception: The *Criminal Code* permits lotteries and games of chance that are authorized by a provincial licence.⁷

¹ *Criminal Code*, RSC 1985 c C-46 s. 206(1)(f).

² *Play for Fun Studios Inc. v. Ontario (Alcohol and Gaming Commission of Ontario)* 2019 ONCA 648 at para 24.

³ *R v Ross* [1968] SCR 786 at para 12; *R v Riesberry* 2015 SCC, affirming 2014 ONCA 744 at para 16.

⁴ *Miramichi Agricultural Exhibition Assn Ltd v New Brunswick (Lotteries Commission)*, [1995] NBJ No 306 at para 12.

⁵ *Criminal Code*, RSC 1985 c C-46 ss. 206(1)(a)-(d)

⁶ *Roe v R* [1949] SCR 652, at para 12.

⁷ *Criminal Code*, RSC 1985 c C-46 s. 207.

Each province has legislation regulating gambling within the province. The primary gambling laws in each province are:

Alberta:

- *Gaming Liquor and Cannabis Act*, RSA 2000, c G-1

British Columbia:

- *Gaming Control Act*, SBC 2002, c 14

Manitoba:

- *Liquor, Gaming and Cannabis Control Act*, SM 2013, c 51 Sch B
- *Manitoba Liquor and Lotteries Corporation Act*, SM 2013, c 51 Sch A

New Brunswick:

- *Gaming Control Act*, SNB 2008, c G-15

Newfoundland and Labrador:

- *Lotteries Act*, SN 1991, c 53.

North West Territories:

- *Lotteries Act*, RSNWT 1988, c L-11
- *Western Canada Lottery Act*, SNWT 2018, c 5

Nova Scotia:

- *Gaming Control Act*, SNS 1994-95, c 4

Nunavut:

- *Lotteries Act*, RSNWT 1988, c L-11

Prince Edward Island:

- *Lotteries Commission Act*, RSPEI 1988, c L-17

Ontario:

- *Gaming Control Act, 1992*, SO 1992, c 24
- *Ontario Lottery and Gaming Corporation Act, 1999*, SC 1999, c 12 Sch L

Quebec:

- *Act Respecting the Société des Loteries du Québec*, CQLR 1990, c S-13.1
- *Act Respecting Lotteries, Publicity Contests, and Amusement Machines*, CQLR 1990, c L-6

Saskatchewan:

- *Alcohol and Gaming Regulation Act, 1997*, SS 1997, c A-18.011
- *The Saskatchewan Gaming Corporation Act*, SS 1994, c S-18.2

Yukon:

- *Lottery Licensing Act*, RSY 2002, c 143

With regard to the applicability of prize promotion regulations to esports activities:

NAME
The <i>Criminal Code</i> provides criminal sanctions for advertising a plan for awarding a prize of any property by any mode of chance. ⁸
<p>The <i>Competition Act</i>, RSC 1985, c C-34 (the "Competition Act") mandates that a person who, for the purpose of promoting a product or business interest, conducts a contest, lottery, game of chance or skill or mixed chance or skill must meet the following requirements⁹:</p> <ul style="list-style-type: none"> • there must be adequate and fair disclosure of the number and approximate value of the prizes, of any regional allocation of prizes, of the chances of winning when the total number of prizes in a population is known, whether any purchase is required, whether a skill-testing question is required, the contest closing date and any fact within the knowledge of the person that affects materially the chances of winning; • the distribution of the prizes must not be unduly delayed; and • the selection of participants or distribution of prizes must be made on the basis of skill or on a random basis in any area to which prizes have been allocated. <p>Information Bulletin — Promotional Contests — Section 74.06 of the <i>Competition Act</i>, July 15, 1999 provides information and guidance in applying section 74.06 of the <i>Competition Act</i>. Additionally, the Competition Bureau will provide written opinions for a fee (the amount of the fee depends on the requesting person's province of residence).</p> <p>An Act to promote the efficiency and adaptability of the Canadian economy by regulating certain activities that discourage reliance on electronic means of carrying out commercial activities, and to amend the Canadian Radio-television and Telecommunications Commission Act, the <i>Competition Act</i>, the <i>Personal Information Protection and Electronic Documents Act</i> and the <i>Telecommunications Act</i>, SC 2010, c 23 ("Canadian Anti-Spam Legislation") prohibits sending commercial electronic messages unless the recipient has consented to receiving the message and the message conforms to the content requirements. There are some limited exceptions. CASL also prohibits installing computer programs on another person's computer system without consent.</p>

With regard to the advertisement of esports related activities:

NAME
The <i>Criminal Code</i> prohibits advertising any offer or inducement to bet on the result of a contest, or a result of or contingency relating to any contest. ¹⁰
The <i>Competition Act</i> prohibits misleading advertising and states that no person shall knowingly or recklessly make a representation to the public that is false or misleading in a material respect for the purpose of promoting the supply or use of a product or any business interest. ¹¹

⁸ *Criminal Code*, RSC 1985 c C-46 s. 206(1)(a).

⁹ *Competition Act*, RSC, 1985 c C-34 s. 74.06; Information Bulletin — Promotional Contests — Section 74.06 of the *Competition Act*, July 15, 1999 (<https://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/eng/03126.html>).

¹⁰ *Criminal Code*, RSC 1985 c C-46 s. 202(1)(h).

¹¹ *Competition Act*, RSC, 1985 c C-34 s. 52(1).

NAME

Each province also has consumer protection legislation prohibiting deceptive practices and unconscionable practices. These acts should be reviewed for specific requirements. For instance, in Quebec, the *Consumer Protection Act*, QCLR c P-40.1, prohibits commercial advertising directed at anyone under the age of 13.¹² Additionally, in Ontario the *Consumer Protection Act, 2002*, SO 2002, c 30, Sch A, prohibits advertising websites that accept bets over the internet that are operated contrary to the Criminal Code.¹³

The primary consumer protection laws in each province are:

Alberta: *Consumer Protection Act*, RSA 2000, c C-26.3

British Columbia: *Business Practices and Consumer Protection Act*, SBC 2004, c 2

Manitoba: *Consumer Protection Act*, RSM 1987, c C200

New Brunswick: *Consumer Product Warranty and Liability Act*, SNB 1978, c C-18.1

Newfoundland and Labrador: *Consumer Protection and Business Practices Act*, SN 2009, c C-31.1

North West Territories: *Consumer Protection Act*, RSNWT 1988, c C-17

Nova Scotia: *Consumer Protection Act*, RSNS 1989, c92

Nunavut: *Consumer Protection Act*, RSNWT 1988, c C-17

Prince Edward Island: *Consumer Protection Act*, RSPEI 1988, c C-19

Ontario: *Consumer Protection Act*, RSO 1990, c C.31

Quebec: *Consumer Protection Act*, QCLR c P-40.1

Saskatchewan: *Consumer Protection and Business Practices Act*, SS 2013, c C-30.2

Yukon: *Consumers Protection Act*, RSY 2002, c 40

The *Canadian Code of Advertising Standards* (the “Code”), which is the Canadian advertising industry’s principal instrument of self-regulation, sets the criteria for acceptable advertising in Canada. It requires the following¹⁴:

- advertisements must not make misleading claims;
- advertisements must not omit relevant information if it results in misleading advertising;
- all pertinent details of an advertisement must be clearly stated;
- disclaimers must not contradict more prominent aspects of the message and should be presented in a clearly legible and/or audible manner;
- all advertising claims and representations must be supported by reliable evidence;
- the advertiser must be clearly identified (except for “teaser advertisements” as defined in the Code); and
- advertisements must not appear to exploit, condone or incite violence;
- advertising that is directed to children must not exploit their credulity, lack of experience or their sense of loyalty, and must not present information that might result in their harm.

¹² *Consumer Protection Act*, QCLR c P-40.1 s. 248.

¹³ *Consumer Protection Act*, SO 2002, c 30 s. 13.1.

¹⁴ <https://adstandards.ca/code/the-code-online/>

NAME
Some provinces have established policies setting out standards for advertising related to gambling. For instance, British Columbia's <i>Advertising and Marketing Standards</i> policy states that advertising of a gaming event or scheme must not be immoral or obscene, and requires that advertising materials contain a responsible gambling message, information on the odds of winning must be clearly stated and advertising materials must not appear to be directed primarily at minors. ¹⁵
There are specific laws relating to advertising of: food, drug and related products; alcoholic beverages; tobacco products; and cannabis products.

With regard to the protection of intellectual property rights as part of esports activities:

NAME
<i>Trade-marks Act</i> , RSC 1985, c T-13 sets out Canadian law on trademarks.
<i>Patent Act</i> , RSC, 1985, c P-4 sets out Canadian law on patents.
<i>Copyright Act</i> , RSC, 1985, c C-42 (the " Copyright Act ") sets out Canadian law on copyright.

With regard to the processing of personal data as part of esports activities:

NAME
<p><i>Personal Information Protection and Electronic Documents Act</i>, SC 2000, c 5 ("PIPEDA") regulates the collection, use and disclosure of individuals' personal information by private-sector organizations in the course of commercial activity.</p> <p>Organizations must take the following steps to comply with PIPEDA:</p> <ul style="list-style-type: none"> • designate an individual who is accountable for the organization's privacy compliance; • when collecting personal information, the organization must explain the purposes for which the information is being collected; • the organization must have the individual's consent for the collection, use or disclosure of personal information for the stated purposes. Consent can be express or implied, but organizations must carefully consider relying on implied consent; • the organization must not collect more personal information than is necessary for its stated purposes. The organization must also not use or disclose the information for any other purposes without the individual's consent; • the organization must not keep the information for longer than the organization needs it for its stated purposes. Once personal information is no longer required, it should be disposed of securely; • the organization must ensure that the information is accurate and complete; • The organization must protect all personal information by taking reasonable precautions to keep it secure; • the organization must make available information about their policies and practices with respect to the management of personal information; and • the organization must institute policies regarding its privacy practices and its management of personal information, and must make those policies available upon request.

¹⁵ <https://www2.gov.bc.ca/assets/gov/sports-recreation-arts-and-culture/gambling/gambling-in-bc/stds-advertising-marketing.pdf>

NAME

Alberta, British Columbia and Quebec have provincial laws that have similar requirements to PIPEDA. The provincial privacy laws that regulate personal data in those provinces are:

- Alberta: *Personal Information Protection Act*, SA 2003, c P-6.5
- British Columbia: *Personal Information Protection Act*, SBC 2003, c 63
- Quebec: *Act Respecting the Protection Of Personal Information In the Private Sector*, CQLR c P-39.1

Extra-territoriality

Are national laws enforceable against entities operating abroad?

Entities operating abroad should comply with Canadian laws where there is a 'real and substantial connection' to Canada, which is a fact-specific determination. While the Supreme Court of Canada has stated that federal legislation is presumed not to have extra-territorial effect in the absence of clear words or necessary implication to the contrary, it has also found that at least some Canadian laws, such as the *Copyright Act*, will apply if there is a real and substantial connection to Canada.¹⁶ The Supreme Court of Canada has also found that the *Criminal Code* will apply where there is a real and substantial link between an offence and Canada.¹⁷

Additionally, some of the provisions of the *Criminal Code* providing for criminal sanctions for lotteries and games of chance apply to events that take place both in and out of Canada. For instance, the *Criminal Code* specifically states that the provisions which create offences relating to lotteries and games of chance apply to advertising of a foreign lottery, selling tickets in a foreign lottery and managing an operation for determining the winners of a foreign lottery.¹⁸ The *Criminal Code* also states that it is an offence to provide information intended for use in connection with betting on any game of chance or mixed chance and skill, whether the game takes place in or out of Canada.¹⁹

Technical requirements of esports tournaments

Do videogames need any certification to be used as part of esports tournaments?

There are no specific laws requiring videogames to be certified to be used in esports tournaments.

The Entertainment Software Rating Board ("**ESRB**") is a self-regulatory body that assigns computer and video game content ratings and enforces industry-adopted advertising guidelines. Publishers of physical (boxed) games carrying an ESRB rating are contractually bound to follow the industry-adopted Principles and Guidelines for Responsible Advertising Practices.²⁰ Publishers of digitally delivered games and apps are strongly encouraged to provide consumers with clear and prominent disclosure of ESRB rating information as well as comply with the ESRB advertising and marketing guidelines.²¹

If gambling will be part of the esports tournament, a licence will be necessary under the provincial legislation regulating gambling.

¹⁶ *Society of Composers, Authors & Music Publishers of Canada v Canadian Assn of Internet Providers*, 2004 SCC 45 at paras 54 and 60.

¹⁷ *Libman v R*, 2 SCR 178 at para 74.

¹⁸ *Criminal Code*, RSC 1985 c C-46 s. 206.

¹⁹ *Criminal Code*, RSC 1985 c C-46 s. 202(1)(f).

²⁰ <https://www.esrb.org/faqs/#does-the-esrb-have-any-restrictions-on-how-a-game-can-be-manufactured>

²¹ <https://www.esrb.org/faqs/#does-the-esrb-have-any-restrictions-on-how-a-game-can-be-manufactured>

Sponsorship of esports tournaments

Are particular requirements applicable to sponsorship agreements relating to esports tournaments?

The *Tobacco and Vaping Products Act*, SC 1997, c 13 prohibits the use of tobacco and vaping product-related brand elements in the promotional material related to an entity or event.²²

The *Cannabis Act*, SC 2018, c 16 prohibits references to cannabis, cannabis accessories or services related to cannabis, and the name of a producer, seller or distributor of cannabis, cannabis accessories or services related to cannabis in a promotion used in the sponsorship of an event.²³

Each province also has consumer protection legislation that should be reviewed for specific requirements within that province. For instance, as noted above, the Quebec Consumer Protection Act prohibits commercial advertising directed at persons under the age of 13, and the Ontario Consumer Protection Act prohibits advertising websites that accept bets over the internet that are operated contrary to the criminal code.

There are no laws regulating sponsorship of esports tournaments specifically, but the *Criminal Code* provides for criminal sanctions for advertising or publishing a plan for disposing of any property by any mode of chance.²⁴

An entity should also review the terms and conditions of their provincial gambling licence to determine whether there are any restrictions regarding sponsorship.

Participation in esports tournaments

Can players pay any price to participate in esports tournaments?

As noted above, the *Criminal Code* provides criminal sanctions for lotteries and games of chance where the contestant provides consideration to participate, the game is one of chance or mixed chance and skill and the contestant could win a prize. Therefore, if there is an element of chance and the participant could win a prize, the addition of consideration may mean that the activity could be an offence under the *Criminal Code*.

However, there is also a section of the *Criminal Code* that prohibits contests with a purchase requirement and a prize that exceeds the purchase requirement, even if the game does not involve any chance. Accordingly, it is risky to charge players to participate in esports tournaments involving prizes.

An entity should also review the terms and conditions of their provincial gambling licence to determine whether there are any restrictions on the price which they are permitted to charge participants.

Selection of participants

Is it possible to place any restriction to the players that can participate in an esports tournament?

There are no laws that specifically prohibit an organization from restricting participation in events generally or esports tournaments specifically.

However, restrictions must comply with the provinces' Human Rights Codes which prohibit discrimination based on factors such as: race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status or disability. The entity should consult the relevant provincial Human Rights Code to determine the prohibited grounds of discrimination.

An entity should also review the terms and conditions of their provincial gambling licence to determine whether there are any restrictions on the entity's ability to restrict participants.

Contracting esports players

Are there particular requirements for T&Cs of esports tournaments?

There are no laws setting out specific requirements for the terms and conditions of esports tournaments. However, the Supreme Court of Canada has held that contracts generally must comply with the constating documents of the organization with whom the individuals are contracting.²⁵

²² *Tobacco and Vaping Products Act*, SC 1997, c 13 §s. 24(2), 30.3(2).

²³ *Cannabis Act*, SC 2018, c 16 §. 21.

²⁴ *Criminal Code*, RSC 1985 c C-46 s. 206(1)(a).

²⁵ *Lakeside Colony of Hutterian Brethren v Hofer*, [1992] SCJ No 87 at para 45.

As noted above, the disclosure requirements set out in the *Competition Act* must be complied with if a person promotes a product or business interest by conducting a contest, lottery or game of chance or skill, or mixed chance or skill.²⁶ The *Competition Act* also provides for a prohibition on knowingly or recklessly making a representation to the public that is false or misleading in a material respect for the purpose of promoting, directly or indirectly, the supply or use of a product or any business interest.²⁷

Contracts must comply with consumer protection, privacy and intellectual property laws.

An entity should also review the terms and conditions of their provincial gambling licence to determine whether there are any mandatory terms and conditions.

Selection of winners

Are there any requirements for the selection of winners and award of prizes for esports tournaments?

As noted above, the *Competition Act* requires that, where a person promotes a product or business interest by conducting a contest, lottery or game of chance or skill, or mixed chance or skill, the distribution of prizes must be made on the basis of skill or on a random basis in any area to which prizes have been allocated.

General contract law will also apply to the selection of winners.

An entity should also review the terms and conditions of their provincial gambling licence to determine whether there are any restrictions on the selection of winners or award of prizes.

Sanctions against players

Can esports tournament organizers impose sanctions against players involved in match-fixing, corruption or illegal gambling during a tournament?

The *Criminal Code* provides for criminal sanctions for every one who, with intent to defraud any person, cheats in a game of chance or mixed chance and skill.²⁸

²⁶ *Competition Act*, RSC, 1985 c C-34 s. 74.06; Information Bulletin — Promotional Contests — Section 74.06 of the Competition Act, July 15, 1999 (<https://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/eng/03126.html>).

²⁷ *Competition Act*, RSC, 1985 c C-34 s. 52(1).

²⁸ *Criminal Code*, RSC 1985 c C-46 s. 209.

Organizers may also enforce contractual provisions set out in the tournament's terms and conditions.

Prizes of esports tournaments

Is there any restriction on the type of prizes that can be awarded as part of esports tournaments?

As noted above, the *Criminal Code* provides for possible criminal sanctions when a prize is awarded in games where a contestant provides consideration to participate.

An entity should also review the terms and conditions of their provincial gambling licence to determine whether there are any restrictions on the types of prizes that can be awarded.

Online vs. offline esports tournaments

Are different regulations applicable to online esports tournaments compared to land-based esports tournaments?

The *Criminal Code* does not differentiate between land-based and online gambling. As noted above, the *Criminal Code* may apply to entities operating abroad if there is a real and substantial connection to Canada.

Provincial regulators may also have specific rules for online gambling. For instance, in order to operate a gaming site in Ontario you must be registered with the Alcohol and Gaming Commission of Ontario, which requires a \$100,000 registration fee per site per year.²⁹

An entity should also review the terms and conditions of their provincial gambling licence to determine whether there are any restrictions on whether it is permitted to operate both on and offline.

Other local requirements

Are there any other key local requirements?

There is no dedicated regime to the regulation of esports in Canada.

An entity should review the provincial and federal gambling laws to determine whether there are any specific requirements within the province in which it wishes to operate.

Finally, Sport Canada has a variety of programs and policies. However, these programs and policies likely do not apply to esports since esports was not included in the list of organizations funded by Sport Canada.

Timing

Is there the need to comply with specific timing to ensure compliance (other than reviewing the terms and conditions)?

Provincial gambling laws, which were listed above, should be reviewed in the applicable provinces in order to determine any specific timing issues. The time required for a provincial regulator to issue a licence may vary from one province to another, and may also depend on the type of license being issued. For instance, in BC you must submit your application at least ten weeks prior to the start of your event if gross revenues will exceed \$20,000, but if the revenues will not exceed \$20,000, then the application must only be submitted 10 business days prior to the start of the event.

The province of Québec has laws that require the registration of various promotional contests within certain periods of time.

Translations

Are the terms of the esports tournament required to be translated by law?

Language laws in the province of Québec may require certain documents and advertisements for an esports tournament to be translated into French.

Penalties for non-compliance

What are the penalties for non-compliance?

Breach of the lottery and games of chance provisions in the *Criminal Code* may result in criminal penalties, including imprisonment for a maximum of two years.

An entity should review the provincial gambling laws, which were listed above, to determine the applicable penalties in each province since each provincial regulator may impose different sanctions for failing to comply with their laws. For instance, in British Columbia, the Gaming Policy and Enforcement Branch can refuse to issue or renew a licence, suspend or cancel a licence, impose new conditions on a licence, impose an administrative fine of up to \$5,000 on a licensee.

Key contacts



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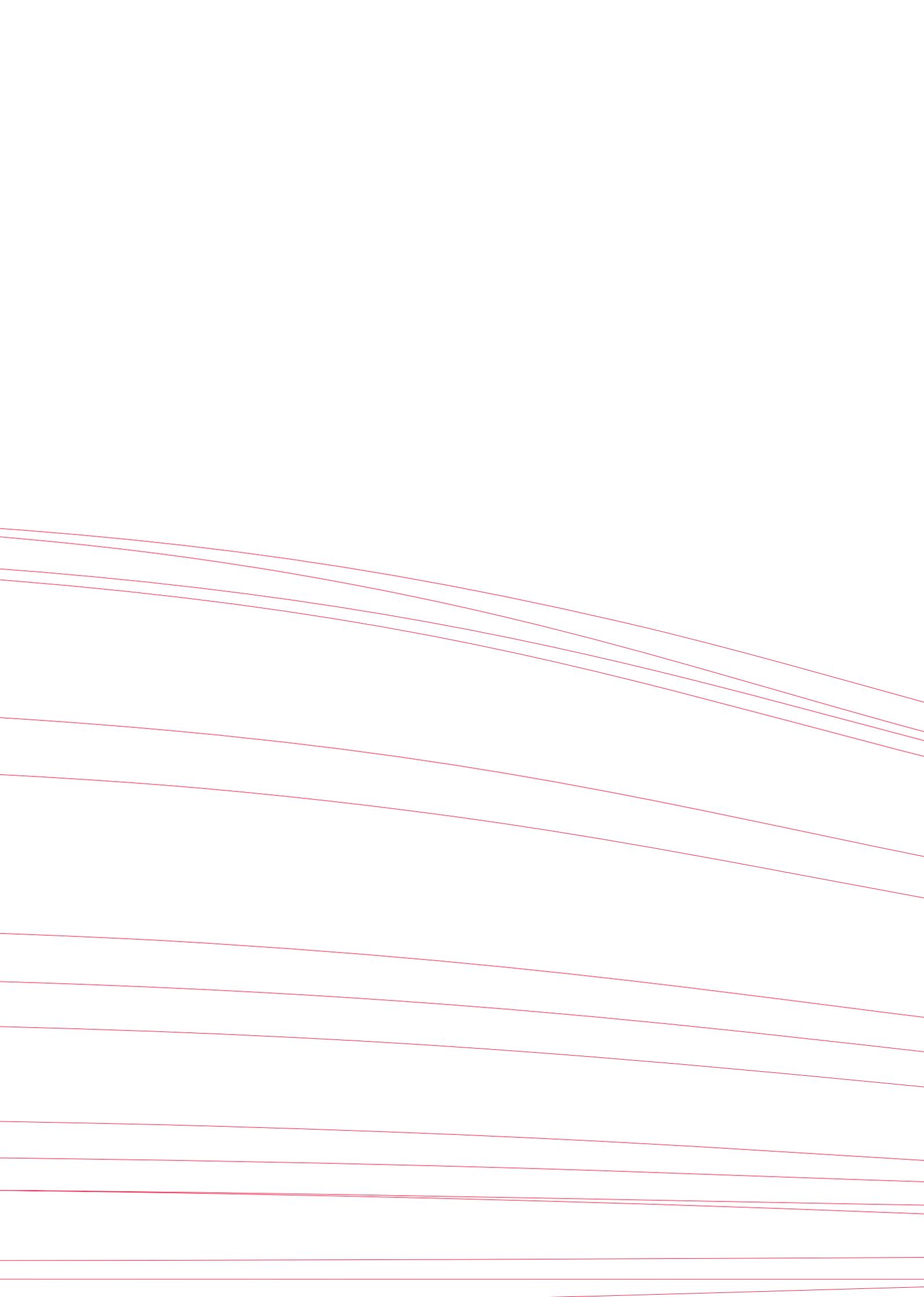


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²⁹ <https://www.agco.ca/lottery-and-gaming/registration-overview-internet-gaming-operators>





Chile

Governing law

What are the main applicable governing laws, sports laws or codes for esports (if any)?

With regard to the applicability of gambling laws:

CHILE

There are no specific regulations regarding esports online gambling. However, both The Superintendence of Casinos and the Congress have announced that the matter is on the agenda to be regulated as soon as possible.

Notwithstanding the foregoing, it is important to note that according to Law No. 19,995 of 2005, it is up to the State to determine the requirements and conditions under which gambling and its related bets may be authorized, their general regulations, as well as the authorization and supervision of the entities authorized to develop them.

With regard to the applicability of prize promotion regulations to esports activities:

CHILE

There are no specific regulations regarding prize promotions of esports activities. However there are some requirements set forth in Consumer Protection Law (No. 19,496 of 1997) applicable to prize promotions in relation to all contests and raffles that are organized in Chile by a Company with Chilean domicile.

First of all the organizer must inform on the amount or quantity of prizes and the period of time in which the winner can request them. Also the organizer must publish the result of the contest or raffle.

With regard to the advertisement of esports related activities:

CHILE

There are no specific regulations in this regard. Notwithstanding the above, the Consumer Protection Law (No. 19,496 of 1997) establishes that the false or misleading advertising directed at consumers will be punishable by a fine of up to 1500 UTM (USD 101,540).

With regard to the protection of intellectual property rights as part of esports activities:

CHILE

Law No. 17,336 of 197 on Intellectual Property.

Decree No. 3 of 2006 on Industrial Property.

With regard to the processing of personal data as part of esports activities:

CHILE

Law No. 19,628 of 1999 on Privacy Protection.

Extra-territoriality

Are national laws enforceable against entities operating abroad?

Chilean legislation is not enforceable against entities operating abroad. Also, the government does not prevent individuals from gambling through international websites.

Technical requirements of esports tournaments

Do videogames need any certification to be used as part of esports tournaments?

There is no specific certification for the usage of video games in esports tournaments. However, the Consumer Protection Act requires video games to be classified by the violence of its content. This information has to be included in the packaging of the video game and shall occupy 25% of it.

For video games classified as not recommended for children under a certain age, companies have to verify children comply with that requirement before selling it.

All the above will be applicable for tournaments carried out in Chile by a Company with Chilean domicile.

Sponsorship of esports tournaments

Are particular requirements applicable to sponsorship agreements relating to esports tournaments?

There are no specific requirements applicable to sponsorship agreements for esports tournaments.

Participation in esports tournaments

Can players pay any price to participate in esports tournaments?

There are no regulations in this regard.

Selection of participants

Is it possible to place any restriction to the players that can participate in an esports tournament?

Under Chilean legislation, videogames have to be classified according to the level of violence of its content. Based on that classification, there are age restrictions for the purchase and selling of videogames.

In relation the above, it would be advisable to restrict the participation of players by their age, depending on the videogame that will be played in the tournament.

Contracting esports players

Are there particular requirements for T&Cs of esports tournaments?

If the tournament is carried out in Chile by a Company with a Chilean Domicile, the T&Cs shall be drafted in accordance with Chilean consumer laws. This regulation requires the Company to duly informing participants about the terms of the tournament and its duration.

Additionally, the mechanics of the esports tournament shall be structured to avoid any form of randomness, since in such cases the tournament would be illicit under Chilean legislation. Additionally, T&Cs shall comply with data protection regulations and intellectual property laws.

Selection of winners

Are there any requirements for the selection of winners and award of prizes for esports tournaments?

If winning the tournament depends only on participants' skills and there are no components of randomness, there are no specific requirements beyond general contract regulation and consumer law.

If the contest will be carried out in Chile by a Company with Chilean domicile, the regulations regarding prize promotions will apply. In such cases, the amount or quantity of prizes, the mechanism by which the winner will be awarded, and the winner itself must be published.

Sanctions against players

Can esports tournament organizers impose sanctions against players involved in match-fixing, corruption or illegal gambling during a tournament?

Since match-fixing, corruption and online gambling are not criminalized under Chilean legislation in relation to esports, organizers can only enforce the contractual provisions set out by the T&Cs of the tournament against participants.

Prizes of esports tournaments

Is there any restriction on the type of prizes that can be awarded as part of esports tournaments?

There are no restrictions on the type of prizes.

Online vs. offline esports tournaments

Are different regulations applicable to online esports tournaments compared to land-based esports tournaments?

There are no specific regulations in this regard. However the organizer must comply with all provisions of the T&Cs of the tournament.

Other local requirements

Are there any other key local requirements?

Given that esports are not regulated in Chile as sports, there are no local requirements applicable to it.

Timing

Is there the need to comply with specific timing to ensure compliance (other than reviewing the terms and conditions)?

There is no specific timing.

Translations

Are the terms of the esports tournament required to be translated by law?

Under consumer regulations, if the tournament will be carried out in Chile and by a Company with a Chilean domicile, the information intended for consumers and users shall also be shown in Spanish.

Penalties for non-compliance

What are the penalties for non-compliance?

In cases of infringement of the Consumer Protection Law in relation to contests carried out in Chile and organized by a Company domiciled in Chile, fines of up to approximately USD\$20,300 may apply.

Key contact



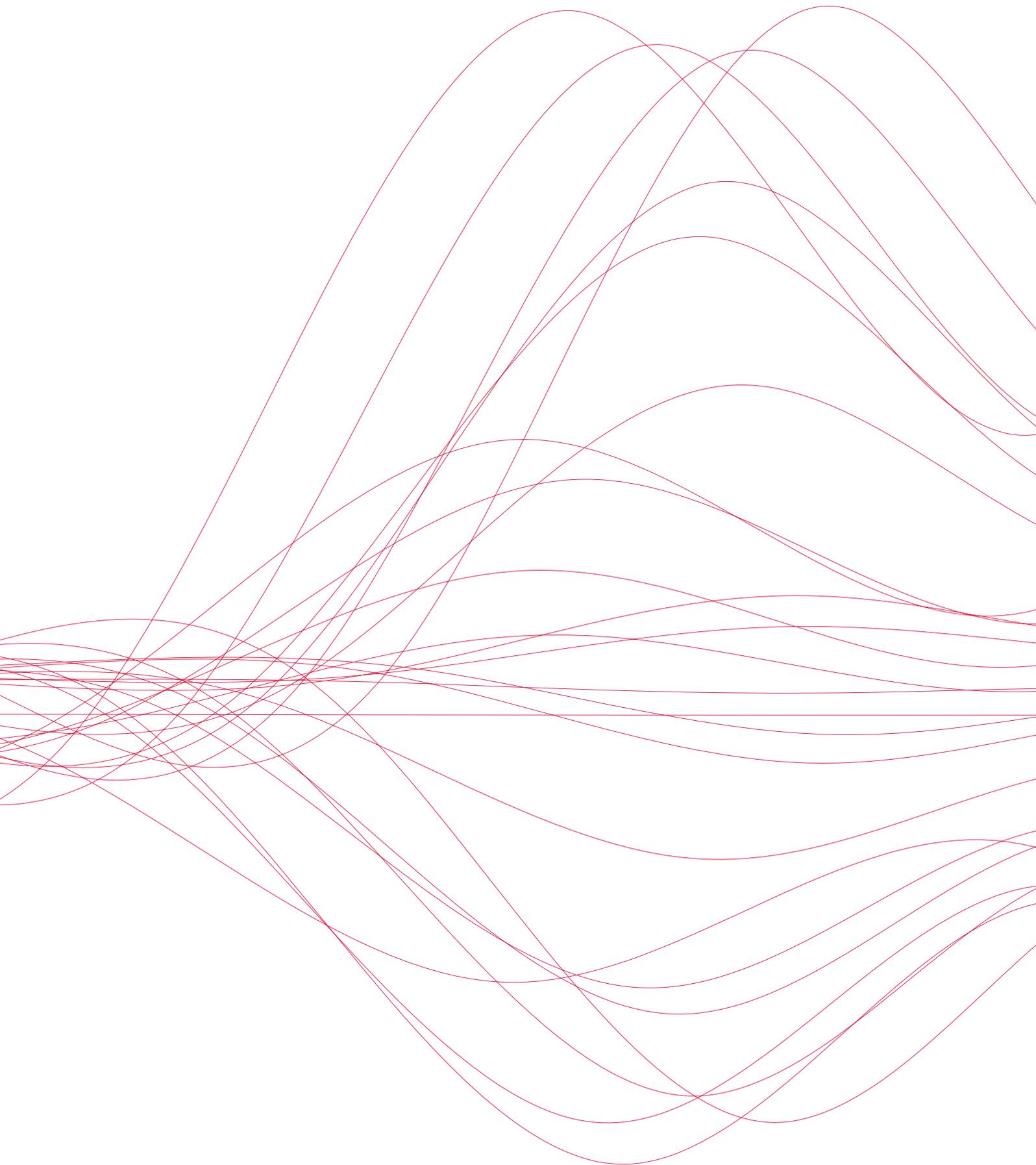
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China

Governing law

What are the main applicable governing laws, sports laws or codes for esports (if any)?

There is not a specific 'single' law regulating esports and related activities. Instead, rules relating to esports

and related activities are found across various laws and regulations (both on a national and provincial level). The wide range of relevant laws and regulations set out below forms part of the complex regulatory framework (this is non-exhaustive):

NAME
Interim Provisions on the Administration of E-Sports Events
Measures for the Administration of Cyber Performance Business Operations
Notice on Regulating the Operation of Online Games and Strengthening Interim and Ex Post Regulation
Interim Provisions on the Administration of Internet Culture
Administrative Measures for Internet Information Services

With regard to the applicability of gambling laws:

Generally speaking, all forms of gambling are illegal in China (except lotteries, which are not legally considered as a form of gambling). We set out below some regulations that may be relevant in the esports environment:

NAME
Opinions of the Supreme People’s Court, the Supreme People’s Procuratorate and the Ministry of Public Security on Several Issues Concerning the Application of Law in the Handling of Criminal Cases of Internet Gambling
Notice on Regulating the Operation and Order of Online Games and Prohibiting the Use of Online Games for Gambling Purposes
Regulations on the Administration of Entertainment Venues

With regard to the applicability of prize promotion regulations to esports activities:

NAME
Anti-Unfair Competition Law of the People’s Republic of China
Certain Regulations on Prohibiting Unfair Competition in Prize-offering Sales
Reply of the State Administration of Industry and Commerce on Issues concerning the Identification of Prize-offering Sales by Lottery Draw and the Interpretation Power of Anti-Unfair Competition Law
Decision of the Standing Committee of National People’s Congress on Strengthening Information Protection on Networks

With regard to the advertisement of esports related activities:

NAME
Advertising Law of the People's Republic of China
Provisions on the Administration of Online Live-streaming Services
Circular on Tightening the Administration of Online Live Services

With regard to the protection of intellectual property rights as part of esports activities:

NAME
Trademark Law of the People's Republic of China
Patent Law of the People's Republic of China
Copyright Law of the People's Republic of China
Implementing Regulations of the Copyright Law
Regulations on Computer Software Protection
Regulations on the Protection of Rights to Information Network Communication
Interim Measures for the Voluntary Registration of Works
Measures for the Registration of Computer Software Copyright
Measures on Administrative Protection on Internet Copyright
Implementing Measures for the Copyright Administrative Penalties
Implementing Regulations of the Trade Mark Law
Tort Liability Law

With regard to the processing of personal data as part of esports activities:

NAME
Cyber Security Law of the People's Republic of China
Guidelines on internet personal information security protection
Personal Information Security Specification

Extra-territoriality

Are national laws enforceable against entities operating abroad?

PRC national laws are generally not enforceable against entities operating abroad. That said, there is an exception under the Measures for the Administration of Cyber Performance Business Operations where foreign players involved in broadcasted esports tournaments will require approval from the Ministry of Culture and Tourism. Without such approval, foreign players cannot participate in the broadcasted tournaments.

In practice, regulators do expect foreign entities carrying out any regulated activities within China to comply with any relevant laws and regulations.

Technical requirements of esports tournaments

Do videogames need any certification to be used as part of esports tournaments?

Yes, there are specific licensing requirements applicable to the provision of games services (including video and game products).

The Interim Provisions on the Administration of Internet Culture also provides that videogames in general should not promote obscenity, gambling, violence or crime, and should not endanger social morality.

Sponsorship of esports tournaments

Are particular requirements applicable to sponsorship agreements relating to esports tournaments?

Yes, there are specific regulations applicable to the provision and receiving of sponsorship (including and not limited to filing requirements).

In addition, there are further implications on tax and compliance issues where esports tournament hosts or esports clubs are receiving or providing sponsorships.

Participation in esports tournaments

Can players pay any price to participate in esports tournaments?

This is usually regulated by the respective game rules of the esports tournament. However, esports tournament hosts and esports clubs should also be mindful of the requirements set out in the relevant anti-unfair competition laws and regulations.

Selection of participants

Is it possible to place any restriction to the players that can participate in an esports tournament?

This is usually regulated by the respective game rules of the esports tournament. However, esports tournament hosts and esports clubs should also be mindful of the requirements set out in the relevant anti-unfair competition laws and regulations.

Contracting esports players

Are there particular requirements for T&Cs of esports tournaments?

The contents of the T&Cs should be drafted in compliance with applicable contract law and other PRC laws such as data protection laws and intellectual property laws.

Organisations should also be aware of the potential compliance issues, filing requirements and tax implications (for example, contracting with underage players and visa issues).

Selection of winners

Are there any requirements for the selection of winners and award of prizes for esports tournaments?

The selection of winners and award of prizes for esports tournaments are generally governed by the T&Cs and respective game rules of the esports tournament. In addition, there are specific filing requirements applicable to esports tournament hosts.

Where the prize promotions regulatory regime is applicable for a particular tournament, then the selection of winners and award of prizes may be subject to further requirements.

Sanctions against players

Can esports tournament organizers impose sanctions against players involved in match-fixing, corruption or illegal gambling during a tournament?

Organizers of esports tournaments may enforce the relevant contractual provisions (if any) as set out by the T&Cs of the tournaments.

Esports tournament hosts should also report any suspicious actions, or illegal practices to the relevant authorities.

Prizes of esports tournaments

Is there any restriction on the type of prizes that can be awarded as part of esports tournaments?

There are specific filing requirements in respect of the type of prizes awarded in an esports tournament. Esports tournament hosts should also be mindful of the requirements set out in the relevant anti-unfair competition laws and regulations.

Where the prize promotions regulatory regime is applicable for a particular tournament, the value of the prizes should not go over RMB 50,000.

Online vs. offline esports tournaments

Are different regulations applicable to online esports tournaments compared to land-based esports tournaments?

Yes, there are specific regulations applicable to online activities as compared to land-based activities.

Other local requirements

Are there any other key local requirements?

While there is not a dedicated regime for esports in China at the moment, the government strives to promote the development of esports. Thus, we anticipate more regulations or guidelines will be published by the regulators in the near future. Organisations are advised to continue monitoring developments in this area.

There are specific filling requirements for the hosting of esports tournaments. Hosts should be mindful that these requirements may vary depending on the location/ venue of the tournaments.

In addition, depending on the types of activities or performances that also take place as part of esports tournaments (e.g. exhibition matches or celebrity performances), the tournaments may constitute 'commercial performances' and would have to meet the requirements set out under the Regulation on the Administration of Commercial Performances, e.g. the tournament hosts would have to register with the State Administration for Industry and Commerce, and the tournament venue would have to be examined and approved by the state and/or local governments' cultural authorities.

Timing

Is there the need to comply with specific timing to ensure compliance (other than reviewing the terms and conditions)?

Depending on the nature of the esports tournament, there are specific filling requirements on when to apply for an approval, and authorities approval may take up to 6 months.

Translations

Are the terms of the esports tournament required to be translated by law?

The laws and regulations are not specific or clear on whether the terms and conditions have to be translated into simplified Chinese. However translation of the terms and conditions into simplified Chinese is the preferred approach to avoid misunderstanding between the hosts and participants. Also translation is recommended as if there is any dispute, local courts/arbitral tribunals would require evidence in simplified Chinese and the terms and conditions may be used as evidence.

Penalties for non-compliance

What are the penalties for non-compliance?

Sanctions may vary depending on the non-compliant activity. These range from regulatory warnings and undertakings to fines, orders to suspend operations, loss of business licences, and criminal sanctions in some cases.

Key contact



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Croatia

Governing law

What are the main applicable governing laws, sports laws or codes for esports (if any)?

With regard to the applicability of gambling laws:

NAME
<p>Croatian Gambling Act (Official Gazette No. 87/09, 35/13, 158/13, 41/14 and 143/14 - "Croatian Gambling Act")</p> <p>Esports are not explicitly regulated in Croatia and there is generally no case law, jurisprudence or other literature available concerning this subject matter.</p> <p>The nature of esports should not be mistaken with gambling and/or lottery games. According to the Croatian Gambling Act, gambling and/or lottery games refer to games of chance where the gain or loss depends mainly on a coincidence or other uncertain event. It should be noted that betting on esports games is subject to Croatian gambling regulations.</p>

With regard to the applicability of prize promotion regulations to esports activities:

NAME

With regard to the advertisement of esports related activities:

NAME
Consumer Protection Act (Official Gazette nos. 41/14, 110/15 and 14/19)
Act on Prohibited Advertising (Official Gazette no. 43/09)
Electronic Communications Act (Official Gazette nos. 73/08, 90/11, 133/12, 80/13, 71/14 and 72/17)

With regard to the protection of intellectual property rights as part of esports activities:

NAME
Copyright and Related Rights Act (Official Gazette nos. 167/03, 79/07, 80/11, 125/11, 141/13, 127/14, 62/17 and 96/18)
Patent Act (Official Gazette nos. 173/03, 87/05, 76/07, 30/09, 128/10, 49/11, 76/13 and 46/18)
Trademark Act (Official Gazette no. 14/19)

With regard to the processing of personal data as part of esports activities:

NAME
Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data
Act implementing the General Data Protection Regulation (Official Gazette no. 42/18)

Extra-territoriality

Are national laws enforceable against entities operating abroad?

As esports are not explicitly regulated in Croatia, there are no specific rules applying directly to the foreign entities providing esports services. However, the entities incorporated abroad shall comply with general Croatian laws and EU laws when providing services to the Croatian market.

It should be noted that according to article 68 of the Croatian Gambling Act foreign entities are in principle prohibited to provide games of chance in Croatia.

Technical requirements of esports tournaments

Do videogames need any certification to be used as part of esports tournaments?

Esports are not explicitly regulated in Croatia and accordingly there are no rules regarding certification used as part of esports tournaments.

Sponsorship of esports tournaments

Are particular requirements applicable to sponsorship agreements relating to esports tournaments?

There are no specific requirements applicable to sponsorship agreements for esports tournaments.

It should be noted that according to article 66 and 67 of the Croatian Gambling Act the advertising of games of chance in media aimed at children and youth are prohibited. According to article 68 of the same act, the advertising of games of chance which are provided abroad is strictly prohibited.

Also, the type of consideration due by the sponsor and the services provided by and to the sponsor can lead to regulatory and tax implications.

Participation in esports tournaments

Can players pay any price to participate in esports tournaments?

As esports are not explicitly regulated in Croatia, there are no specific rules related to participation in esports tournaments. As long as the price of participation in esports tournaments would be compliant with the applicable consumer laws, we do not see any major issue.

Selection of participants

Is it possible to place any restriction to the players that can participate in an esports tournament?

As esports are not explicitly regulated in Croatia, there are no specific rules related to selection of participants in esports tournaments. General rules of Croatia related to the objective, transparent and non-discriminatory selection criteria will apply.

Furthermore, according to the general Croatian family law rules, a person who is 15 years old or older can enter into legal transactions independently, provided that such transactions do not significantly affect a person's personal or property right. Also, the applicable data protection regulation in Croatia provides for certain specific conditions regarding the consent for the processing of data given by a person younger than 16 years. It is thus advisable to acquire parental consent for the participants younger than 16 years.

Contracting esports players

Are there particular requirements for T&Cs of esports tournaments?

As esports are not explicitly regulated in Croatia, there are no specific rules related to contracting esports players and/or T&Cs of esports tournaments. General contract and consumer law rules will apply to this matter.

Selection of winners

Are there any requirements for the selection of winners and award of prizes for esports tournaments?

As esports are not explicitly regulated in Croatia, there are no specific rules related to the election of winners and award of prizes for esports tournaments.

General contract and consumer law rules as well as T&Cs of esports tournaments, if applicable, will apply to the proper selection of winners.

Sanctions against players

Can esports tournament organizers impose sanctions against players involved in match-fixing, corruption or illegal gambling during a tournament?

As esports are not explicitly regulated in Croatia, there are no specific laws related to imposing sanctions against players.

Organizers can only enforce contractual provisions set out by the T&Cs of the tournament. However, limitations can apply to actions that can be taken against players without a court order.

Prizes of esports tournaments

Is there any restriction on the type of prizes that can be awarded as part of esports tournaments?

As esports tournaments are not explicitly regulated in Croatia, there are no restrictions on the type of prizes that can be awarded as part of esports tournaments.

Online vs. offline esports tournaments

Are different regulations applicable to online esports tournaments compared to land-based esports tournaments?

As esports are not explicitly regulated in Croatia, there are no specific rules related to online and land-based esports tournaments.

Other local requirements

Are there any other key local requirements?

As esports are not explicitly regulated in Croatia, there are no specific rules related to any other key legal requirements. However, games of chance, including but not limited to betting on esports games, are subject to local gambling regulation and therefore as a consequence, are regulated under Croatian law.

Detailed review of the mechanics of esports tournaments is necessary to avoid any challenges and ensure compliance with the local rules.

Timing

Is there the need to comply with specific timing to ensure compliance (other than reviewing the terms and conditions)?

As esports are not explicitly regulated in Croatia, there are no specific rules related to specific timing to ensure compliance.

Translations

Are the terms of the esports tournament required to be translated by law?

According to the Croatian consumer protection rules, the information intended for consumers and users must be made available in the Croatian language and in the Latin alphabet. This however, does not exclude the possibility of using other foreign languages if the aforementioned condition is fulfilled.

Penalties for non-compliance

What are the penalties for non-compliance?

As esports are not explicitly regulated in Croatia, there are no specific rules related to penalties for non-compliance. On the contrary, in cases of breach of gambling laws, misdemeanour sanctions will apply consisting of pecuniary penalties, seizure of profit and different security measures (e.g. prohibition of undertaking the activity or seizure of the items).

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Czech Republic

Governing law

What are the main applicable governing laws, sports laws or codes for esports (if any)?

With regard to the applicability of gambling laws:

NAME
Act No. 186/2016 Coll., on Gambling (the "Gambling Act"). Gambling is generally defined in Section 3(1) as games of chance, betting or a lottery, in which the participant wagers a bet, while no return on such bet is guaranteed, and, the winning or loss on which is entirely or partly subject to chance or unknown circumstance.
Act No. 187/2016 Coll., on gambling tax.

With regard to the applicability of prize promotion regulations to esports activities:

NAME
Act No. 89/2012 Coll., the Civil Code.
Act No. 634/1992 Coll., the Consumer Protection Act.

With regard to the advertisement of esports related activities:

NAME
Act No. 40/1995 Coll., on Advertising Regulation, specified in Section 5j.
Act No. 634/1992 Coll., the Consumer Protection Act.

With regard to the protection of intellectual property rights as part of esports activities:

NAME
Act No. 121/2000 Coll., the Copyright Act.
Act No. 207/2000 Coll., on the Protection of Industrial Designs.
Act No. 441/2003 Coll., on Trademarks.

With regard to the processing of personal data as part of esports activities:

NAME
Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation).
Act No. 110/2019 Coll., on Processing of Personal Data.

Extra-territoriality

Are national laws enforceable against entities operating abroad?

Czech regulators do not enforce rules against entities operating abroad, unless such entities focus on Czech players and/or consumers in their activities or otherwise conduct their activities in the territory of the Czech Republic. In such cases, entities operating abroad shall comply with Czech law even if they are also open to players and/or consumers of other jurisdictions.

In order to assess whether an activity is focused at Czech individuals, various circumstances should be considered (e.g. language of communication, website domain, advertising etc.).

The applicability of Czech law can lead to significant obligations under these rules, including tax liabilities.

Technical requirements of esports tournaments

Do videogames need any certification to be used as part of esports tournaments?

There is no dedicated certification for the usage of video games in esports tournaments.

Sponsorship of esports tournaments

Are particular requirements applicable to sponsorship agreements relating to esports tournaments?

There are not any specific requirements applicable to sponsorship agreements for esports tournaments, other than those provided by Section 5j of Act No. 40/1995 on Advertising Regulation that regulates advertising related to betting activities, gambling and other types of games with cash winnings.

Also, the type of consideration due by the sponsor and the services provided by and to the sponsor can lead to regulatory and tax issues.

Participation in esports tournaments

Can players pay any price to participate in esports tournaments?

If a requirement to pay a price for participation is to be considered, it is necessary to avoid a situation where the prize promotion could be interpreted as a game of chance. Operation of games of chance is regulated by Czech law and is not allowed without a permit. The general distinction is that in order to be interpreted as a game of chance (and therefore subject to gambling regulation), the player must provide a stake the return of which is not guaranteed and the result of the game must be determined based on chance or other unknown circumstance. In other words, it is not considered as gambling when the game either (i) does not require the player to provide any stake or (ii) a stake is provided, but the result of the game is not in any way dependent on chance (e.g. if the game is 100% skill-based).

This means that if an element of chance is present in the selection of the winner, the participants must not provide any stakes (payment) the return of which would not be guaranteed.

Therefore, players can only be asked to pay a price to participate in esports tournaments if the above conditions are fulfilled (e.g. if the price presents a non-refundable registration fee; or the player makes a wager on their own skill in a game which is 100% skill based).

Selection of participants

Is it possible to place any restriction to the players that can participate in an esports tournament?

Criteria for selection of participants need to be objective, transparent, and non-discriminatory.

Contracting esports players

Are there particular requirements for T&Cs of esports tournaments?

No, but the T&Cs must be generally drafted in accordance with Czech consumer protection laws – the T&Cs have to be transparent for participants before they enter the esports tournament, which means that among other things, information must be provided about how winners will be selected and notified and what prizes will be awarded and when.

Additionally, the mechanics of the esports tournament shall be structured to avoid the applicability of gambling laws and shall, in any case, comply with data protection regulations and intellectual property laws.

Selection of winners

Are there any requirements for the selection of winners and award of prizes for esports tournaments?

No, there are no particular requirements.

Sanctions against players

Can esports tournament organizers impose sanctions against players involved in match-fixing, corruption or illegal gambling during a tournament?

Organizers can only enforce contractual provisions set out by the T&Cs of the tournament.

Prizes of esports tournaments

Is there any restriction on the type of prizes that can be awarded as part of esports tournaments?

There are no particular restrictions on prizes awarded; however, it must be legal to distribute the prize to the person who wins (e.g. no alcohol/ weapons/ tobacco products to minors).

Online vs. offline esports tournaments

Are different regulations applicable to online esports tournaments compared to land-based esports tournaments?

No.

Other local requirements

Are there any other key local requirements?

No. Under Czech law, there is no regulation of esports tournaments per se. It is however necessary to avoid a situation where an esports tournament could fall within other areas of regulation, such as e.g. gambling regulation.

In this respect, we stress out that players should not be allowed to bet on match results because in such cases, the players do not actively participate in the esports but instead, they wager on the outcome of other people's game (which is similar to betting on results of any other type of sport). Consequently, such activity would clearly fall within gambling regulation.

As a consequence, a deeper review of the mechanics of esports tournaments is necessary to avoid challenges.

Timing

Is there the need to comply with specific timing to ensure compliance (other than reviewing the terms and conditions)?

No.

Translations

Are the terms of the esports tournament required to be translated by law?

Yes. The T&Cs and other documents relating to the esports tournament must be translated into Czech whenever the esports tournament is directed at consumers.

Penalties for non-compliance

What are the penalties for non-compliance?

Esports tournaments are in general supervised by the Czech Trade Inspection. Misleading the consumers in connection with esports tournaments may lead to fines of up to 5 million CZK (approx. US\$220,000).

There is also a possibility that the personal data processing aspects of the esports tournament could breach the GDPR, which imposes fines of up to 20 million EUR (approx. US\$22.4m) or 4 % of the entity's worldwide annual revenue.

If the esports tournament fulfilled the criteria of gambling as explained above, the entity operating such an esports tournament without a permit could be fined with an administrative penalty of up to 50 million CZK (approx. US\$2.2 million) if the entity is a company and up to 500,000 CZK (approx. US\$22,000) if the entity is a private individual. Operation of gambling without a license may also trigger criminal liability.

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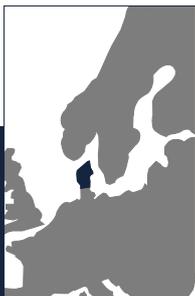
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Denmark

Governing law

What are the main applicable governing laws, sports laws or codes for esports (if any)?

With regard to the advertisement of esports related activities:

NAME
The Danish Marketing Practices Act (marketing targeting children, use of business identifiers, unfair commercial practices, misleading advertising, etc.)
Rules issued by the International Esports Federation
Rules issued by the Danish Esports Federation
General legal principles regarding the right of publicity (use of athletes' own image)

With regard to the protection of intellectual property rights as part of esports activities:

NAME
The Danish Copyright Act
The Danish Trademark Act
General legal principles (transmission/streaming)

With regard to the processing of personal data as part of esports activities:

NAME
Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data
The Danish Data Protection Act

Other:

NAME
Anti Doping rules
Danish Tax laws (prize money)

Extra-territoriality

Are national laws enforceable against entities operating abroad?

In some cases, national laws will be enforceable against entities operating abroad – e.g. the Danish Data Protection Act is applicable to entities operating abroad if they process personal data of data subjects located in Denmark and the processing activities are related to offering goods or services to such data subjects.

Technical requirements of esports tournaments

Do videogames need any certification to be used as part of esports tournaments?

No specific certification is required for the usage of video games in esports tournaments. However, since videogames are protected by copyright, it is assumed that the organizers of esports tournaments must enter into a license agreement with the relevant rightsholder.

Sponsorship of esports tournaments

Are particular requirements applicable to sponsorship agreements relating to esports tournaments?

No specific requirements applicable to sponsorship agreements for esports tournaments currently exist. However, the Danish Esports Federation's Code of Ethics strongly advises against direct or indirect marketing related to betting activities, gambling and energy drinks when such marketing is aimed at children under the age of 18 years old.

Generally, sponsorship agreements are governed by Danish contract law.

Participation in esports tournaments

Can players pay any price to participate in esports tournaments?

If every participant (player) is required to pay the exact same amount, i.e. non-discriminatory pricing, there should be no restriction regarding price.

Selection of participants

Is it possible to place any restriction to the players that can participate in an esports tournament?

Criteria for selection of participants need to be objective, transparent and non-discriminatory.

Contracting esports players

Are there particular requirements for T&Cs of esports tournaments?

T&Cs must be drafted in accordance with Danish consumer and marketing laws, if the tournament is not directed at professional players.

Selection of winners

Are there any requirements for the selection of winners and award of prizes for esports tournaments?

General contract and consumer laws will apply to the proper selection of winners.

Sanctions against players

Can esports tournament organizers impose sanctions against players involved in match-fixing, corruption or illegal gambling during a tournament?

Organizers can only enforce contractual provisions set out in the T&Cs of the tournament.

Prizes of esports tournaments

Is there any restriction on the type of prizes that can be awarded as part of esports tournaments?

As long as the object (prize) is not considered illegal under Danish law, no specific restriction exists.

Online vs. offline esports tournaments

Are different regulations applicable to online esports tournaments compared to land-based esports tournaments?

There are no different regulations applicable.

Other local requirements

Are there any other key local requirements?

There are no other local requirements.

Timing

Is there the need to comply with specific timing to ensure compliance (other than reviewing the terms and conditions)?

There is no specific timing.

Translations

Are the terms of the esports tournament required to be translated by law?

If the esports tournament has made use of marketing in Danish, a translation of the terms into Danish is mandatory.

Penalties for non-compliance

What are the penalties for non-compliance?

It depends on what type of non-compliance, e.g. non-compliance with the Danish marketing laws may result in administrative fines provided by the regulation highlighted in the first section.

Key contact



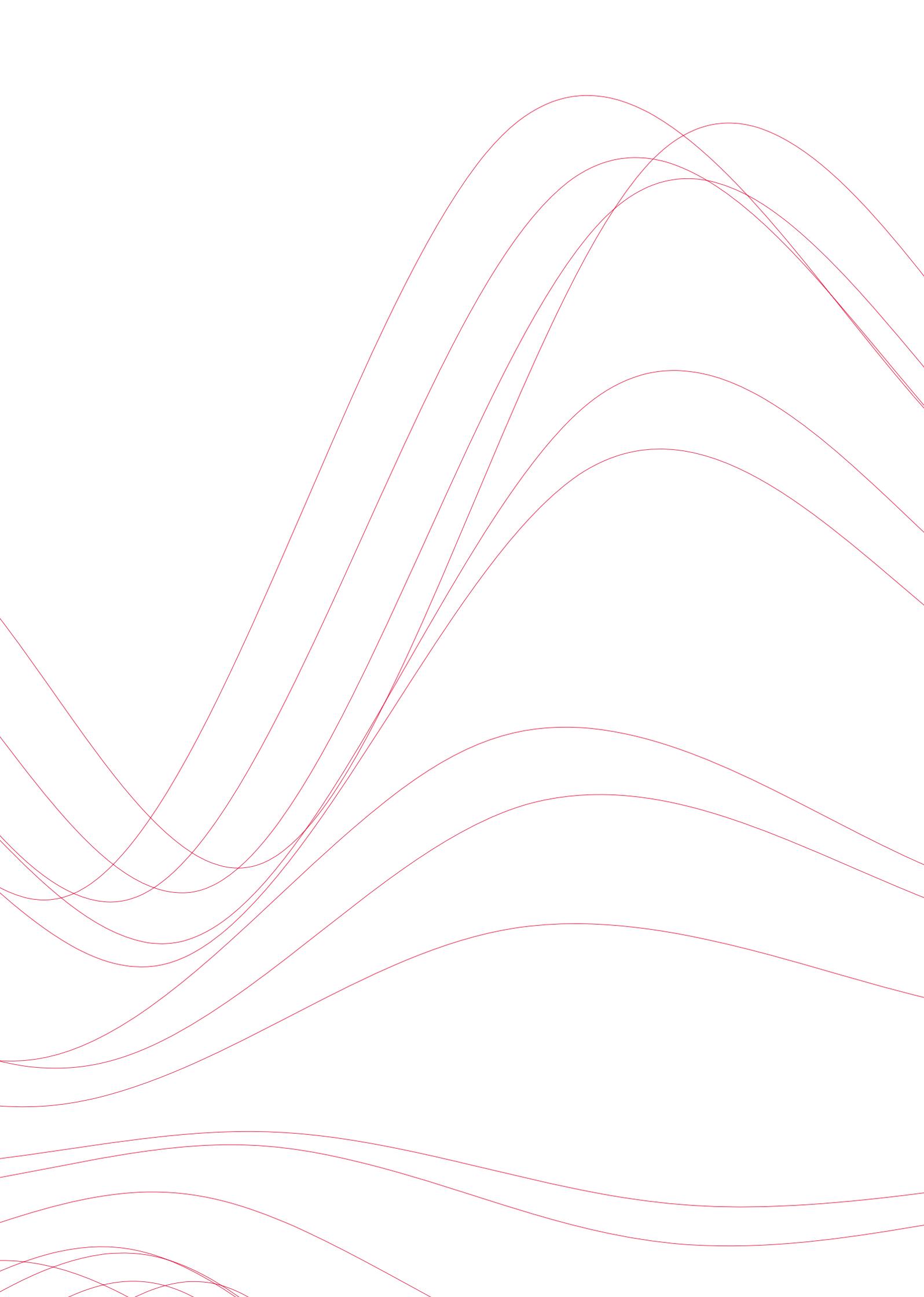
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Finland

Governing law

What are the main applicable governing laws, sports laws or codes for esports (if any)?

With regard to the applicability of gambling laws:

NAME
Lotteries Act (1047/2001, as amended)
Criminal Code of Finland (39/1889, as amended)

With regard to the applicability of prize promotion regulations to esports activities:

NAME
Lotteries Act (1047/2001, as amended)
The Consumer Protection Act (38/1978, as amended)
The Act on Electronic Communication Services (917/2014, as amended)

With regard to the advertisement of esports related activities:

NAME
Consumer Protection Act (38/1978, as amended)
Unfair Business Practices Act (1061/1978, as amended)

With regard to the protection of intellectual property rights as part of esports activities:

NAME
Copyright Act (404/1961, as amended)
Trademarks Act (7/1964, as amended)
Registered Designs Act (221/1971, as amended)

With regard to the processing of personal data as part of esports activities:

NAME
Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data
Data Protection Act (1050/2018, as amended)

Extra-territoriality

Are national laws enforceable against entities operating abroad?

Finnish regulation applies to esports events addressed to Finnish players and/or consumers.

There is no case law on the matter.

Technical requirements of esports tournaments

Do videogames need any certification to be used as part of esports tournaments?

There is no dedicated certification for the usage of video games in esports tournaments, apart from the certifications necessary for their sale to the public, such as the Act on Audiovisual Programmes (710/2011, as amended) and its provisions on age rating for video games.

A certification might be recommendable to avoid potential disputes, even if not expressly required.

Sponsorship of esports tournaments

Are particular requirements applicable to sponsorship agreements relating to esports tournaments?

There are no specific requirements applicable to sponsorships agreements for esports tournaments.

However, marketing has to be in accordance with Finnish consumer laws so that consumers can tell the difference between advertisements and other content that esports tournaments produce such as live streams.

Participation in esports tournaments

Can players pay any price to participate in esports tournaments?

There are no specific rules concerning participation prices in esports tournaments.

Selection of participants

Is it possible to place any restriction to the players that can participate in an esports tournament?

Criteria for selection of participants need to be objective, transparent, and non-discriminatory.

Contracting esports players

Are there particular requirements for T&Cs of esports tournaments?

Stringent requirements apply to the content of the T&Cs and the formalities to be followed if an esports tournament is subject to prize promotion regulations.

Additionally, T&Cs shall be drafted in accordance with Finnish consumer laws, if the tournament is not directed at professional players, and misleading advertising rules, if the tournament is addressed to professional players.

Additionally, the mechanics of the esports tournament shall be structured to avoid the applicability of gambling laws and shall, in any case, comply with data protection regulations and intellectual property laws.

Selection of winners

Are there any requirements for the selection of winners and award of prizes for esports tournaments?

The selection of winners is not regulated as such.

In addition, general contract and consumer law rules will apply to the proper selection of winners.

Sanctions against players

Can esports tournament organizers impose sanctions against players involved in match-fixing, corruption or illegal gambling during a tournament?

Organizers can only enforce contractual provisions set out by the T&Cs of the tournament. However, limitations can apply to actions that can be taken against players without a court order.

Prizes of esports tournaments

Is there any restriction on the type of prizes that can be awarded as part of esports tournaments?

There is no specific regulation for esports tournaments. However, Finnish prize promotion regulations might be applicable. If these provisions apply, certain prizes are considered improper such as guns, explosives, dangerous chemicals and living animals.

Furthermore, the prize amount and the chances of winning the prize are important factors. Very high value prizes and very high probabilities for winning prizes may be regarded contrary to ordinarily accepted business practices. However, high value prizes as such are not considered improper.

The prize itself must also actually exist. It is strictly prohibited to market through prize promotions where in fact no prize is available.

Online vs. offline esports tournaments

Are different regulations applicable to online esports tournaments compared to land-based esports tournaments?

There are no different regulations applicable to online esports tournaments compared to land-based esports tournaments.

Other local requirements

Are there any other key local requirements?

Operators holding a Finnish general online gambling and betting license as well as those holding a betting shop license can offer bets on esports events, within limits set out by gambling regulations and subject to the approval of the type of esports event and the type of bet by the Finnish gambling regulator.

There is no dedicated regime applicable to esports.

The Finnish Esports Federation (SEUL) has published the Finnish e-sports Code of Conduct (only available in Finnish) that includes ethical guidelines for both players and organizers of esports tournaments.

Timing

Is there the need to comply with specific timing to ensure compliance (other than reviewing the terms and conditions)?

No, although time should be allowed to deal with data protection issues (eg ensuring an appropriate privacy policy is in place and including appropriate tick box functionality for consents).

Translations

Are the terms of the esports tournament required to be translated by law?

Translation is not required by law.

Penalties for non-compliance

What are the penalties for non-compliance?

In cases of breach of gambling laws, criminal sanctions can apply.

There is also a possibility that the personal data processing aspects of esports tournaments could breach data protection laws.

Key contact



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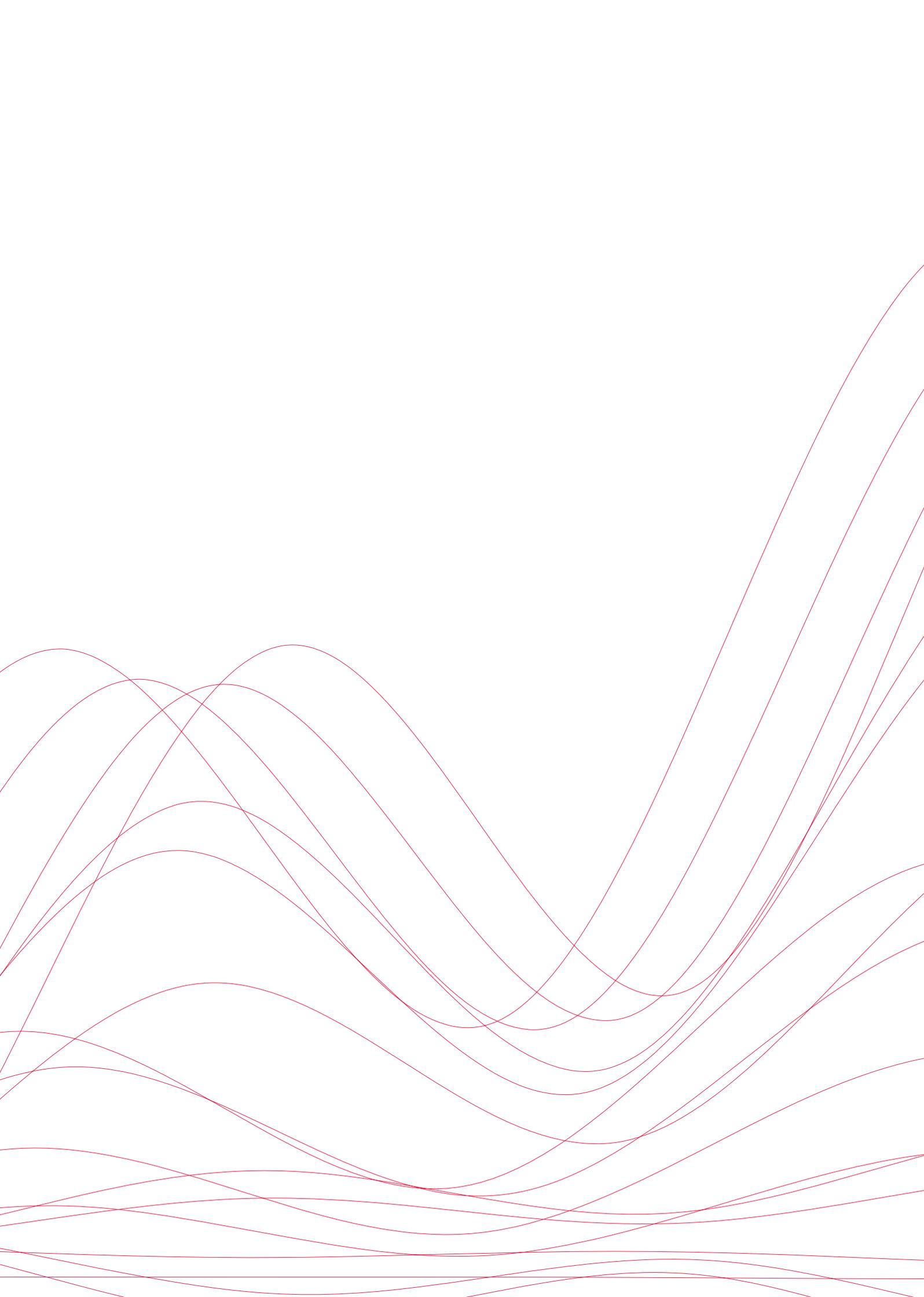
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France

As a general comment, please note that French law provides a general prohibition on lotteries (i.e. all operations (including skill competitions) (i) offered to the public, under any denomination, (ii) determined, even partly, by chance, (iii) creating an expectation of a gain and (iv) for which payment from the participant is required by the organizer). Any operations, online or not, which meet the above criteria are prohibited.

However, French law provides some exemptions to this prohibition, including exemptions related to online gambling and games of chance and online videogames, i.e. esports tournaments.

In addition, esports tournaments may also be subject to prize promotion regulations, if they are considered as such promotions.

Governing law

What are the main applicable governing laws, sports laws or codes for esports (if any)?

With regard to the applicability of gambling laws:

NAME
Article 1964 <i>et seq.</i> of the French Civil Code.
Article L. 320-1 <i>et seq.</i> of the French Code of Internal Security.
Law No. 2010-476 dated 12 May 2010 relating to the opening to competition and to regulation of online gambling and games of chance (<i>“Loi n° 2010-476 du 12 mai 2010 relative à l’ouverture à la concurrence et à la régulation du secteur des jeux d’argent et de hasard en ligne”</i>).
Law dated 2 June 1891 aiming at regulating authorization and operation of horse races (<i>«Loi du 2 juin 1891 ayant pour objet de réglementer l’autorisation et le fonctionnement des courses de chevaux”</i>).
Decree No. 78-1067 dated 9 November 1978 relating to organization and exploitation of lotteries authorized by article 136 of law dated 31 May 1933 and by article 48 of law No. 94-1163 dated 29 December 1994 (<i>«Décret n°78-1067 du 9 novembre 1978 relatif à l’organisation et à l’exploitation des jeux de loterie autorisés par l’article 136 de la loi du 31 mai 1933 et de l’article 48 de la loi n° 94-1163 du 29 décembre 1994”</i>).
Law No. 2017-257 dated 28 February 2017 relating to the status of Paris and to urban planning (<i>“Loi n° 2017-257 du 28 février 2017 relative au statut de Paris et à l’aménagement métropolitain”</i>) and decree No. 2017-913 dated 9 May 2017.

With regard to the applicability of prize promotion regulations to esports activities:

NAME
Article L. 321-8 <i>et seq.</i> of the French Code of Internal Security.
Article L. 121-20 of the French Consumer Code.

With regard to the advertisement of esports related activities:

NAME

Article L. 121-1 *et seq.* of the French Consumer Code (unfair/misleading/aggressive commercial practices).

Recommendations of the French advertising self-regulatory organization (ARPP) and the International Chamber of Commerce (ICC) Code on Gambling

Decree No. 92-280 dated 27 March 1992 regarding broadcast advertising («*Décret n°92-280 du 27 mars 1992 pris pour l'application des articles 27 et 33 de la loi n° 86-1067 du 30 septembre 1986 et fixant les principes généraux définissant les obligations des éditeurs de services en matière de publicité, de parrainage et de télé-achat*»).

With regard to the protection of intellectual property rights as part of esports activities:

NAME

French Intellectual Property Code.

With regard to the processing of personal data as part of esports activities:

NAME

Regulation (EU) 2016/679 of April 27, 2016 on the protection of natural persons with regard to the processing of personal data (GDPR).

Law No. 78-17 of January 6, 1978 on 'Information Technology, Data Files and Civil Liberties' (data protection act), as amended.

Article L. 34-5 of the French Post and Electronic Communications Code regarding electronic direct marketing.

Recommendations of the French data protection authority (CNIL) and of the EDPB and WP29.

Extra-territoriality

Are national laws enforceable against entities operating abroad?

Entities operating abroad must comply with French law in cases of esports events addressed to French players and/or consumers, even if they are also open to players and/or consumers of other jurisdictions.

In order to determine whether the promotion targets French consumers, the regulator may take into consideration factors such as the eligibility criteria, advertising in local media, language, etc.

Technical requirements of esports tournaments

Do videogames need any certification to be used as part of esports tournaments?

Provisions of Article L. 321-8 *et seq.* of the French Code of Internal Security related to videogame competitions refer to Article 220 *terdecies* of the French General Tax Code for the definition of videogames. Thus, a

videogame is defined as any leisure software made available to the public in a physical medium or online and including elements of artistic and technological creation, offering to one or several users interactions relying on a written frame or simulated situations and resulting in moving images, with or without sounds.

As for videogame competitions, these are defined as competitions that bring together, based on a videogame, at least two players or teams of players for a score or a victory.

Organization of such videogame competitions does not include organization of bets.

Consequently, there is no dedicated certification for the usage of videogames in competitions, including esports tournaments, apart from the certifications necessary for their sale to the public.

Sponsorship of esports tournaments

Are particular requirements applicable to sponsorship agreements relating to esports tournaments?

There are no specific requirements applicable to sponsorship agreements for esports tournaments.

However, the type of consideration due by the sponsor and the services provided by and to the sponsor can lead to regulatory (e.g. prohibition of advertising of tobacco, alcohol, investment services related to some financial contracts, medicine) and tax issues.

Participation in esports tournaments

Can players pay any price to participate in esports tournaments?

Distinction is to be made between (i) physical esports tournaments and (ii) online esports tournaments.

I. PHYSICAL eSPORTS TOURNAMENTS

Esports tournaments, which physically gather in one place all participants, are allowed under French law, provided that the total amount of the registration fee or of the financial contribution due by the participant does not exceed 100% of the total organization cost of the event, including the total amount of the gains or prizes offered. When the total amount of the gains or prizes offered exceeds EUR 10,000, the organizers must justify the existence of an instrument or mechanism that guarantees that the gains and prizes are entirely redistributed. In addition, such competitions must be notified to the competent authority.

II. ONLINE eSPORTS TOURNAMENTS

Online esports tournaments may in no event include a financial contribution. However, Article L. 321-11 of the French Code of Internal Security provides that for online esports competitions, the cost of internet access and the potential cost of the purchase of the game used as a basis for the esports competition may not be considered as a financial contribution.

Selection of participants

Is it possible to place any restriction to the players that can participate in an esports tournament?

Selection criteria of participants must be objective, transparent, and non-discriminatory.

In addition, under Article L. 321-10 of the French Code of Internal Security, some specific restrictions must be put in place for players who are minors.

In this respect, in order for a minor to participate in esports tournaments, the minor's legal representative must have previously authorized such participation in writing. The organizer must keep a copy of such authorization (which may be in a dematerialized form) for one year, as well as the number, the nature and the authority which issued the legal representative's and the minor's identity documents.

In addition, the minor's legal representative must be informed of the financial aspects of the esports tournament and of the videogames used during such tournament.

Please note the participations of minors under 12 in esports tournaments with monetary awards is prohibited.

Contracting esports players

Are there particular requirements for T&Cs of esports tournaments?

T&Cs entered into between esports tournaments' organizers and consumers/non-professionals must be drafted in accordance with French consumer law, including but not limited to regulations prohibiting unfair and misleading commercial practices.

If an esports tournament may be considered as a prize promotion, the related regulation must apply in addition.

The T&Cs of esports tournaments must also comply with data protection regulations and intellectual property laws.

Selection of winners

Are there any requirements for the selection of winners and award of prizes for esports tournaments?

The conditions for awarding the prizes must be clear, objective and clearly defined.

Sanctions against players

Can esports tournament organizers impose sanctions against players involved in match-fixing, corruption or illegal gambling during a tournament?

Organizers may only enforce contractual provisions set out by the T&Cs of the esports tournament, provided that the compensation set forth in the T&Cs in case of breach of its contractual obligations by the consumer is not manifestly imbalanced.

Prizes of esports tournaments

Is there any restriction on the type of prizes that can be awarded as part of esports tournaments?

The following cannot be awarded as prizes:

- Weapons (Article 5 of law No. 85-706 dated 12 July 1985).
- Tobacco-related products (Article L. 3512-4 of the French Public Health Code).
- Living animals, except farm animals in agriculture-related tournaments (Article L. 914-4 of the French Rural and Sea Fishing Code).
- Anything contrary to public order or anything the distribution of which is prohibited or regulated (e.g. drugs).

The trademark owner may object to its products being offered as prizes.

Article R. 321-45 of the French Code of Internal Security sets forth that the esports tournaments' organizers must deposit monetary rewards received by a minor under 16 at the French *Caisse des Dépôts et Consignations* on behalf of the minor.

Online vs. offline esports tournaments

Are different regulations applicable to online esports tournaments compared to land-based esports tournaments?

Distinction is to be made between (i) physical esports tournaments and (ii) online esports tournaments.

I. PHYSICAL eSPORTS TOURNAMENTS

Esports tournaments, which physically gather in one place all participants, are allowed under French law, provided that the total amount of the registration fee or

of the financial contribution due by the participant does not exceed 100% of the total organization cost of the event, including the total amount of the gains or prizes offered. When the total amount of the gains or prizes offered exceeds EUR 10,000, the organizers must justify the existence of an instrument or mechanism that guarantees that the gains and prizes are entirely redistributed. In addition, such competitions must be notified to the service of the Ministry of the Interior in charge of games and races.

II. ONLINE eSPORTS TOURNAMENTS

Online esports tournaments may in no event include a financial contribution. However, Article L. 321-11 of the French Code of Internal Security provides that for online esports competitions, the cost of internet access and the potential cost of the purchase of the game used as a basis for the esports competition may not be considered as a financial contribution.

Other local requirements

Are there any other key local requirements?

- Specific requirements related to bookmaking
- Section L. 321-8 of the French Code of Internal Security provides that the organization of esports tournaments does not include the organization of bookmaking.
- Consequently, in no event may the organizer of the e-sports competition organize a betting system parallel to the competition itself.
- Specific requirements related to hiring professional esports players

Under French law No. 2016-1321 dated 7 October 2016, specific requirements must be met to hire professional esports players. Any company or association must obtain a ministerial approval to hire such professional esports players. The employment agreement entered into between the company/association and the esports player must be a fixed term agreement, the term of which may not be less than a competitive videogame season (i.e. one year) and must not exceed five years. In addition, said employment agreement must comply with the requirements set forth in Article 102 of the law dated 7 October 2016.

Dates of seasons of videogames competitions are defined in an order dated 17 April 2018.

Timing

Is there the need to comply with specific timing to ensure compliance (other than reviewing the terms and conditions)?

Time should also be allowed if the organizer has not yet made the appropriate steps towards becoming compliant with the GDPR and French data protection act requirements as regards the management of the personal data collected and processed in connection with esports tournaments, including, without limitation, the creation and maintenance of a record of data processing activities, appropriate information notices provided to data subjects, and formal processes implemented in order to enable the latter to exercise their rights (i.e. access, rectification and erasure, data portability, objection, restriction of processing, the right to digital legacy).

Where the processing of personal data in the context of esports tournament is likely to result in high risks to the rights and freedoms of natural persons (e.g. where such data is used to profile participants), the organizer must also proceed with a Personal Data Impact Assessment.

In France, since the entry into force of the GDPR on May 25, 2018, the general principle is that each processing purpose for which personal data is processed must be evidenced with a record of data processing activities. Therefore, it is not a requirement to make a record entry for each esports tournament, but to have one record entry encompassing the management of the personal data collected and processed in the course of such operations (provided that means of processing and data processed are similar). If personal data is transferred outside of the European Economic Area, it is necessary to ensure that the recipient is located in a country recognized by the European Commission as ensuring an adequate level of personal data protection, or that a proper transfer mechanism is implemented (e.g. binding corporate rules, European Commission model clauses).

In addition, the organizer should allow time to implement 'Privacy by Design' and 'Privacy by Default' principles to any further processing of personal data in the context of esports tournament (i.e. ensure that appropriate technical and organizational measures are implemented to meet the requirements of the GDPR and that, by default, only the personal data that is necessary for the purposes of esports tournament is collected and processed).

Translations

Are the terms of the esports tournament required to be translated by law?

Yes, into French (Toubon law dated 4 August 1994).

Penalties for non-compliance

What are the penalties for non-compliance?

Non-compliance with the provisions of the French Code of Internal Security may be punished by the following sanctions:

Up to 3 years' imprisonment and a fine of up to EUR 90,000 for individuals and EUR 450,000 for legal entities (or up to 7 years' imprisonment and a fine of up to EUR 200,000 for individuals and EUR 1,000,000 for legal entities, if committed in an organized group);

Confiscation of the gaming or lottery machine, if applicable;

Additional sanctions for individuals:

- loss of civil rights (eg right to vote and/or be elected to a public office);
- confiscation of the means used to commit the offense;
- publication of the decision;
- permanent closure or closure for up to 5 years of the establishment(s) used to commit the offense; and
- prohibition from exercising certain activities.

Additional sanctions for legal entities:

- dissolution;
- permanent closure or closure for up to 5 years;
- confiscation of the means used to commit the offense;
- publication of the decision; and
- prohibition for up to 5 years from obtaining or maintaining the license required to operate online gambling activities.

A fine up to EUR 100,000 for individual ticket sellers, or for those individuals advertising the lottery and up to EUR 500,000 for legal entities such as companies. The court may increase the fine to four times the amount spent to advertise the lottery.

In addition, organizers may be punished (per offense) by a fine of up to EUR 1,500 in the event of:

- a minor under 12 participating in an esports tournament with a monetary award;
- the organizer of an esports tournament is not being able to prove written authorization from the legal representative of the minor who participated in the tournament.

Additional sanctions may apply in case of:

- breach of gambling and games of chance regulations;
- misleading, aggressive or unfair commercial practices; and
- breach of data protection rules.

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Germany

Governing law

What are the main applicable governing laws, sports laws or codes for esports (if any)?

With regard to the applicability of gambling laws:

NAME
Sec. 762 of the German Civil Code providing that games and bets do not establish a legal obligation ('Game' is interpreted to refer to gambling and skill games; esports might be interpreted to be skill games).
Sec. 33i para. 1 sent. 1 in conjunction with Sec. 33d para. 1 sent. 1 of the Trade, Commerce and Industry Regulation Act ('GewO') requiring a gambling hall license for the commercial organization of a gaming (not necessarily gambling) event with prize money. According to German case law, only applicable if the event is held predominantly for the purpose of playing; therefore it should not be applicable if the main purpose of the event is to watch other people play.
Sec. 6 of the German Youth Protection Act ('JuSchG'): in the context of esports only as far as Sec. 33i GewO applies (see above): prohibiting to permit minors to be present in gambling halls
Interstate Treaty on Gambling ('GlüStV') (referring to gambling and betting, thus in the context of esports only applicable to betting activities, especially Sec. 4 and 5)
Sec. 284 of the criminal code ('StGB') providing criminal sanctions for the illegal offering of gambling and betting activities

With regard to the applicability of prize promotion regulations to esports activities:

NAME
Sec. 657 ff. of the German Civil Code might apply as long as no payment to participate is required and a reward of any kind is paid

With regard to the advertisement of esports related activities:

NAME
German Copyright Act ('UrhG'), especially Sec. 23 sent. 1 and Sec. 39 para. 1 prohibiting the modification or alteration of the work without consent of the owner (modifying or altering the videogame by inserting advertisement)
German Act against Unfair Competition ('UWG'), especially Sec. 5a para. 6 prohibiting surreptitious advertising

NAME

Interstate Treaty on Broadcasting for offers on broadcast media ('RStV), especially Sec. 7 requiring advertisement to be separated and identifiable as advertisement

Sec 5 para. 3 GlüStV as far as betting on esports is concerned (prohibition of online advertisement)

With regard to the protection of intellectual property rights as part of esports activities:

NAME

German Copyright Act ('UrhG'), especially Sec. 2 in conjunction with Sec. 69a ff.; Sec. 2 defining which elements are protected; Sec. 16, 19, 19a, 20, 22, 23 defining the exploitation rights

German Trademark Act ('MarkenG')

With regard to the processing of personal data as part of esports activities:

NAME

Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data

Federal Data Protection Act ('BSDG') implementing and supplementing the EU Regulation 2016/679

Extra-territoriality

Are national laws enforceable against entities operating abroad?

Even when operating abroad, entities shall comply with German law in case esports events target the German market, e.g. by addressing German players and/or consumers, even if they are also open to players and/or consumers of other jurisdictions.

There is no case law on the matter. However, the usage of claims in German, the reference to Germany in the T&Cs and other circumstances might be considered by German authorities as indicators of the applicability of German law.

Telemedia and broadcasting rules are enforced on the basis of the country-of-origin principle, meaning German regulations will not be enforced if the country-of-origin of the respective medium is not Germany.

Technical requirements of esports tournaments

Do videogames need any certification to be used as part of esports tournaments?

There is no separate certification for the use of video games in esports tournaments, with the exception of the certifications necessary for their sale to the public, such as those provided by age-rating system of the German Self-Regulation Organisation for Entertainment Software (USK).

According to German case law, a gambling hall license is required for the commercial organization of a gaming event with prize money if the event's predominant purpose is for attendees to play. Consequently, it should not be required if the predominant purpose is to watch other people play.

Sponsorship of esports tournaments

Are particular requirements applicable to sponsorship agreements relating to esports tournaments?

There are no specific requirements applicable to sponsorship agreements for esports tournaments, requirements are in general similar to those of normal sports events (see e.g. Sec. 8 RStV). For further regulations see applicable laws on advertisement above.

Participation in esports tournaments

Can players pay any price to participate in esports tournaments?

Yes, but the requirement of a payment in order to participate (this might include an annual registration fee, depending on the circumstances) can make the event fall into the scope of a 'game' according to Sec. 762 BGB (see above). However, this does not make the GlüStV applicable on the esports activity itself, but it is applicable on betting on esports activities.

Selection of participants

Is it possible to place any restriction to the players that can participate in an esports tournament?

In general, the organizer can make use of its domiciliary right ('Hausrecht'), but it is highly recommended to make sure that the criteria of selection are objective, transparent and non-discriminatory.

Contracting esports players

Are there particular requirements for T&Cs of esports tournaments?

T&Cs have to be transparent and made accessible for participants before they enter the tournament. They should provide information about the rules of the game and how winners will be selected.

Additionally, T&Cs shall be drafted in accordance with German laws on Terms and Conditions ('AGB', see German Civil Code), with German consumer laws, if the tournament is not directed to professional players, and with misleading advertising rules, if the tournament is addressed to professional players. They should also comply with data protection regulations and intellectual property laws.

Selection of winners

Are there any requirements for the selection of winners and award of prizes for esports tournaments?

None, but it is strongly recommended to set out requirements for the selection of winners and the awarding of prizes and restrictions (e.g. the rules of the game) in a terms and conditions document, especially if the players are non-professionals and therefore to be treated as consumers.

Apart from that, general contract and consumer law rules will apply to the proper selection of winners.

Sanctions against players

Can esports tournament organizers impose sanctions against players involved in match-fixing, corruption or illegal gambling during a tournament?

Organizers can enforce contractual provisions set out by the T&Cs of the tournament. Additionally, organizers might be able to substantiate sanctions on the basis of their domiciliary right.

Prizes of esports tournaments

Is there any restriction on the type of prizes that can be awarded as part of esports tournaments?

There are no particular restrictions on prizes awarded, however:

- it must be legal to distribute the prize to the person who wins (e.g. no alcohol/weapons/tobacco products to minors); and
- where the prize is directed at minors and requires the purchase of advertised products/services, then the value of the prize should be in the 'usual range' (e.g. a prize value of € 5,000 (approx. US-\$ 5,600) for each of 100 main prizes is in the usual range according to German case law), in order not to exploit the lack of business experience of minors; otherwise this constitutes an unfair commercial practice pursuant to Sec. 3 para. 2 UWG.

Online vs. offline esports tournaments

Are different regulations applicable to online esports tournaments compared to land-based esports tournaments?

According to German case law, a gambling hall license is not required for online games.

The existence of a virtual domiciliary right is widely recognized at least if the person owns the servers used. Consequently, at least if the organizer of the online esports tournament owns the servers used, he might exercise this right.

The online advertisement of bets on esports events is prohibited (see above).

Other local requirements

Are there any other key local requirements?

With regard to broadcasting and reporting on media, a specific license might be required (Sec. 20 ff. RStV). For Live-Streaming and Webcasting, an authorization is required as soon as there is a certain regularity (schedule) of transmission and no exemption applies (e.g. technical restriction to no more than 500 viewers and no comments or other journalistic work is added). In addition, transmissions have to comply with regulations of the German Youth Protection Act ('JuSchG') and the Interstate Treaty on Youth Media Protection ('JMStV').

Esports are still not recognized as a sport in Germany so that special exemptions are not applicable. Besides, there is no special regime applicable to esports.

As a consequence, a more in-depth review of the organization of an esports tournament is necessary to avoid legal conflicts.

Timing

Is there the need to comply with specific timing to ensure compliance (other than reviewing the terms and conditions)?

No.

Translations

Are the terms of the esports tournament required to be translated by law?

Under consumer regulations, terms and conditions must be provided in German in order to be clear and unambiguous for participants in Germany.

Penalties for non-compliance

What are the penalties for non-compliance?

In case of infringement of the provisions of the UrhG, possible civil claims are e.g. injunctive relief (Sec. 97 para. 1), damages in the event of intent or negligence (Sec. 97 para. 2) or reimbursement of lawyer's fees (e.g. for sending a warning letter) (Sec. 97a para. 3)

Criminal sanctions like imprisonment or fines can apply in the case of exploitation of the protected elements of a videogame (reproduction, distribution or communication to the public) without the consent of the right holder (Sec. 106).

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Hong Kong

Governing law

What are the main applicable governing laws, sports laws or codes for esports (if any)?

There is not a specific 'single' law regulating esports and related activities. That said, the laws and regulations set out below are relevant:

With regard to the applicability of gambling laws:

NAME
The Gambling Ordinance (Cap. 148) provides that gambling and lotteries in Hong Kong are generally illegal except for certain licensed or exempted activities. 'Games of chance', or 'games of chance and skill combined' are governed by the Ordinance.
The Gambling Regulations (Cap. 148A) provides the licensing requirements of different types of gambling activities.

With regard to the applicability of prize promotion regulations to esports activities:

NAME
The Gambling Ordinance (Cap. 148) and the Gambling Regulations (Cap. 148A) regulate prize promotions in which there is at least one element of chance. Approvals are required from competent authorities and a licence is required for prize promotion activities.
Guidance Notes on Application for the Grant of Amusement Game Centre Licence.
Guidance Notes on Application for the Grant of Amusements with Prizes Licence.
Places of Public Entertainment Ordinance (Cap. 172)
Application Guide for Lottery Licence regulating competitions (for money or property which involve guessing or estimating the results of future events).
Application Guide for Trade Promotion Competition Licence.
This guide provides information relating to competitions for money conducted for the purpose of promoting a trade or product sale by way of a game that distributes prizes by lot or chance.

With regard to the advertisement of esports related activities:

NAME
Trade Descriptions Ordinance (Cap. 362)
Generic Code of Practice on Television Advertising Standards
Radio Code of Practice on Advertising Standards
Code of Practice of the Association of Accredited Advertising Agents of Hong Kong

With regard to the protection of intellectual property rights as part of esports activities:

NAME
Trade Marks Rules (Cap. 559A)
Trade Descriptions Ordinance (Cap. 362)

With regard to the processing of personal data as part of esports activities:

NAME
Personal Data (Privacy) Ordinance (Cap. 486)

Extra-territoriality

Are national laws enforceable against entities operating abroad?

In general, Hong Kong legislations do not confer extra-territorial application. That said, there may be some restrictions applicable to overseas entities conducting certain activities in Hong Kong.

For example, any person who wishes to conduct a trade promotion with prizes in Hong Kong which falls within the ambit of "lottery" and/or "gaming" as defined under the Gambling Ordinance (Cap. 148) is required to obtain a licence. An overseas applicant with no presence in Hong Kong shall appoint and authorise an agent whose business is registered in Hong Kong to be the applicant for the license.

Technical requirements of esports tournaments

Do videogames need any certification to be used as part of esports tournaments?

We are not aware of any dedicated certification in connection with the usage of online video games in esports tournaments.

As an aside, any publication of articles relating to electronic games, computer games, video games are regulated by the Control of Obscene and Indecent Articles Ordinance (Cap. 390).

Sponsorship of esports tournaments

Are particular requirements applicable to sponsorship agreements relating to esports tournaments?

We are not aware of any specific laws or regulations imposing restrictions on players paying any price to participate in an esports tournament. This will be regulated by the respective game rules of the esports tournament.

That said, other regulations may apply if the sponsorship is for contribution to the prize pool, and constitute crowd-funding.

Participation in esports tournaments

Can players pay any price to participate in esports tournaments?

We are not aware of any specific laws or regulations imposing restrictions on players paying any price to participate in an esports tournament. This will be regulated by the respective game rules of the esports tournament.

Selection of participants

Is it possible to place any restriction to the players that can participate in an esports tournament?

We are not aware of any specific laws or regulations imposing restrictions on the selection of players in an esports tournament. This will be regulated by the respective game rules of the esports tournament.

Organisations should also be aware of the potential employment issues (e.g. contracting with underage players, visa issues) and tax implications.

Contracting esports players

Are there particular requirements for T&Cs of esports tournaments?

The contents of the T&Cs should be drafted in compliance with applicable contract law and other Hong Kong laws such as its data protection laws and intellectual property laws.

Organisations should also be aware of the potential employment issues (e.g. contracting with underage players, visa issues) and tax implications.

Selection of winners

Are there any requirements for the selection of winners and award of prizes for esports tournaments?

The selection of winners and award of prizes for esports tournaments are generally governed by the T&Cs and respective game rules of the esports tournament.

That said, if the prize promotions regulatory regime is applicable for a particular tournament, then the selection of winners and award of prizes may be subjected to the relevant requirements (e.g. each participant must have an equal chance of winning).

Sanctions against players

Can esports tournament organizers impose sanctions against players involved in match-fixing, corruption or illegal gambling during a tournament?

Organizers of esports tournament may enforce the relevant contractual provisions (if any) as set out by the T&Cs of the tournament.

Notwithstanding the above, any player who wins a gamble or a lottery by false practice may also face prosecution for such criminal offence under the Gambling Ordinance (Cap. 148).

Prizes of esports tournaments

Is there any restriction on the type of prizes that can be awarded as part of esports tournaments?

We are not aware of any specific statutory requirements under Hong Kong law prescribing the type of prizes that may be awarded in an esports tournament.

That said, if the prize promotions regulatory regime is applicable for a particular tournament, then there may be restrictions on the type of prizes that can be awarded (e.g. cash prizes are not permitted).

Online vs. offline esports tournaments

Are different regulations applicable to online esports tournaments compared to land-based esports tournaments?

The Gaming Ordinance (Cap. 148) is applicable to all types of gambling activities, regardless of whether it is conducted offline or online.

Other local requirements

Are there any other key local requirements?

While there is not a dedicated regime for esports in Hong Kong at the moment, the Government strives to promote the development of esports. Thus, we anticipate more regulations or guidelines will be published by the regulators in the near future. Organisations are advised to continue monitoring developments in this area.

Depending on the actual operation of esports venues, the operating organisation may obtain an exemption from the Licensing Authority for some of the licensing requirements under the Amusement Game Centres Ordinance (Cap. 435).

Where there is any data collecting or processing activities, it should be conducted in accordance with the Personal Data (Privacy) Ordinance (Cap. 486).

Timing

Is there the need to comply with specific timing to ensure compliance (other than reviewing the terms and conditions)?

Where a Trade Promotion Competition Licence is required, the completed application forms, together with the supporting documents and publicity materials, should be submitted to the Licensing Authority at least two calendar weeks before the commencement of the promotion.

Where an Amusements With Prizes Licence is required, the completed application forms, together with the supporting documents, should be submitted to the Licensing Authority at least three calendar weeks (for short-term licenses) or four weeks (for annual licenses) before the commencement of the promotion.

Translations

Are the terms of the esports tournament required to be translated by law?

There are no specific or clear regulations on whether the T&Cs are required to be translated into official languages. However, providing bilingual versions of T&Cs (in Traditional Chinese and English) is common practice adopted by organisations in Hong Kong.

Penalties for non-compliance

What are the penalties for non-compliance?

Non-compliance with a condition of a licence governed by the Gambling Ordinance can result in a fine of HKD50,000 (approximately HKD6,375) and imprisonment for 2 years, and will be taken into consideration on any future application for a license.

HKD5,000,000 (approx. USD637,500) and 2 years imprisonment on summary conviction, or HKD5,000,000 (approx. USD637,500) and 7 years imprisonment on indictment, for a person who promotes, organises, conducts or manages, or otherwise has control of, an unlawful lottery.

HKD50,000 (approx. USD6,375) and imprisonment for 2 years for selling, disposing of or possessing with a view to selling, illegal lottery tickets.

Upon the occurrence of a breach of the data protection principles under the Personal Data (Privacy) Ordinance (Cap. 486), the Office of the Privacy Commissioner for Personal Data of Hong Kong may issue an enforcement notice to direct the data user to remedy the contravention. Failure to comply with the enforcement notice is an offence and offenders may be liable for a maximum fine of HKD50,000 (approx. USD6,375) and imprisonment of 2 years.

HKD100,000 (approx. USD12,740) and imprisonment for up to 2 years on summary conviction, or HKD500,000 (approx. USD63,750) and imprisonment for up to 5 years on indictment for applying a false trade description to goods or services.

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Hungary

Governing law

What are the main applicable governing laws, sports laws or codes for esports (if any)?

With regard to the applicability of gambling laws:

NAME
Act 34 of 1991 on Gambling Operations ('Gambling Act')
Decree No. 32/2005 (X. 21.) PM of the Minister of Finance on the Implementation of Regulations Concerning the Authorization, Organization and Control of Gambling Activities
Government Decree No. 329/2015 (XI.10.) on the detailed rules of diligent gambling operations
Government Decree No. 183/2017. (VII. 5.) on the Gambling Supervisory Authority

With regard to the applicability of prize promotion regulations to esports activities:

NAME
Act 34 of 1991 on Gambling Operations ('Gambling Act')
Hungarian Code of Ethics for E-Sports (issued by Hungarian esports Federation ["HUNESZ"])

With regard to the advertisement of esports related activities:

NAME
Act 48 of 2008 on the Basic Requirements and Certain Restrictions of Commercial Advertising Activities
Act 185 of 2010 on Media Services and on the Mass Media
Act 104 of 2010 on Freedom of the Press and on the Basic Rules Relating to Media Content
Act 108 of 2001 on Electronic Commerce and on Information Society Services
Hungarian Code of Ethics for esports (issued by HUNESZ)
Contest Rules of the HUNESZ

With regard to the protection of intellectual property rights as part of esports activities:

NAME
Act 5 of 2013 on the Civil Code
Act 76 of 1999 on Copyright

NAME
Act 33 of 1995 on the Patent Protection of Inventions
Act 11 of 1997 on the Protection of Trademarks and Geographical Indications

With regard to the processing of personal data as part of esports activities:

NAME
Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data
Act 112 of 2011 on the Right of Informational Self-Determination and on Freedom of Information

Extra-territoriality

Are national laws enforceable against entities operating abroad?

In general, carrying out pure esports activities for a prize are not considered as gambling activities in Hungary (as opposed to esports betting). Accordingly, the territorial scope of the Gambling Act and the jurisdiction of Hungarian gambling authorities are not relevant in this respect.

However, in respect of consumer protection matters, Hungarian laws may be enforceable against an entity operating abroad, provided that such entity directs its activities to Hungary (on the basis of indicative factors like language, currency, telephone number, domain, references to Hungarian laws etc.).

Technical requirements of esports tournaments

Do videogames need any certification to be used as part of esports tournaments?

There is no dedicated certification for the usage of videogames in esports tournaments. In Hungary there is no specific legal regulation in respect of classification and labeling of videogames.

A certification might be recommendable though to avoid potential disputes, even if not expressly required.

Sponsorship of esports tournaments

Are particular requirements applicable to sponsorship agreements relating to esports tournaments?

There are no specific esports related regulations in respect of sponsorship agreements, accordingly general advertisement rules apply.

Participation in esports tournaments

Can players pay any price to participate in esports tournaments?

Yes, this is possible.

Selection of participants

Is it possible to place any restriction to the players that can participate in an esports tournament?

Criteria of selection of participants need to be objective, transparent and non-discriminatory.

Participants under the age of 18 need parental consent to enter the tournaments organized by HUNESZ. On these events only those players can actually enter the field who meet the age requirements, are a member of the HUNESZ database through an esports organization or are registered under an amateur athlete contract, and are featured in the roster of their team.

Contracting esports players

Are there particular requirements for T&Cs of esports tournaments?

There are no particular requirements for T&Cs of eSport tournaments, accordingly the general rules of the Hungarian Civil Code may apply. Hungarian consumer protection laws may also apply, if the tournament is not directed to professional players.

Additionally, the mechanics of the esports tournaments shall be structured to avoid the applicability of gambling laws and shall, in any case, comply with data protection regulations and intellectual property laws.

Selection of winners

Are there any requirements for the selection of winners and award of prizes for esports tournaments?

There are no specific requirements for selection of winners and award of prizes for esports tournaments, accordingly, general contract and consumer law rules will apply to the proper selection of winners.

Sanctions against players

Can esports tournament organizers impose sanctions against players involved in match-fixing, corruption or illegal gambling during a tournament?

Yes, organizers can enforce contractual provisions as set out in the T&Cs of the tournament. E.g. sanctions can be found in the Rules of Discipline of HUNESZ, such as prohibition or ban, oral or written warning, withdrawal of benefits, or fine.

Prizes of esports tournaments

Is there any restriction on the type of prizes that can be awarded as part of esports tournaments?

No, however, if players are paying in cash to participate in an esports tournament which contains elements of chance and obtain a winning in cash or in kind with economic value, there is a risk of requalification of the tournament as gambling.

Online vs. offline esports tournaments

Are different regulations applicable to online esports tournaments compared to land-based esports tournaments?

No, however, the esports tournament organizers may regulate these types of tournaments differently.

Other local requirements

Are there any other key local requirements?

Esports are currently not generally recognized in Hungary as sports. Additionally, there is no dedicated regime applicable to esports.

As a consequence, a deeper review of the mechanics of esports tournaments is necessary to avoid challenges, e.g. the applicability of gambling rules.

Timing

Is there the need to comply with specific timing to ensure compliance (other than reviewing the terms and conditions)?

There is no such requirement or need.

Translations

Are the terms of the esports tournament required to be translated by law?

Although not a legal requirement, but T&Cs should appear in Hungarian in order to be clear and unambiguous for participants in Hungary.

Penalties for non-compliance

What are the penalties for non-compliance?

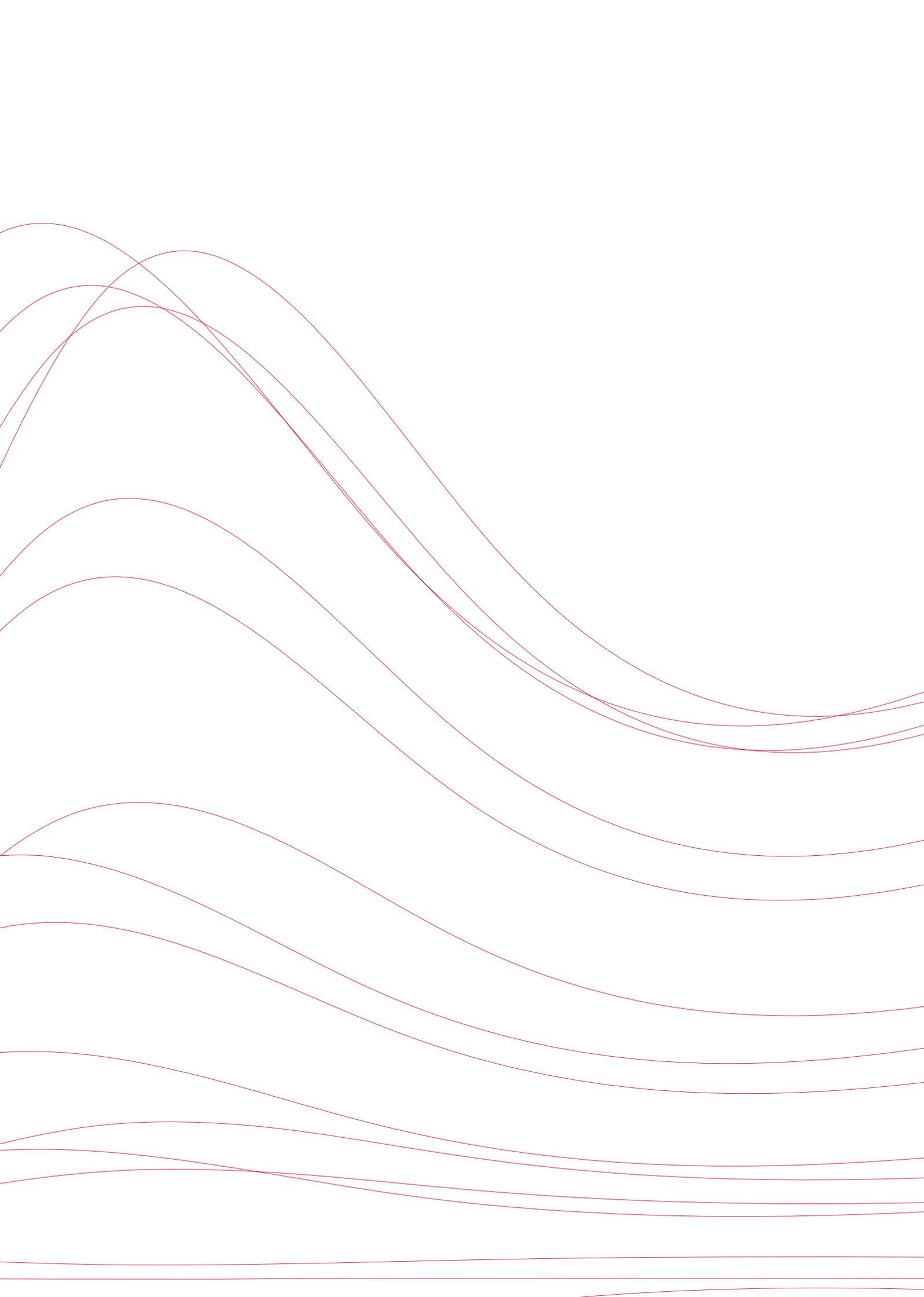
If esports activities are considered as unlawful gambling activity differentiated amount of fines can be imposed subject to the type of infringement. The maximum amount of fine (e.g. in the case of gambling activity without a license) is app. EUR 310,000. Carrying out gambling activity without a license may involve criminal charges as well.

In the case of breaching consumer protection laws, consumer protection fine may be imposed by the Consumer Protection Authority or the Competition Authority.

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India

Governing law

What are the main applicable governing laws, sports laws or codes for esports (if any)?

(i) With regard to the applicability of gambling laws:

There are no specific laws governing esports in India. However, given below are some laws which may indirectly affect the conduct of esports in the country.

Public Gambling Act, 1867 ("PG Act") and related legislations

The principal legislation governing gambling in India is the PG Act. While the PG Act primarily regulates gambling, it is a central (or federal) legislation, and gambling, is listed as a State subject. Consequently, individual States in India hold power to legislate on the subject and several States have distinct legislations regulating gambling.

Pertinently, even though the PG Act does not specifically define gambling or its elements, Section 12 of the PG Act, exempts its applicability to *games of skill*, which include games containing elements of pure skill, as well as, games which are predominantly games of skill along with ancillary elements of chance. Therefore, it follows that prohibition of gambling activities under the PG Act restrictively alludes to *games of chance*, which include games of chance, and games which are predominantly games of chance, with ancillary elements of skill. Similarly, most State legislations restrict applicability to *games of chance*. This said, some states such as, Assam and Odisha, prohibit all forms of gambling – irrespective of whether they are games of skill *and* chance or games of chance *only*.

Two states which provide licenses specifically for online gaming are Sikkim and Nagaland. As per the Sikkim Online Gaming (Regulation) Rules, 2009 ("Sikkim Rules"), a list of prescribed games such as

Roulette, Black Jack, Poker, Poker Dice, including sports betting, may be offered for online play after a license for the same is procured from the Sikkim government.

Similarly, the Nagaland Prohibition of Gambling and Promotion and Regulation of Online Games of Skill Act, 2016 ("Nagaland Act") contemplates issuance of online gaming licenses, but only for games of skill.

With reference to esports, understood as organized electronic sports competitions, for instance, video gaming, fantasy sports and such, have been held by recent judicial precedents in India, to be preponderantly *games of skill*. For instance, the Punjab & Haryana High Court in *Shri Varun Gumber v. Union Territory of Chandigarh & Ors.*, observed that playing fantasy sports games required the same level of skill, judgment and discretion as in horse racing, and ruled that such games are predominantly games of skill. Similarly, the Bombay High Court, in *Gurdeep Singh Sachar v. Union of India & Ors.*, recently held that online fantasy gaming are games of skill. In light of the above, since esports are not designated as *games of chance*, but are specifically *games of skill*, it follows that esports will therefore, fall out of the purview of the PG Act and the State legislations, and would not be prohibited.

Consequently, it may be legal to offer real money betting on esports contests only in relation to Player vs Player and fantasy betting related to esports model. However, spectator betting will be akin to any other form of *sports betting*, which has not been considered a game of skill by the courts in India. The spectator game, however, may be offered in Sikkim after procurement of the relevant license under the Sikkim Rules.

Other forms of Gambling

The Constitution of India gives the central (federal) legislature the power to enact laws relating to lotteries and the subject has therefore, been expressly excluded

from the purview of the aforementioned gambling legislations. Lotteries are a regulated activity under the Lotteries (Regulation) Act, 1998 (“**Lotteries Act**”) and the state specific rules made thereunder. However, this would not be applicable in the context of esports.

Foreign Direct Investment Policy (“FDI Policy”) of India

Under the FDI Policy of India, Foreign Direct Investment (“**FDI**”) is prohibited in entities that are involved in the lottery business (including government, private lottery, online lotteries) as well as gambling/betting (including casinos). It also prohibits foreign technology collaborations such as, licensing for franchise, trademark, brand name, contract for lottery business, gambling and betting activities.

Prevention of Money Laundering Act, 2002 (“PMLA”)

In India, the PMLA regulates anti-money laundering and entities carrying out activities for playing games for cash or for kind (including online gaming sites and casinos) are required to adhere to these provisions.

Information Technology Act, 2000 (“IT Act”) read with Information Technology (Reasonable Security Practices and Procedures and Sensitive Personal Information) Rules, 2011 (“SPDI Rules”)

The IT Act regulates the electronic transmission of information relating to gambling, and *inter alia*, penalizes scandalous/obscene content. The SPDI Rules also govern the collection, processing and transfer of Personal Information/Sensitive Personal Data or Information (“**SPDI**”).

Indian Penal Code, 1860 (“IPC”)

The IPC, *inter alia*, prohibits sale, hire, distribution, exhibition, and circulation of any obscene objects and penalizes any person who engages, advertises, promotes, offers, or attempts to do obscene activity.

The Advertising Standards Council of India, Code (“ASCI Code”)

The ASCI Code is a self-regulatory code which regulates advertisements, which for example covers the invitation of the public to take part in lotteries/prize competitions, the judging and announcement of results.

(ii) *With regard to the applicability of prize promotion regulations to esports activities:*

There are no separate rules apart from those mentioned in our response in Question 1 (i) above, which would be applicable specifically to esports.

(iii) *With regard to the advertisement of esports related activities:*

ASCI's Code of Advertising Practice

It must be noted that there is no central statutory agency or uniform legislation that regulates advertising in India, at present. However, advertising in its entirety, is governed by a non-statutory body, the Advertising Standards Council of India (“**ASCI**”), and the ASCI Code. As per the guidelines issued by the ASCI, any advertisement that promotes illegal, immoral and indecent activity would be prohibited. Further, as per Chapter III of the ASCI Code, advertisements for any product, the use of which is banned under law, or advertisements that present criminality as desirable or encourages people to emulate it, are prohibited. Advertisements promoting illegal gambling may, therefore, be identified as one such prohibited activity.

IT Act and the Information Technology (Intermediary Guidelines Rules) 2011 (“Intermediaries Rules”)

The IT Act, *inter alia*, penalizes the transmission of any obscene content/sexually explicit material in electronic form, including child pornography. The Intermediaries Rules requires ‘intermediaries’, such as, internet service providers, network service providers, search engines, and telecom operators not to host or transmit any content which relates to, or encourages gambling.

IPC

The IPC, *inter alia*, prohibits sale, hire, distribution, exhibition, circulation of any obscene object and penalizes any person who engages or advertises or promotes or offers or attempts to do any obscene activity. Any content in a game that could potentially corrupt a person's mind through its content, could be held to be in violation of this act.

The Indecent Representation of Women (Prohibition) Act, 1986 (“IRW Act”)

The IRW Act prohibits any indecent representation of women, such as, depiction in any manner of the figure of a woman, her form or body or any other part, in such a way as to have the effect of being indecent, or derogatory

to, or denigrating women, or is likely to injure public morality through advertisements or in publications, and provides for penalty in connection with the same.

Young Persons (Harmful Publications) Act, 1956

This act defines harmful publication as any kind of publication which portrays any act of violence or commission of offences, in a way as to incite or excite a young person to commit any offence or acts of violence or cruelty. If a person sells, hires, distributes, exhibits, puts into circulation, prints, possesses, or advertises any harmful publication, such a person would be punishable under the act.

(iv) With regard to the protection of intellectual property rights as part of esports activities:

The legislations applicable to esports for the protection of intellectual property rights are stated as follows:

The Copyright Act, 1957 ("CR Act")

Esports are frequently theme-based in structure/design and often use images, pictures, audio notes, figures, music, characters and other such elements, that contribute to the overall appeal of the games. Since these works are independently subject to copyright protection, the use of such material in games without authorization from the owner of the copyrighted material, can lead to copyright infringement, under the CR Act.

Trade Marks Act, 1999 ("TM Act")

Famous titles may be protected under trademark law of India. In most cases, competitors try to ride on the popularity of the film/series titles (including titles of game series). These titles can be registered and consequently, protected against infringement under the TM Act.

(v) With regard to the processing of personal data as part of esports activities:

SPDI Rules

In India, the SPDI Rules are the primary legislation which govern collection, processing and transfer of Personal Information/SPDI. In terms of the SPDI Rules, passwords, financial information, physical, health condition etc. of an individual, are classified as SPDI. Broadly, an entity that collects SPDI, such as esports tournament organizers, are required to obtain prior written consent from the information providers (players).

SPDI, if required to be transferred (for instance, for payment purposes) to third parties can be done with prior consent from the information provider and subject to the transferee (whether within or outside India), providing the same level of protection as prescribed under the SPDI Rules. Esports tournament organizers are also required to have a privacy policy and implement reasonable security practices (akin to the International Standard IS/ISO/ IEC 27001 on "Information Technology–Security Techniques–Information Security Management System–Requirements") and procedures to maintain data protection of players.

Extra-territoriality

Are national laws enforceable against entities operating abroad?

In general, most legislations do not have extra-territorial application. When, however, a substantial nexus has been established that something in violation of law is being done, and this affects Indian residents, regulators may consider acting against non-resident promoters of esports.

The IPC and the IT Act have extraterritorial applicability. Consequently, in the event a party is found to be acting in violation of the aforesaid legislations, such a party may be held liable thereunder. Further, Indian regulators also have the power to block foreign websites which violate local laws.

Technical requirements of esports tournaments

Do videogames need any certification to be used as part of esports tournaments?

While it is a common market practice in India for product games/product platforms to be periodically certified/verified by external recognized agencies, there is no legal requirement to do so.

Sponsorship of esports tournaments

Are particular requirements applicable to sponsorship agreements relating to esports tournaments?

In India, while there is no direct legislation pertaining to advertising/soliciting/marketing of esports tournaments, the advertising laws as discussed in Question 1 (iii) above, primarily govern the fundamental principles of sponsorship relating to esports tournaments

on similar lines. This said, there are no stipulated requirements/regulations/rules specifically applicable to sponsorship agreements in relation to esports, and sponsorship must be ascertained/managed, while keeping the requirements of legislations pertaining to advertisement, in mind.

Participation in esports tournaments

Can players pay any price to participate in esports tournaments?

While there is no definition of gambling under Indian laws, it is generally understood to mean the wagering of money or something of value, on an event with an uncertain outcome, with the intent of winning money or material goods. Thus, gambling requires the elements of consideration (an amount staked), risk (chance), and a prize, to be present. On this principle, participation of players in a gambling activity alludes to money earned based on the happening or non-happening of an uncertain event. Therefore, while there are no restrictions per se, in having players pay a price to participate, this would be a feature that may bring into question whether the engagement is that of a 'gambling' activity. However, as discussed above, esports does not fall under the umbrella of gambling activities and thus, there is no explicit restriction/prohibition on asking players to pay a participation fee for esports tournaments in India.

Selection of participants

Is it possible to place any restriction to the players that can participate in an esports tournament?

Yes. There are no specific regulations governing these engagements. These are, in essence, contractual agreements between the players and the conductors of the organization. Principally, participations ought to be selected in a clear, transparent, objective and equal manner, without prejudice to any individual/entity.

Contracting esports players

Are there particular requirements for T&Cs of esports tournaments?

While there are no stipulated requirements for T&Cs in relation to esports tournaments, there are important clauses which are generally included in order to encompass possible outcomes of the tournament, and its overall fair functioning. Some particulars of T&Cs are stated below:

- Competence to contract (confirmation that the participant is at least 18 years of age)
- Consideration
- Competitive integrity
- Image rights/personality rights
- IP assignment
- Termination

In addition, the mechanics of esports tournaments should be structured to demonstrate that actual skills are required to participate and win these tournaments, and that players are to necessarily comply with data protection, advertising regulations and overall principles of transparency, fairness and justice.

Selection of winners

Are there any requirements for the selection of winners and award of prizes for esports tournaments?

There are no standard requirements/procedures for selection of winners and award of prizes, for esports tournaments. Winners are generally selected with respect to the rules of the tournament and are accordingly rewarded as per the terms and conditions of the tournament, without the governance of any specific procedures or stipulated regulations.

Sanctions against players

Can esports tournament organizers impose sanctions against players involved in match-fixing, corruption or illegal gambling during a tournament?

In India, since there is no specific statute governing/regulating esports, the imposition of sanctions against players involved in match-fixing, corruption or illegal gambling during a tournament, by the organizers, has not been expressly laid down. This imposition of sanctions would generally need to find ground as per the settled (and accepted) terms and conditions of the esports tournament.

Prizes of esports tournaments

Is there any restriction on the type of prizes that can be awarded as part of esports tournaments?

There are no restrictions on the type of prizes that may be awarded to winners as part of esports tournaments. The organizers of esports tournaments have the discretion to select the rewards to be distributed (kind, such as trophies, game series or cash), as long as its acquisition, distribution or use is not unlawful.

Online vs. offline esports tournaments

Are different regulations applicable to online esports tournaments compared to land-based esports tournaments?

Notably, a majority of the state legislations, as well as the PG Act, were enacted much before the advent of online gaming/esports, and hence, mostly refer to gambling activities which take place in physical premises (such as a 'common gambling house'). Thus, while the applicability of such legislations to land-based/physical gambling activities is evident, its applicability to *online gaming* is questionable. This being said, there are a few states that have enacted laws specifically for online gambling and sports betting, namely, Sikkim and Nagaland. Amongst other things, such legislations regulate games which involve real money and provide for licensing requirements to offer such games online (see our response to Question 1(i) above for further details).

Other local requirements

Are there any other key local requirements?

As such, apart from the necessary requirement that participants and organizers, must be competent to contract (at least 18 years of age), there are no other key local requirements in relation to esports tournaments in India.

Timing

Is there the need to comply with specific timing to ensure compliance (other than reviewing the terms and conditions)?

With respect to esports tournaments in India, one requirement of timing to be maintained is that SPDI cannot be held/stored with organizers, longer than is

necessary for a lawful purpose for which it was collected. There is no other requirement, as such, of adherence to specific timing that has been prescribed.

Translations

Are the terms of the esports tournament required to be translated by law?

There is no requirement for the terms of the esports tournament to be translated under Indian laws. However, typically, terms and conditions are published in English.

Penalties for non-compliance

What are the penalties for non-compliance?

Under the PG Act, penalty is prescribed in the form of imprisonment, fine, or both, for contravention. An offence of opening/keeping/using a common gaming-house is punishable with a fine of up to INR 200 and imprisonment up to a period of three (3) months. A person *found* in a gaming house is liable to a fine of up to INR 100 or imprisonment up to one (1) month.

Additional sanctions and fines however, may apply, depending on the challenged breach, for instance, the fines as stipulated under various legislations, as discussed above, and/or any general civil/criminal breach that may take place, during the course of the tournament.

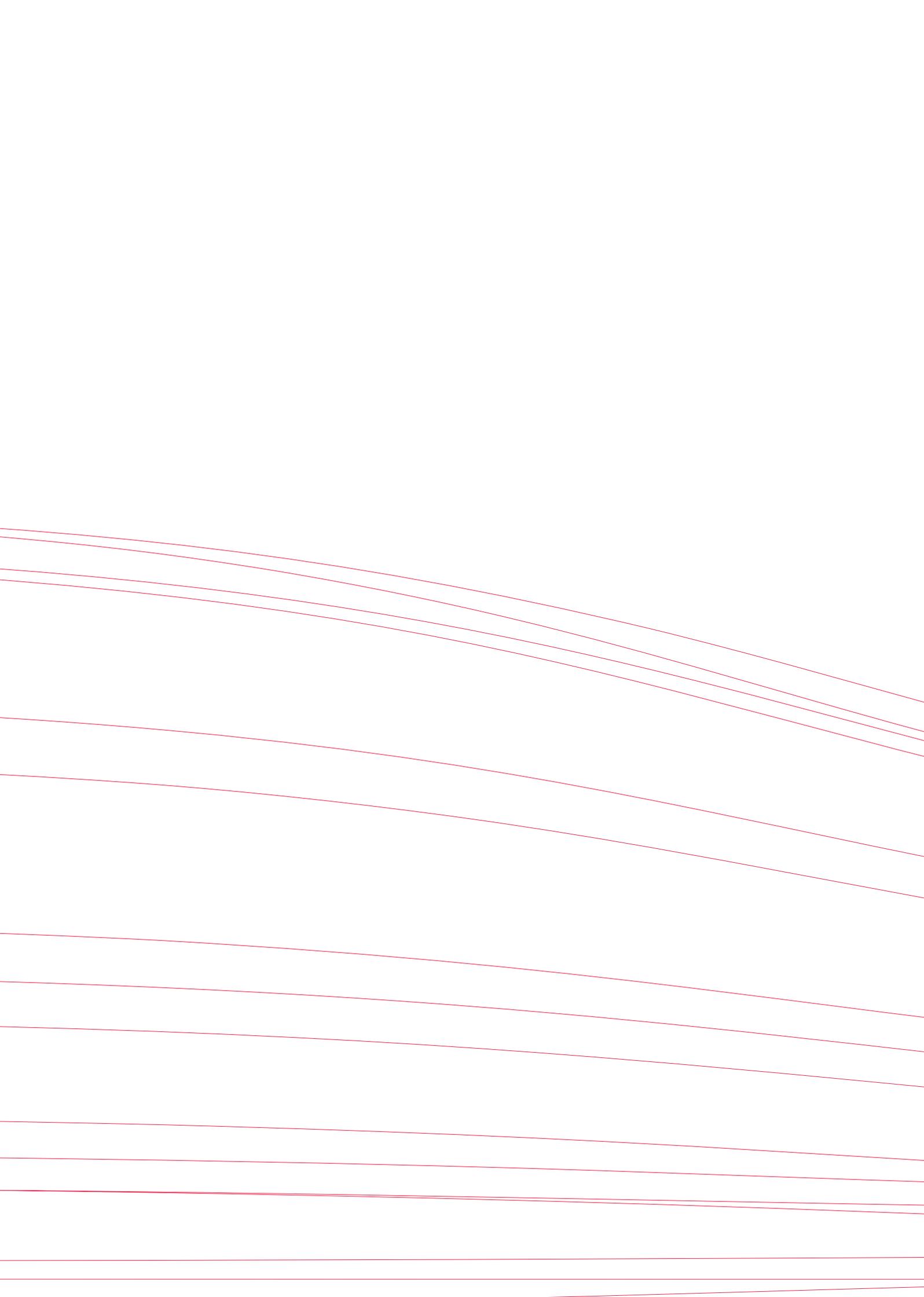
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Ireland

Governing law

What are the main applicable governing laws, sports laws or codes for esports (if any)?

With regard to the applicability of gambling laws:

NAME
Gaming and Lotteries Acts, 1956 to 2013 (Gaming and Lotteries Acts)
Betting Act, 1853
Betting Act, 1931
Betting (Amendment) Act 2015

With regard to the applicability of prize promotion regulations to esports activities:

NAME
Advertising Standards Authority for Ireland's 'Code of Standards for Advertising and Marketing Communications in Ireland'
Gaming and Lotteries Acts
Consumer Protection Act 2007 (the CPA)

With regard to the advertisement of esports related activities:

NAME
CPA
Advertising Standards Authority for Ireland's Code of Standards for Advertising, Promotional and Direct Marketing
Broadcasting Act 2009
European Communities (Misleading and Comparative Marketing Communications) Regulations 2007
European Communities (Misleading Advertising) Regulations 1988
Sale of Goods and Supply of Services Act 1980
Competition and Consumer Protection Act 2014

With regard to the protection of intellectual property rights as part of esports activities:

NAME
Trademarks Act 1996
Patents Act 1992
Copyright and Related Rights Act 2000

With regard to the processing of personal data as part of esports activities:

NAME
Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (the GDPR)
Data Protection Act 2018
European Communities (Electronic Communications Networks and Services) (Privacy and Electronic Communications) Regulations 2011 (the ePrivacy Regulations)

Extra-territoriality

Are national laws enforceable against entities operating abroad?

Typically, esports will be considered to be a competition under Irish law.

There are no specific Irish laws regulating competitions though competitions would be subject to general laws such as the laws relating to consumer protection and data protection if the competition is operated from Ireland or provided to consumers in Ireland. Irish consumer protection and data protection laws can be enforceable against entities operating abroad in certain instances.

Technical requirements of esports tournaments

Do videogames need any certification to be used as part of esports tournaments?

There is no dedicated certification for the usage of video games in esports tournaments. Ireland uses the Pan-European Game Information age rating system for the classification of computer games for sale to the public. It is a voluntary system that retailers selling computer games are expected to follow.

Sponsorship of esports tournaments

Are particular requirements applicable to sponsorship agreements relating to esports tournaments?

There are no specific requirements applicable to sponsorship agreements for esports tournaments.

Participation in esports tournaments

Can players pay any price to participate in esports tournaments?

Yes.

Selection of participants

Is it possible to place any restriction to the players that can participate in an esports tournament?

The tournament organizer can impose restrictions on the players that can participate in the tournament by including such restrictions in the terms and conditions. An example would be restricting entrance to players that have achieved a certain minimum skill level or high score in the particular esports.

Contracting esports players

Are there particular requirements for T&Cs of esports tournaments?

There are no particular requirements under Irish law for the terms and conditions of esports tournaments.

Terms and conditions of esports tournaments will need to comply with Irish consumer protection, contract and data protection laws.

Selection of winners

Are there any requirements for the selection of winners and award of prizes for esports tournaments?

General Irish contract and consumer protection law rules will apply to the proper selection of winners.

Sanctions against players

Can esports tournament organizers impose sanctions against players involved in match-fixing, corruption or illegal gambling during a tournament?

As a matter of Irish contract law, organizers can set rules/terms and conditions for tournaments and enforce them against the participants. Organizers can only enforce contractual provisions set out by the particular terms and conditions of the tournament.

Prizes of esports tournaments

Is there any restriction on the type of prizes that can be awarded as part of esports tournaments?

There are no restrictions on the types of prizes that can be awarded as part of esports tournaments.

Online vs. offline esports tournaments

Are different regulations applicable to online esports tournaments compared to land-based esports tournaments?

There are no different regulations applicable to online esports tournaments compared to land-based esports tournaments.

Other local requirements

Are there any other key local requirements?

The key legal requirements generally relate to obligations under Irish consumer protection and data protection laws.

Timing

Is there the need to comply with specific timing to ensure compliance (other than reviewing the terms and conditions)?

No, although time should be allowed to deal with data protection issues (eg. ensuring an appropriate privacy policy is in place and including appropriate tick box functionality for consents).

Translations

Are the terms of the esports tournament required to be translated by law?

No.

Penalties for non-compliance

What are the penalties for non-compliance?

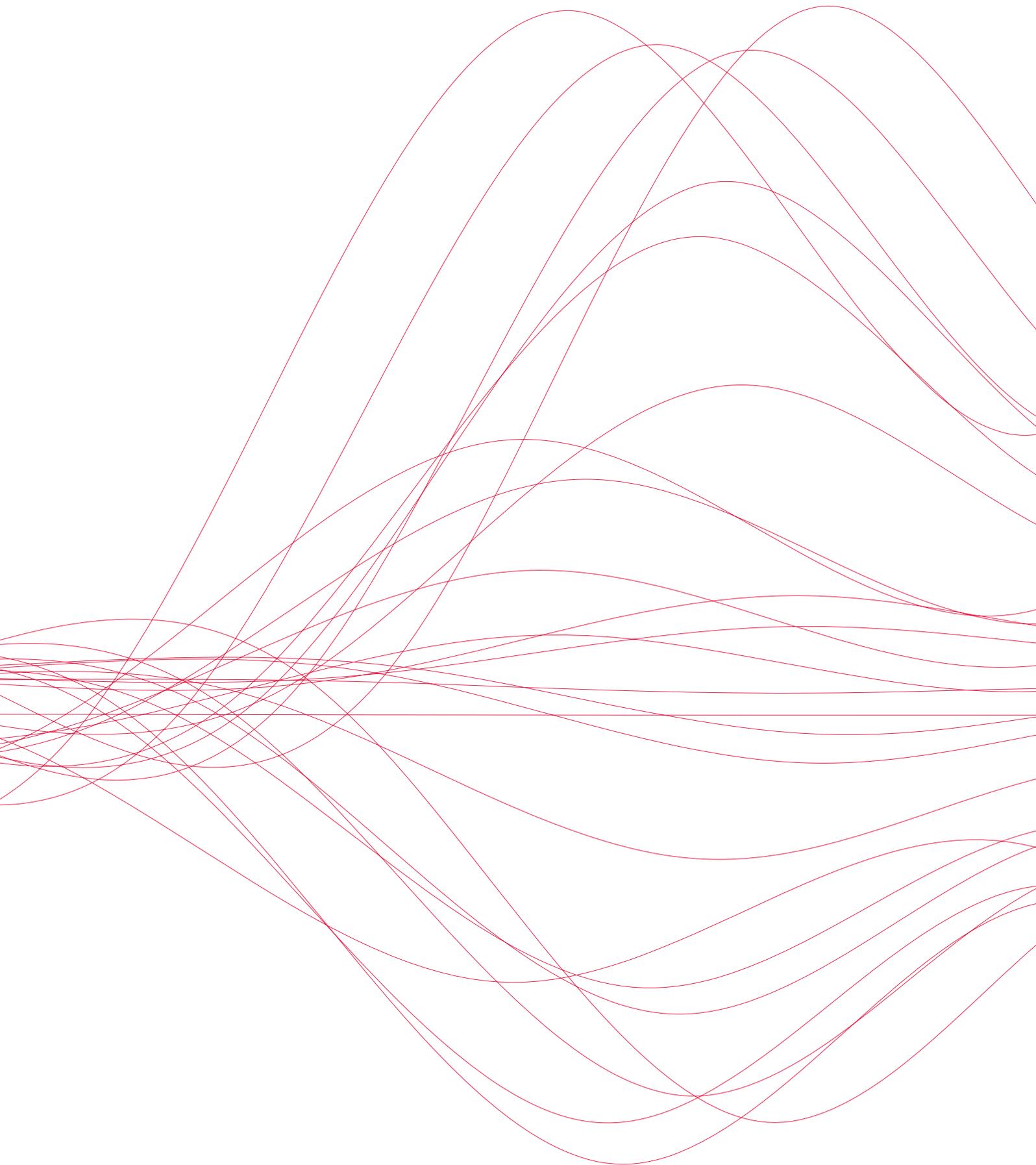
For breaches of Irish consumer law under the CPA, if a trader is convicted of an offence, the court can require the trader to pay damages to a consumer who has suffered loss and can impose a fine or penalty on the trader. The maximum fine for a first offence is €3,000 (approx. US\$3,360) on summary conviction.

For breaches of data protection law under GDPR, organizations can be fined up to €20 million (approx. US\$22.4m) or 4% of annual worldwide turnover, whichever is higher. Fines imposed under the ePrivacy Regulations currently range from €5,000 (approx. US\$5,600) on summary conviction to €250,000 (approx. US\$280,000) for conviction on indictment.

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Italy

Governing law

What are the main applicable governing laws, sports laws or codes for esports (if any)?

With regard to the applicability of gambling laws:

NAME
Legislative Decree 14 April 1948, No. 496 providing the monopoly of the State for the organization and exercise of games of skill and betting competitions, for which a reward of any kind is paid and whose participation requires the payment of a monetary stake
Law 13 December 1989, No. 401 providing criminal sanctions for the illegal offering of gambling and betting activities

With regard to the applicability of prize promotion regulations to esports activities:

NAME
Decree of the President of the Republic of 26 October 2001 No. 430
Bulletin Circular of the Ministry of Productive Activities (now Ministry of Economic Development) 28 March 2002, No. 1

With regard to the advertisement of esports related activities:

NAME
Legislative Decree of 6 September 2005 No. 206 (the 'Consumer Code')
Legislative Decree 2 August 2007 No. 145 (Misleading advertising)
Legislative Decree 2 August 2007 No. 146 (Unfair commercial practices)
Commercial Communication Code of the Advertisement Self-Regulatory Authority
Article 9 of Law Decree 12 July 2018, No. 87 setting out the Italian gambling advertising ban
Decision No 132/19/CONS of 18 April 2019 of the Italian Communications Authority setting guidelines on the interpretation of Article 9 of Law Decree 12 July 2018, No. 87 setting out the Italian gambling advertising ban

With regard to the protection of intellectual property rights as part of esports activities:

NAME
Law 22 April 1941, No. 633 setting out Italian law on copyright and connected rights
Legislative Decree 10 February 2005, No. 30 setting out the Italian Industrial Property Code regulating among others trademarks and patents

With regard to the processing of personal data as part of esports activities:

NAME
Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data
Legislative Decree of 30 June 2003 No. 196 and subsequent amendments with regard to the processing of personal data

Extra-territoriality

Are national laws enforceable against entities operating abroad?

Entities operating abroad shall comply with Italian law in cases of esports events addressed to Italian players and/or consumers, even if they are also open to players and/or consumers of other jurisdictions.

There is no case law on the matter. However, the usage of claims in Italian, the reference to Italy in the T&Cs and other circumstances might be considered by Italian authorities as indicators of the applicability of Italian law.

The applicability of Italian law can lead to significant obligations under rules, including tax liabilities.

Technical requirements of esports tournaments

Do videogames need any certification to be used as part of esports tournaments?

There is no dedicated certification for the usage of video games in esports tournaments, apart from the certifications necessary for their sale to the public, such as those provided by the Italian video game and Internet content age rating system are based on the self-certification rule.

However, if esports tournaments are subject to prize promotion regulations, a certification will be necessary.

Sponsorship of esports tournaments

Are particular requirements applicable to sponsorship agreements relating to esports tournaments?

There are no specific requirements applicable to sponsorship agreements for esports tournaments, other than those provided by Article 9 of the Law Decree 12 July 2018, No. 87 that forbids any form of direct and indirect advertising related to betting activities, gambling and other types of games with cash winnings.

Also, the type of consideration due by the sponsor and the services provided by and to the sponsor can lead to regulatory and tax issues.

Participation in esports tournaments

Can players pay any price to participate in esports tournaments?

The Legislative Decree 14 April 1948, No. 496 grants the monopoly to the State on *"the organization and exercise of games of skill and betting competitions, for which a reward of any kind is paid and whose participation requires the payment of a monetary stake"*.

In this respect, the risk is that the payment of an annual registration fee to an esports tournament league might be considered as the monetary stake against which the reward is granted.

Therefore, agreements with players need to be structured so that such risk is avoided.

Selection of participants

Is it possible to place any restriction to the players that can participate in an esports tournament?

Criteria of selection of participants need to be objective, transparent, and non-discriminatory.

If Italian prize promotion regulations apply, under some circumstances the esports tournament shall be limited to participants located in Italy.

Contracting esports players

Are there particular requirements for T&Cs of esports tournaments?

Stringent requirements apply to the contents of T&Cs and the formalities to be followed if an esports tournament is subject to prize promotion regulations.

Additionally, T&Cs shall be drafted in accordance with Italian consumer laws, if the tournament is not directed to professional players, and with misleading advertising rules, if the tournament is addressed to professional players.

Additionally, the mechanics of the esports tournament shall be structured to avoid the applicability of gambling laws and shall, in any case, comply with data protection regulations and intellectual property laws.

Selection of winners

Are there any requirements for the selection of winners and award of prizes for esports tournaments?

If the tournament falls under the prize promotions regulations, these activities require the presence of a public notary, who is in charge of drawing up the minutes of the results of the competition. Also, in such a case, the video game shall be certified to prove the inability to alter its operation.

Apart from such a scenario, general contract and consumer law rules will apply to the proper selection of winners.

Sanctions against players

Can esports tournament organizers impose sanctions against players involved in match-fixing, corruption or illegal gambling during a tournament?

Organizers can only enforce contractual provisions set out by the T&Cs of the tournament. However, limitations can apply to actions that can be taken against players without a court order.

Prizes of esports tournaments

Is there any restriction on the type of prizes that can be awarded as part of esports tournaments?

The absence of an *ad hoc* regulation for esports tournaments might make Italian prize promotion regulations applicable, depending on the mechanics of the tournament. If these provisions apply, then prizes can only be in kind, not in cash.

If players are paying in cash to participate in an esports tournament which contains elements of chance and obtain a winning in cash or in kind with economic value, there is a risk of requalification of the tournament as gambling.

Online vs. offline esports tournaments

Are different regulations applicable to online esports tournaments compared to land-based esports tournaments?

Where the Italian gambling laws apply, the online esports tournaments can fall under the online gambling licensing regime. Additionally, in case of international online esports tournaments, exemptions to the applicability of prize promotion regulations might be relied on.

Other local requirements

Are there any other key local requirements?

Operators holding the Italian general online gambling and betting license as well as those holding a betting shop license can offer bets on esports events, within limits set out by gambling regulations and subject to the approval of the type of esports event and the type of bet by the Italian gambling regulator.

Esports are not currently recognized in Italy as sports, and therefore exemptions applicable to them are not applicable. Additionally, there is no dedicated regime applicable to esports.

As a consequence, a deeper review of the mechanics of esports tournaments is necessary to avoid challenges.

Timing

Is there the need to comply with specific timing to ensure compliance (other than reviewing the terms and conditions)?

Specific timing for the performance of esports tournaments applies if they are subject to prize promotion regulations. Such rules require the filing with the Ministry of the Economic Development of the T&Cs of the event at least 15 days prior to its beginning.

Translations

Are the terms of the esports tournament required to be translated by law?

Under consumer regulations, the information intended for consumers and users shall also be shown in Italian and must be shown in characters that are no less visible and legible than those used for the other languages.

In the case of esports tournaments addressed to professional players, the requirement would still apply if the event is subject to prize promotion regulations.

Penalties for non-compliance

What are the penalties for non-compliance?

In case of infringement of the law for unfair practices, an administrative sanction between € 5,000 and € 5,000,000 can be issued. On the contrary, in case of breach of gambling laws, criminal sanctions can apply. Additional sanctions and fines can apply, depending on the challenged breach.

Key contact



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Japan

Governing law

What are the main applicable governing laws, sports laws or codes for esports (if any)?

With regard to the applicability of gambling laws:

NAME
Penal Code (Act No. 45 of 1907), Chapter 23 stipulates crimes related to gambling and lotteries

With regard to the applicability of prize promotion regulations to esports activities:

NAME
Act against Unjustifiable Premiums and Misleading Representations (Act No. 134 of 1962) (the "AUPMR")
Act on Control and Improvement of Amusement Business, etc. (Act No. 122 of 1948)

With regard to the advertisement of esports related activities:

NAME
Basic Act on Consumer Policies (Act No.78 of 1968)
Civil Code (Act No. 80 of 1896)
Unfair Competition Prevention Act (Act No.47 of 1993)
The AUPMR, The AUPMR prohibits misleading advertisements.

With regard to the protection of intellectual property rights as part of esports activities:

NAME
Trademark Act (Act No. 121 of 1959)
Copyright Act (Act No. 48 of 1970)
Patent Act (Act No. 121 of 1959)

With regard to the processing of personal data as part of esports activities:

NAME
Act on the Protection of Personal Information (Act No. 57 of 2003)

Extra-territoriality

Are national laws enforceable against entities operating abroad?

Whether the laws are enforceable against entities operating abroad depends on the laws in question.

For example, the Penal Code, which provides criminal sanctions for the illegal offering of gambling and betting activities, will generally be applied in cases where the crimes (or a part of the crimes) are committed within Japan (Article 1, paragraph 1 of the Penal Code).

Please note that since the definition of when “the crimes are committed within Japan” is vague and offshore online gambling is not expressly prohibited, it falls into a legal grey zone.

The AUPMR, which regulates promotions of esports tournaments may apply if the promotion is operated outside of Japan, but targets Japanese consumers (for example by a promotion through a Japanese language website or specifying that Japanese consumers are eligible for the prize promotion).

Technical requirements of esports tournaments

Do videogames need any certification to be used as part of esports tournaments?

No. There are no special certifications for videogames to be used in esports tournaments.

Sponsorship of esports tournaments

Are particular requirements applicable to sponsorship agreements relating to esports tournaments?

No. Please note that if the esports tournaments are illegal, sponsoring such tournaments may be considered as abetting such illegal activities. Please refer to question number 5.

Participation in esports tournaments

Can players pay any price to participate in esports tournaments?

It is possible for the players and the organizer of the esports tournaments to be guilty of a criminal offence (gambling) if the organizer collects participation fees for attending or participating in the esports tournaments.

Under the Penal Code, the activity of “running a place for gambling” is a criminal act. “Gambling” means wagering money or something of value aiming for an outcome where the winner is determined based on chance or the outcome is unknown for the players. Also, an individual who participates in “gambling” may be punished as well. Therefore, agreements with players need to be structured so that such risk is avoided to the extent possible.

Selection of participants

Is it possible to place any restriction to the players that can participate in an esports tournament?

Yes, although the criteria for selecting players need to be objective, transparent, and non-discriminatory.

Contracting esports players

Are there particular requirements for T&Cs of esports tournaments?

No. There are no special requirements for T&Cs for esports tournaments players. T&Cs need to be drafted in accordance with AUPMR.

Additionally, the mechanics of the esports tournament needs to be structured to avoid the applicability of gambling laws and must, in any case, comply with advertising law, data protection regulations and intellectual property laws.

Selection of winners

Are there any requirements for the selection of winners and award of prizes for esports tournaments?

The methods for selecting winners and the requirements for awarding prizes are not regulated under the AUPMR or any other relevant guidelines or notices. Methods can be determined at the discretion of the organizer. However, if a certain selection method was made public but the actual selection was conducted using a different method, it could be a violation of the AUPMR's prohibition against misrepresentations.

Sanctions against players

Can esports tournament organizers impose sanctions against players involved in match-fixing, corruption or illegal gambling during a tournament?

Organizers can only enforce contractual provisions set out by the T&Cs of the esports tournaments.

Prizes of esports tournaments

Is there any restriction on the type of prizes that can be awarded as part of esports tournaments?

There are limits with respect to the value of items to be given as a prize if the prizes are offered as a means of inducing consumers in connection with a transaction involving goods or services that the organizers of the esports tournaments provides under the AUPMR. If the prizes can be interpreted as “remuneration for work” not as “a means of inducing customers”, the limitation would not apply.

In addition, if the esports tournaments fall under the “Amusement Business” specified by the Act on Control and Improvement of Amusement Business, etc. (the “ACIAB”), offering cash prizes or the buyback of prizes which the organizer awards to the winner are prohibited (Please refer to question No. 12 for the detail of the regulation under the ACIAB).

If the AUPMR applies, the amount of prizes awarded by chance is limited to (i) no more than 20 times the amount of the transaction if the transaction value is less than JPY 5,000 or JPY 100,000 if the transaction value is JPY 5,000 or more; and (ii) the total amount of cash prizes is limited to no more than 2% of the expected total amount of the transaction for the promotion period.

Online vs. offline esports tournaments

Are different regulations applicable to online esports tournaments compared to land-based esports tournaments?

No. Under Japanese law, gambling and offline gambling are not distinguished.

However, while land-based esports tournaments held in Japan would be illegal if they amount to gambling. It is a grey area whether online esports tournaments operated outside of Japan but which target Japanese consumers could be punished under the Japanese Penal Code.

Other local requirements

Are there any other key local requirements?

As mentioned in question No.10, if the esports tournaments is an “Amusement Business” as specified by the ACIAB, offering cash prizes or the buyback of prizes which the organizer awards to the winners is prohibited and the approval of local public safety committees is required to hold the esports tournaments.

The business having customers enjoy games at the facility that gaming machines are equipped (the “gaming facility”) such as an amusement arcade and which satisfies the following conditions would fall under the definition of an “Amusement Business”:

- (i) the business place can be deemed as an space independent from the other spaces
- (ii) the business is continually performed
- (iii) the business aims for profits

Practically, esports tournaments are not regulated strictly by the local police in terms of the ACIAB as of now. We understand that this is because esports tournaments are different from the typical Amusement Business such as an amusement arcade. However, this is gray area in Japan and if such esports tournaments result in corruption of the public morals in future, the regulation under the ACIAB would become more strict. In any case, if the organizers will launch esports tournaments, it is advisable to consult with local counsels in advance.

Timing

Is there the need to comply with specific timing to ensure compliance (other than reviewing the terms and conditions)?

No.

Translations

Are the terms of the esports tournament required to be translated by law?

There is no language requirement. However, as many Japanese consumers may not fully understand the terms in English or any other foreign language, it is recommended that the terms be translated into Japanese.

Penalties for non-compliance

What are the penalties for non-compliance?

1. The Penal Code

Under the Penal Code, to “run a place for gambling” is punishable by imprisonment with work for not less than 3 months but not more than 5 years.

2. The AUPMR

The Consumer Affairs Agency (the “CAA”) will investigate the activities of an esports tournament organizer that it suspects is violating the AUPMR. The CAA will give that esports tournament organizer the opportunity to offer evidence in its favour and/or take measures to end the practices that the CAA views as violations. If the esports tournament organizer refuses to cooperate with the

CAA or provides false information to the CAA upon such investigation, the responsible individual of the esports tournament organizer may be punished with imprisonment with work for no more than 1 year or a criminal fine of up to JPY 3,000,000 and the company employing the individual may be made subject to a fine for the same amount.

If the CAA is not satisfied by the evidence and/or actions of the esports tournament organizer, it may issue a formal cease-and-desist order (CDO) to end the offending practice. Violation of a CDO is punishable by up to 2 years imprisonment or a criminal fine of up to JPY 3,000,000 for the responsible individual. In addition to the above sanctions on the individual, the company employing the individual may be made subject to a fine of up to ¥300,000,000. However, fines and prison sentences are rarely imposed.

3. The ACIAB

The business operator who engages in the “Amusement Business” without necessary approval will be subject to imprisonment with work for no more than 2 years or a fine of no more than JPY 2,000,000, and one that offers cash prizes will be subject to imprisonment with work for no more than 6 months or a fine of no more than JPY 1,000,000.

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South Korea

The answers to the following questions were prepared based on the laws specifically applicable to esports, rather than introducing the laws and regulations relevant to the overall gaming industry.

Governing law

What are the main applicable governing laws, sports laws or codes for esports (if any)?

With regard to the applicability of the general esports law:

ACT ON PROMOTION OF eSPORTS

According to Article 12, an institution responsible for the selection of games can be designated, and currently KESPA is designated as such relevant institution, to select and support several esports games as 'specialized games', including LOL and FIFA Online.

According to Article 14, in order to promote international exchange of esports, the government may provide necessary assistance to the International Esports Federation and others relating to esports.

With regard to the applicability of gambling laws:

NATIONAL SPORTS PROMOTION ACT

Article 48, Items 3 and 4 provide for criminal sanctions for the illegal sports lotto.

CRIMINAL CODE

Article 246, Paragraph 1 provides for criminal penalties for gambling, including gambling on the outcome of a game.

ACT ON SPECIAL CASES CONCERNING REGULATION AND PUNISHMENT OF SPECULATIVE ACTS

Article 2, Paragraph (1), Item 1 defines a speculative act as any act of pooling property or financial interest, deciding wins and losses by chance, and causing gain or loss of property.

With regard to the applicability of criminal law:

CRIMINAL CODE

Article 314 provides for criminal penalties on a person who interferes with the business of a tournament organizer by fixing the outcome of a match or other fraudulent means (Changwon District Court Decision 2016 *GoDan* 892 rendered on June 2, 2016).

Article 317 provides for criminal penalties on a person who defrauds a betting company by fixing the outcome of a match and thereby obtains a financial gain (Changwon District Court Decision 2016 *GoDan* 4257 rendered on May 11, 2017).

With regard to the applicability of game regulations to esports activities:

YOUTH PROTECTION ACT

Article 26, Paragraph 1 provides for a mandatory shutdown system under which Internet game service providers (generating KRW 30 billion or more of annual sales) must block access to the Internet game by juveniles under the age of 16 between midnight and 6 am. The mandatory shutdown system even applies to juveniles participating in an esports tournament.

Article 59, Item 5 provides for criminal penalties on a person who violates the mandatory shutdown system (imprisonment for up to two years or a fine of up to KRW 20 million).

With regard to the advertisement of esports related activities:

GAME INDUSTRY PROMOTION ACT

Article 34, Paragraph (1) prohibits indicating a game rating different from the actual rating, advertising contents different from the actual content of the game, and advertising to promote the speculative spirit.

With regard to the game rating:

GAME INDUSTRY PROMOTION ACT

According to Article 21, games must obtain an age rating (General, 12+, 15+, and 18+) and a content rating from the Game Rating and Administration ("GRAC"). Games rated 18+ must verify the age of the user.

With regard to the protection of intellectual property rights as part of esports activities:

COPYRIGHT ACT

Article 2, Item 1 provides for the protection of copyright from a me-too game that has similar rules and/or expressions.

TRADEMARK ACT

Article 35 provides for the first-to-register system for trademarks.

GAME INDUSTRY PROMOTION ACT

Article 13 protects and fosters creative activities related to games as intellectual property rights.

With regard to the processing of personal data as part of esports activities:

PERSONAL INFORMATION PROTECTION ACT AND ACT ON THE PROMOTION OF THE USE OF THE INFORMATION NETWORK AND INFORMATION PROTECTION

These two statutes provide for a strict opt-in system for collection and use of personal information.

Extra-territoriality

Are national laws enforceable against entities operating abroad?

Overseas business entities operating abroad must comply with the Korean law when offering game services or tournaments for Korean users.

Whether a game service is provided for Korean users is decided through a comprehensive consideration of (1) whether the game is serviced in the Korean language; (2) whether payment in Korean Won is available for the game; (3) whether Korean users are geo-blocked; (4) whether there are promotional activities targeting Korean users; (5) whether the game has a website in Korean language, and (6) whether Korean users are using the game service without any special restrictions.

If a game service is provided for Korean users, but the game service provider does not comply with Korean law, the Korea Communications Commission ("KCC") can block and has blocked such non-compliant games.

Technical requirements of esports tournaments

Do videogames need any certification to be used as part of esports tournaments?

There is certification procedure only applicable to esports tournaments. However, all games must be rated by the GRAC, and if there are speculative elements to any tournament, such as a very high entry fee or prize, the game may be rated 18+. If an esports tournament is deemed to be gambling, the GRAC may refuse the rating of the game or have the KCC block the access by Korean users (e.g., online poker tournament with real money).

Sponsorship of esports tournaments

Are particular requirements applicable to sponsorship agreements relating to esports tournaments?

There are no particular requirements or regulations applicable to esports tournaments sponsorship.

Participation in esports tournaments

Can players pay any price to participate in esports tournaments?

In general, yes. However, if the esports tournament system is such that entry fees are pooled together for a game of chance and the pool is distributed to the winner(s), then it could be viewed as gambling and be prohibited.

Selection of participants

Is it possible to place any restriction to the players that can participate in an esports tournament?

The participants should be determined based on the age rating for the game in the esports tournament.

Contracting esports players

Are there particular requirements for T&Cs of esports tournaments?

There are no particular requirements for terms and conditions of esports tournaments. However, in Korea, the Standardized Contract Regulation Act regulates the content of adhesion contracts, including terms and conditions. Under this law, provisions that are unilaterally favorable to the person preparing the adhesion contract can be invalidated.

Selection of winners

Are there any requirements for the selection of winners and award of prizes for esports tournaments?

There are no specific requirements for the selection of winners and award of prizes for esports tournaments, but if a winner is not decided in a fair and transparent manner in accordance with the rules of the tournament, the participants may bring a lawsuit, such as a civil claim for damages, against the organizer. Also, the award of prizes should not constitute gambling.

Sanctions against players

Can esports tournament organizers impose sanctions against players involved in match-fixing, corruption or illegal gambling during a tournament?

Yes, esports tournament organizers can impose sanctions in accordance with the terms and conditions of the tournament. In addition, the organizers can file a criminal complaint against players involved in match-fixing, corruption or illegal gambling during a tournament as an interference with business by fraudulent means, fraud, and/or the violation of the National Sports Promotion Act. The organizers may also request the Korea e-Sports Association to permanently ban such players.

Prizes of esports tournaments

Is there any restriction on the type of prizes that can be awarded as part of esports tournaments?

There are no particular restrictions on the type of prizes that can be awarded during esports tournaments. However, if the value of the prize is excessively high, the tournament may be deemed to constitute an act that encourages speculation, and in such case, certain rules may be applied in accordance with the Act on Special Cases Concerning Regulation and Punishment of Speculative Acts.

Online vs. offline esports tournaments

Are different regulations applicable to online esports tournaments compared to land-based esports tournaments?

There is no difference in the applicable regulations.

Other local requirements

Are there any other key local requirements?

There are no particular key local requirements.

Timing

Is there the need to comply with specific timing to ensure compliance (other than reviewing the terms and conditions)?

There is no statutory or regulatory provision specifying a timing to ensure compliance as far as esports tournaments are concerned.

Translations

Are the terms of the esports tournament required to be translated by law?

According to the Standardized Contract Regulation Act, adhesion contracts must be written in the Korean language. However, there is no sanction or penalty for violating this requirement.

Penalties for non-compliance

What are the penalties for non-compliance?

Statutory penalties depend on the type of violation. It can range from an administrative fine to criminal penalties. The relevant authorities may also order a corrective action, business suspension, business closure, revocation of license, etc.

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Luxembourg

Governing law

What are the main applicable governing laws, sports laws or codes for esports (if any)?

There is no specific legislation on esports in Luxembourg.

The Luxembourg Sport Ministry is waiting for the conclusions of the Luxembourg National Olympic Comity (the "COSL") on whether or not esports should be considered as sports to legislate on this matter. If esports were to be considered as sports, the Sports Law of 17 August 2005 as amended should be applicable.

With regard to the applicability of gambling laws:

NAME
The Law of 20 April 1977 on the operation of games of chance and betting in connection with sporting events as amended (the "1977 Law"), is the main law regulating gambling in Luxembourg. It states a general prohibition for the operation of a business of games of chance, except for operators fulfilling certain conditions to be granted authorizations from the Luxembourg Ministry of Justice.
The Law of 22 May 2009 on the National Foundation and the National Lottery, grants the National Lottery the exclusive right to operate its distribution networks for national lotteries and sports betting products, including online ones.
The Grand-Ducal Regulation of 7 September 1987 on sports betting, provides for the conditions to obtain an authorization from the Ministry of Justice to sell sports betting products.

With regard to the applicability of prize promotion regulations to esports activities:

NAME
The Law of 30 July 2002 regulating prize promotions (the "2002 Law") was repealed in 2016 without being replaced. Under a strict interpretation of the 1977 Law, prize promotions could thus be considered as being prohibited; however, they are still being organized in Luxembourg on a regular basis.
In practice, the principles of the repealed 2002 Law are still applied by a good number of operators on a risk based approach. However, from a general standpoint, the legal framework for prize promotions in Luxembourg is currently unclear, and its potential application to esports activities is therefore uncertain.

With regard to the advertisement of esports related activities:

NAME
Article 122-2 et. Seq. of the Luxembourg Consumer Code regulating misleading marketing advertisement practice (not specific to esports).
The Law of 30 May 2005 on data protection in the sector of electronic communications as amended, regulating unsolicited communications (not specific to esports).

With regard to the protection of intellectual property rights as part of esports activities:

NAME
The Copyright Law dated 18 April 2001, as amended (short title).
The Benelux Convention on Intellectual Property dated 25 February 2005 as amended, regulating trademarks and designs.
The Patent Law dated 20 July 1992, as amended.

With regard to the processing of personal data as part of esports activities:

NAME
Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data.
Law of 1 August 2018 on the organization of the National Commission for Data Protection and implementation of EU Regulation 2016/679 repealing the law of 2 August 2002 on the protection of persons with regard to the processing of personal data.

Extra-territoriality

Are national laws enforceable against entities operating abroad?

As the respective rules are criminally sanctioned, the Luxembourg authorities consider that the 1977 Law shall apply to any Luxembourg operators but also to foreign operators targeting Luxembourg residents. Therefore, if the Luxembourg gambling laws were to apply to esports, entities operating abroad should comply with Luxembourg law, in case of esports events targeting Luxembourg players and/or consumers, even if they were also open to players and/or consumers of other jurisdictions.

There is no case law in the field of esports for the time being.

Technical requirements of esports tournaments

Do videogames need any certification to be used as part of esports tournaments?

There is no dedicated certification for the usage of videogames in esports tournaments, apart from the certifications necessary for their sale to the public.

Luxembourg is part of the Pan European Game Information ("PEGI") providing an age rating recommendation system for videogames and a Code of Conduct including information on various risks using video games and online platforms.

Articles 383 *et seq.* of the Luxembourg Criminal Code provide protection for the youngest by banning the production, diffusion and commercialization of violent, pornographic contents or contents which could severely violate human dignity.

If esports were eventually to be considered being sports, the prospective Luxembourg esports federation agreed by the COSL would then set up some required certifications as to the videogames played in tournaments.

Sponsorship of esports tournaments

Are particular requirements applicable to sponsorship agreements relating to esports tournaments?

There are no specific requirements applicable to sponsorship agreements for esports tournaments other than those concerning advertisements provided for under article 122-4 of the Luxembourg Consumer Code regulating misleading marketing practice.

Under the previously applicable Prize promotion law of 2002, the organizer of a prize promotion had an obligation to establish, in advance of any advertising message pertaining to the prize promotion, some terms specifying the conditions and the course of such commercial operation. Those terms had to be filed with a bailiff who ensured their lawfulness. However, as stated above, the 2002 Law was repealed and the framework applicable to prize promotions in Luxembourg currently is unclear.

In Luxembourg, sponsorships can be tax deductible under certain conditions. Sponsorships are managed by the *National Culture Fund* and the *Film Fund Luxembourg*. As it is currently not certain whether or not esports are to be considered as sports, an esports organization could apply for an accreditation of its activities (to be allowed to receive donations that are tax deductible) from the *National Culture Fund* if its activities are finally considered as sports, or from the *Film Fund Luxembourg* if its activities are considered as audiovisual ones.

Participation in esports tournaments

Can players pay any price to participate in esports tournaments?

There are currently no specific requirements applicable to participation fees in esports tournaments under Luxembourg law.

If esports are eventually considered being sports, participation fees will likely be controlled by the prospective esports federation.

In the event when the legislator would consider that esports should fall within the scope of the 1977 Law, the Ministry of Justice would have the responsibility to issue authorizations to esports private operators, and esports tournaments registration fees would thus likely be regulated accordingly. The Grand-Ducal Regulation of 7 September 1987 on sport betting, sets out the conditions to fulfil in order to obtain an authorization from the Ministry of Justice.

In practice, for the time being, esports tournaments held in Luxembourg are organized by private companies such as certain esports leagues, videogame editors or associations, and may require admission payments or the subscription to a player card. Players should thus at the very least be considered as consumers benefiting from Luxembourg Consumer law.

Selection of participants

Is it possible to place any restriction to the players that can participate in an esports tournament?

Criteria of selection of participants need to be objective, transparent, and non-discriminatory.

In the event when the legislator would consider that esports should fall within the scope of the 1977 Law, the esports tournament will be limited to a minimum age (i.e. over 18 years old). In practice, restriction to the participants are fixed by the Terms and Conditions regulating the access to the tournament, for instance, the subscription to an esports league could be required.

Contracting esports players

Are there particular requirements for T&Cs of esports tournaments?

T&Cs should be drafted in accordance with the Luxembourg Consumer Code, if the tournament is not directed to professional players. They should be drafted in accordance with the Law of 30 July 2002 on misleading advertisement, in any case.

In addition, the principles applicable to prize promotions shall apply, being reminded that the legal framework applicable to prize promotions in Luxembourg is currently unclear.

Finally, T&Cs shall, where possible, be drafted so as to avoid the applicability of the 1977 Law, and shall, in any case, comply with data protection and intellectual property laws.

Selection of winners

Are there any requirements for the selection of winners and award of prizes for esports tournaments?

There currently is no specific law or regulation setting out requirements for the selection of winners and awards of prizes for esports tournaments.

As mentioned above, the legal framework currently applicable to prize promotions is uncertain. However, in practice, some prize promotions operators continue to apply the “old regime” of the 2002 Law, and file the terms of the operation with a bailiff. It is also worth mentioning that under such regime, participation in a draw, whatever the terms and conditions, could not be subject to any financial compensation of any kind whatsoever, nor to any purchase obligation. Moreover, the conditions for the awarding of the prizes were to be transparent for participants.

In any case, general Consumer law and Contract law will apply to the proper selection of winners.

Sanctions against players

Can esports tournament organizers impose sanctions against players involved in match-fixing, corruption or illegal gambling during a tournament?

Organizers can currently only enforce contractual provisions set out by the T&Cs of the tournament. However, limitations can apply to actions that can be taken against players without a court order.

Prizes of esports tournaments

Is there any restriction on the type of prizes that can be awarded as part of esports tournaments?

Under the current law, there is no restriction on the prizes than can be awarded. However, anything contrary to public order or the distribution of which is prohibited or regulated (e.g. tobacco and drugs) should not be awarded as prizes.

Online vs. offline esports tournaments

Are different regulations applicable to online esports tournaments compared to land-based esports tournaments?

For the time being, there is no such difference under Luxembourg law.

Other local requirements

Are there any other key local requirements?

There is no dedicated regime applicable to esports for the moment even though the COSL is debating over its status. As a consequence, a deeper review of the mechanics of any specific esports tournament is necessary (on a case to case basis) to mitigate any difficulties.

Timing

Is there the need to comply with specific timing to ensure compliance (other than reviewing the terms and conditions)?

Currently, no such specific timing requirements apply under Luxembourg law.

Translations

Are the terms of the esports tournament required to be translated by law?

There is no requirement as such. However, it is generally advisable (at least from a commercial standpoint) to have the terms translated in one of the three official languages of Luxembourg, namely French, German or Luxembourgish.

Penalties for non-compliance

What are the penalties for non-compliance?

For the time being, the legal framework applicable to esports in Luxembourg is rather uncertain. However, from a general perspective, Luxembourg law provides for the following sanctions:

- In the case of unlawful operation of games of chance:
 - For individuals: fines from 251€ to 25,000€ (approx. US\$285 to US\$28,400) and/or imprisonment from 8 days to 6 months.
 - For companies: fines from 502€ to 50,000€ (approx. \$570 to US \$57,000).
- In the case of having knowingly tolerated games giving rise to excessive stakes or bets on a regular basis in premises accessible to the general public; or having made an unauthorized gaming establishment known by ways of notices, announcements, posters or any other means of publication; or having knowingly received bets or distributed winnings on a regular basis in premises accessible to the general public without prior authorization; or, for the purpose of betting, having sold or offered for sale information on the chances of success of competitors involved in a sporting event:
 - For individuals: fines from 251€ to 15,000€ (approx US\$285 to US\$17,000) and/or imprisonment from 8 days to 1 month;
 - For companies: fines from 502€ to 30,000€ (approx. US \$570 to US \$34,000).

These penalties can be doubled in the case of:

- repeat offence within five years of a conviction under the same legal provision; or
- the offence being committed against a person under the age of 21.

In any of the above cases, perpetrators may also be sentenced to the loss of some of their civil rights (e.g. right to vote, right to hold a public position, etc.).

- In the case of installation in public places of any cash dispensers, consumer tokens and, in general, any device whose operation is based on skills or chance and which is intended to provide a gain or consumption against some kind of financial compensation:
 - For individuals: fines from 251€ to 15,000€ (approx. US\$285 to US\$17,000) and/or imprisonment from 8 days to 6 months;
 - For companies: fines from 502€ to 30,000€ (approx. US \$570 to US \$34,000).

In the case of prohibited lotteries:

- For organizers, administrators, agents or employees:
 - For individuals: fines from 500€ to 30,000€ (approx. US\$570 to US\$34,000) and/or imprisonment from 8 days to 3 months;
 - For companies: fines from 1,000€ to 60,000€ (approx. US\$1,100 to US\$68,000).

Finally, there is the possibility that the personal data processing aspects of the promotion could breach GDPR, which has maximum fines of up to the higher of:

- €20 million (approx. US \$22.7 million); or
- 4% of the promoter's worldwide annual revenue.

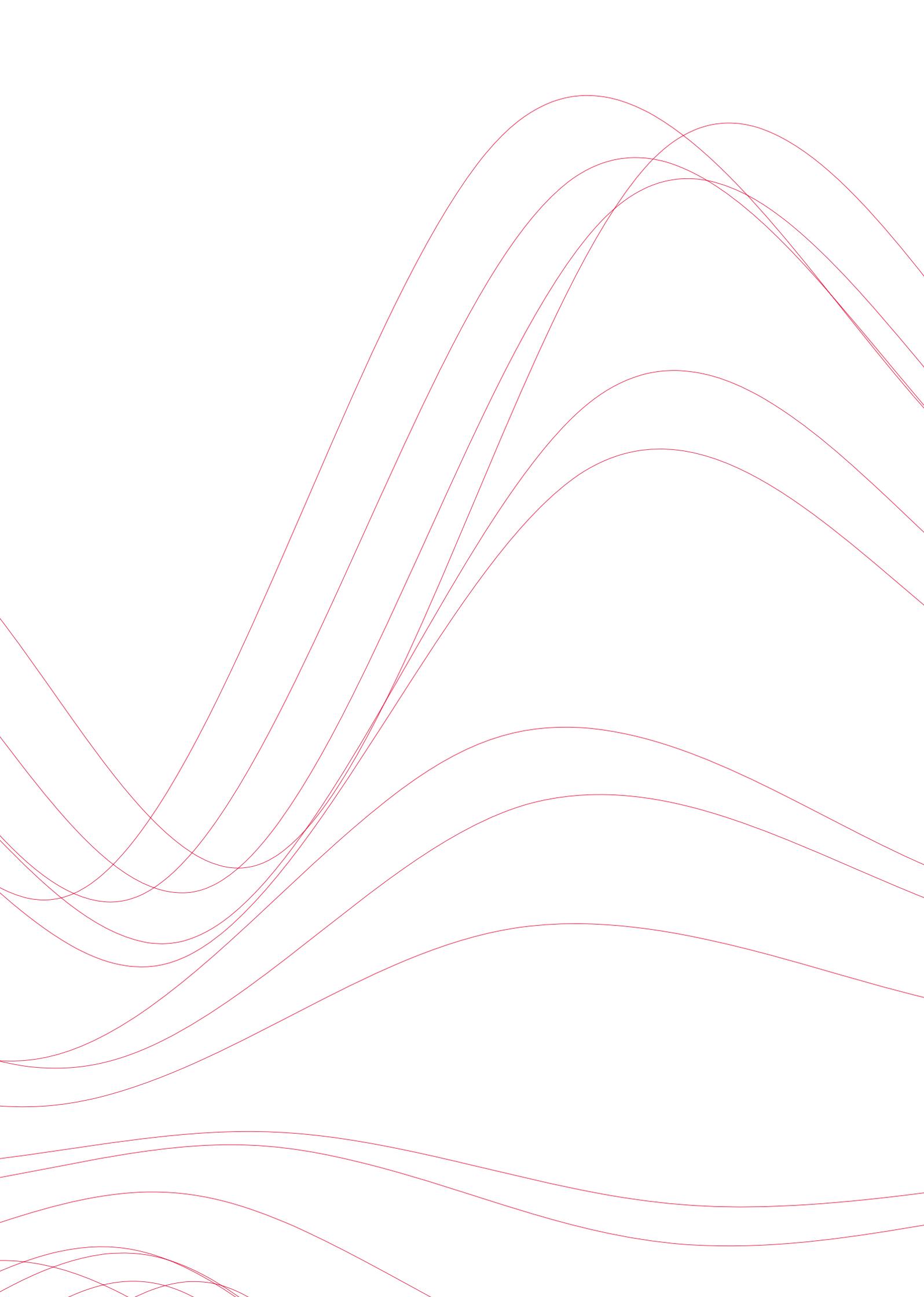
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Macau

Governing law

What are the main applicable governing laws, sports laws or codes for esports (if any)?

At present, there is no legal framework in Macau that specifically regulates the esports area. As such, our responses below are provided from a general law perspective.

With regard to the applicability of gambling laws:

NAME
<p>Games of Chance:</p> <p>Law No. 16/2001 (Macau Gaming Law) and Administrative Regulation No. 26/2001</p> <p>The commercial exploitation of gaming is reserved to the Macao SAR and can only be granted to a third parties entity by means of a gaming concession through an administrative contract.</p>
<p>Law No. 8/96/M (Illegal Gaming Law)</p> <p>This Law regulates the illicit gaming, providing criminal sanctions for the illegal offering of gambling and betting activities.</p>

With regard to the applicability of prize promotion regulations to esports activities:

NAME
<p>Decree Law No. 47/98/M</p> <p>This Law regulates all kinds of lucky draw or similar activities in commercial nature, regardless of their manual or digital nature, and creates licensing requirements for their conduction.</p>
<p>Law 5/2011</p> <p>Article 1 No.2 prohibits tobacco advertising as well as its promotion and sponsorship of any sports teams.</p>

With regard to the advertisement of esports related activities:

NAME
<p>Law no. 7/89 (General regime for advertising activity)</p> <p>Article 8 sets out the prohibition of Macau gambling advertisement.</p>
<p>Ordinance 168/96/M</p> <p>This Ordinance provides specific regulations on liability insurance in respect of the posting of advertising material.</p>

With regard to the protection of intellectual property rights as part of esports activities:

NAME
Decree Law no. 97/99/M This law sets out the intellectual property regime.
Law No. 5/2012 This law sets out the copyright regime and related rights.
Decree Law No. 51/99/M This law sets out the rules for commercialization and production of computer programs, phonograms and videograms.

With regard to the processing of personal data as part of esports activities:

NAME
Law no. 8/2005 (Personal Data Protection Act)
Law no. 11/2009 (Law on Combating Computer Crime)

Extra-territoriality

Are national laws enforceable against entities operating abroad?

In principle, there is no extra-territorial effect to local laws.

Technical requirements of esports tournaments

Do videogames need any certification to be used as part of esports tournaments?

There is no dedicated certification for the usage of video games in esports tournaments, as long as their usage complies with the abovementioned intellectual property regulations.

Sponsorship of esports tournaments

Are particular requirements applicable to sponsorship agreements relating to esports tournaments?

There is not a set of specific requirements applicable to sponsorship agreements for esports tournaments. That said, Article 8 of the Law 7/89/M prohibits any form of direct and indirect advertising related to betting activities, gambling and other types of games with cash winnings and local tobacco regulations. This restricts tobacco manufacturers from providing sponsorship to any sporting events.

Moreover, the sponsorship and services provided by sponsors may result in regulatory and tax issues. Thus, sponsors should carefully consider the relevant implications.

Participation in esports tournaments

Can players pay any price to participate in esports tournaments?

There are no restrictions on prices payable for participation in esports tournaments under Macau law.

Selection of participants

Is it possible to place any restriction to the players that can participate in an esports tournament?

There are no regulations preventing the creation of criteria that would restrict participation in esports tournaments (provided that the criteria are not discriminatory by reason of gender, political affiliation, race, etc.).

Contracting esports players

Are there particular requirements for T&Cs of esports tournaments?

There are no specific requirements for T&Cs of esports tournaments.

Selection of winners

Are there any requirements for the selection of winners and award of prizes for esports tournaments?

There are no specific legal requirements for the selection of winners and award of prizes.

Sanctions against players

Can esports tournament organizers impose sanctions against players involved in match-fixing, corruption or illegal gambling during a tournament?

The organizer may impose sanctions by enforcing the relevant contractual provisions set out in the tournament T&Cs. Where the conduct in question has a criminal relevance, the organizer may further press charges with the appropriate police authorities in Macau.

Prizes of esports tournaments

Is there any restriction on the type of prizes that can be awarded as part of esports tournaments?

There are no specific restrictions on prizes payable to participants. However, there are regulations prohibiting the award of certain goods as prizes (for example tobacco products).

Online vs. offline esports tournaments

Are different regulations applicable to online esports tournaments compared to land-based esports tournaments?

No.

Other local requirements

Are there any other key local requirements?

Esports are not currently recognized in Macau as sports, and therefore certain exemptions (e.g. public interest) which are normally applicable to recognized sports will not apply.

Timing

Is there the need to comply with specific timing to ensure compliance (other than reviewing the terms and conditions)?

No.

Translations

Are the terms of the esports tournament required to be translated by law?

There are no specific or clear regulations on whether the T&Cs are required to be translated into official languages. However, translating the T&Cs into Chinese/ English/ Portuguese is best practice to avoid misunderstanding between promoters and participants.

Penalties for non-compliance

What are the penalties for non-compliance?

The perpetrator is obliged to compensate the damages caused, in case of infringement of the law for unfair practices.

The failure to comply with data protection and privacy legal requirements and formalities may result in civil, criminal and administrative liability. Depending on the conduct, additional sanctions, fines, and ancillary penalties may apply.

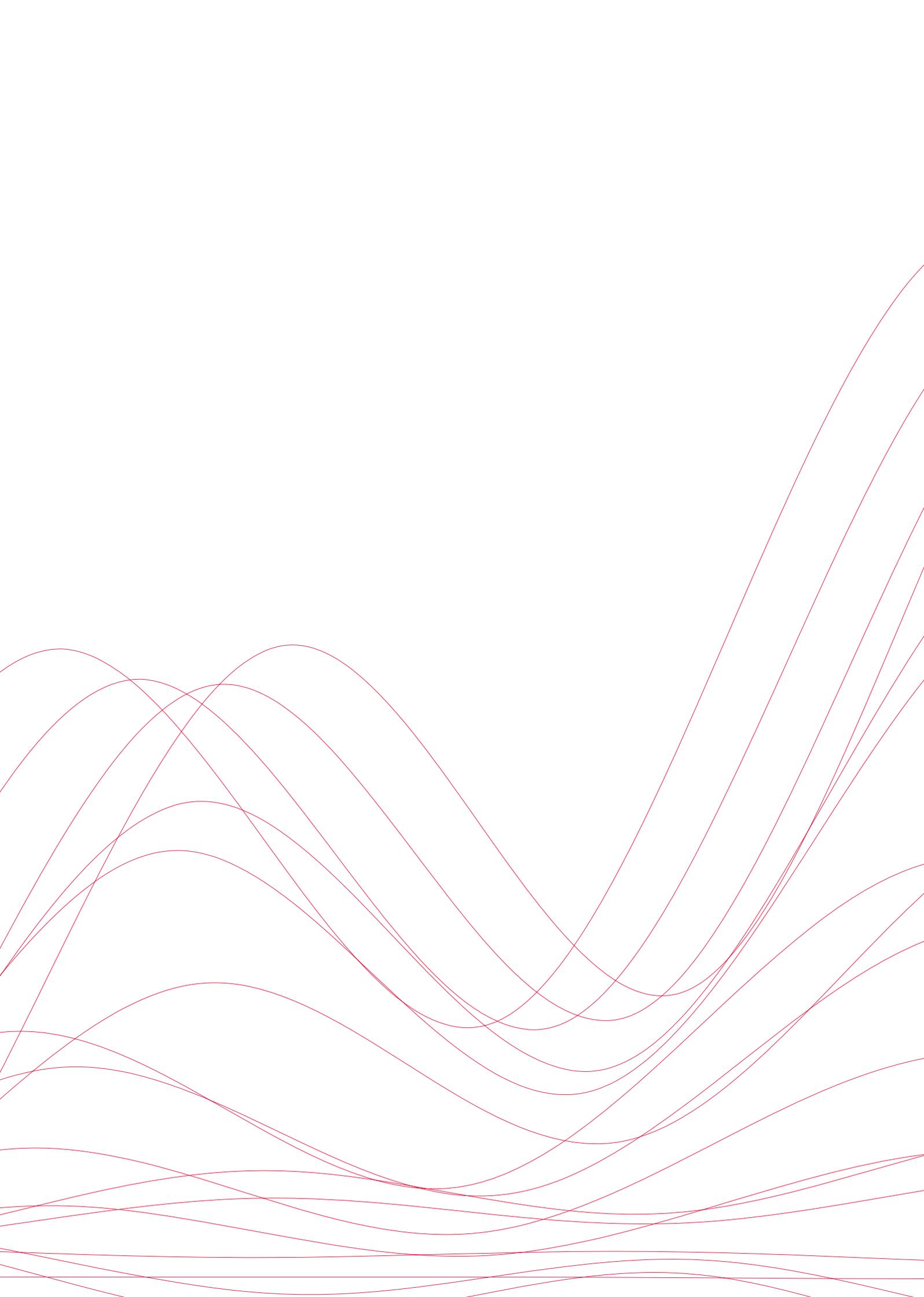
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Mexico

Governing law

What are the main applicable governing laws, sports laws or codes for esports (if any)?

With regard to the applicability of gambling laws:

NAME
The Federal Law of Games and Drawings (“ <i>Ley Federal de Juegos y Sorteos</i> ”) (“LFJS”) providing that all gambling games and games of chance are prohibited in Mexico, except when it comes to sports, in all its forms.
The Rules Federal Law of Games and Drawings (“ <i>Reglamento de la Ley Federal de Juegos y Sorteos</i> ”) (“RLFJS”)

With regard to the applicability of prize promotion:

NAME
The General Law of Physical Culture and Sport (“ <i>Ley General de Cultura Física y Deporte</i> ”) (“LGCFD”).
The Physical Culture and Sport Laws of the States of the Mexican Republic (“ <i>Ley de Cultura Física y Deporte</i> ”).

With regard to the advertisement:

NAME
Federal Law of Consumer Protection (“ <i>Ley Federal de Protección al Consumidor</i> ”)
The Federal Anti-Trust Law (“ <i>Ley Federal de Competencia Económica</i> ”)
Rules of the Federal Health Care Law related to Sanitary Control of Advertisement (“ <i>Reglamento de la Ley Federal de Salud en Materia de Control Sanitario de la Publicidad</i> ”)

With regard to the protection of intellectual property rights:

NAME
The Law of the Industrial Property (“ <i>Ley de la Propiedad Industrial</i> ”) (“LPI”).

With regard to the processing of personal data:

NAME
The Federal Law of Protection of Personal Data possessed by Individuals (“Ley Federal de Protección de Datos Personales en Posesión de los Particulares”)
The Rules of the Federal Law of Protection of Personal Data possessed by Individuals (“Reglamento de la Ley Federal de Protección de Datos Personales en Posesión de los Particulares”)
The General Law of Protection of Personal Data possessed by Individuals (“Ley General de Protección de Datos Personales en Posesión de Regulated Subjects”)
Personal Data Protection Laws of the States of the Mexican Republic

Extra-territoriality

Are national laws enforceable against entities operating abroad?

The jurisdictional reach of Mexican Laws only extends to the Mexican Republic.

Technical requirements of esports tournaments

Do videogames need any certification to be used as part of esports tournaments?

Since esports are not regulated in Mexico, there is no regulation that states such requirement. However, please note that videogames may be subject to comply with certain provisions contained in Mexican Official Standards (“Nomas Oficiales Mexicanas”) before their commercialization, in which we mainly find labelling requirements, among others.

Sponsorship of esports tournaments

Are particular requirements applicable to sponsorship agreements relating to esports tournaments?

In Mexico, the sponsorship (“patrocinio publicitario”) is not regulated under Civil or Commercial regulations, and shall be governed under a private agreement entered by the parties.

Participation in esports tournaments

Can players pay any price to participate in esports tournaments?

Since esports are not regulated in Mexico, organizers of relevant tournaments may set out internal rules in connection with the price to be paid in order to be able to participate. Thereupon, this will depend on the potential player’s will.

Selection of participants

Is it possible to place any restriction to the players that can participate in an esports tournament?

It is possible to establish restrictions to the participation as long as such restrictions do not actualize any event of discrimination based on ethnic or national origin, gender, age (with exceptions as for content prohibited for minors), disabilities, social status, health conditions, religion, opinions, preferences sexual, marital status or any other that threatens human dignity.

Contracting esports players

Are there particular requirements for T&Cs of esports tournaments?

The contracting of esports players will depend on the relationship that is intended to be set out with relevant players. This may be carried either through a services agreement or under a labor relationship, which terms and conditions shall be in accordance with the provisions set forth in the Federal Labor Law. In general terms, the purpose of said Law is to defend the principals of social justice in labor relations of the employee and the employer.

Selection of winners

Are there any requirements for the selection of winners and award of prizes for esports tournaments?

Tournament organizers are free to set out the rules and requirements applicable in each event for these purposes. However, such regulations cannot be contrary to Law.

Sanctions against players

Can esports tournament organizers impose sanctions against players involved in match-fixing, corruption or illegal gambling during a tournament?

Relevant organizers may anticipate that any player involved in these kinds of conducts shall be subject to disqualification of the tournament. However, the players cannot be sanctioned otherwise by entities other than competent governmental authorities, as applicable.

Prizes of esports tournaments

Is there any restriction on the type of prizes that can be awarded as part of esports tournaments?

Since esports are not regulated in Mexico, there are no such restrictions.

Online vs. offline esports tournaments

Are different regulations applicable to online esports tournaments compared to land-based esports tournaments?

Since esports are not regulated in Mexico, there is no regulation on this matter.

Other local requirements

Are there any other key local requirements?

In the event that personal data is collected from participants, it is strictly necessary to consider the provisions contained in the Mexican legal framework related thereto (jointly, the "Data Privacy Law"):

Mexican Federal Law for the Protection of Personal Data in Possession of Private Parties; the Regulation of the Mexican Federal Law for the Protection of Personal Data in Possession of Private Parties; Guidelines of the Privacy Notice; and Recommendations on Personal Data Security.

In general terms, said provisions consist on which the Controller (esports) has the obligation to notify the Data Subject (the participant) about the Processing of its personal data, as well as to obtain the consent of the Data Subject before processing the personal data.

This obligation is carried out through a privacy notice, which must comply with the requirements set forth in the Data Privacy Law.

Processing on personal data considered as "sensitive" is subject to additional requirements.

Storage of personal data is subject to several requirements; as a general rule, once the personal data is no longer necessary for fulfilling the purposes set forth under the relevant privacy notice, they must be cancelled.

Subject to the exceptions set forth in the Federal Data Privacy Law, when the Controller intends to transfer the personal data to national or foreign third-parties, other than the processor, the Controller must provide to said third-parties the privacy notice and the purposes to which the Data Subject(s) consented the processing of their personal data. The Personal Data will be processed in accordance with the terms of the privacy notice, which will contain a clause indicating whether the data subject accepts or not the transfer; similarly, the receiving third-party will assume the same obligations as the Controller that transferred the personal data. Transfers must be notified to the data subject in the privacy notice. International transfers of personal data will be possible when the recipient of personal data assumes the same obligations as the Controller who transferred the personal data.

Pursuant to the Data Privacy Law, the sanctions that may be imposed by the Institute vary from a warning to a penalty fee from 100 to 320,000 UMA.

In the event that the infractions persist, an additional fine will be imposed that will go from 100 to 320,000 UMA. In the case of infractions committed in the processing of sensitive personal data, penalties may be increased up to twice the amounts established above.

The above-mentioned sanctions are applicable without prejudice to the resulting civil and criminal liabilities.

Timing

Is there the need to comply with specific timing to ensure compliance (other than reviewing the terms and conditions)?

Since esports are not regulated in Mexico, there is no such timing requirement.

Translations

Are the terms of the esports tournament required to be translated by law?

Since esports are not regulated in Mexico, there is no regulation that states such requirement. Notwithstanding the above, (i) if a relevant esports tournament is intended for Mexican participants and

(ii) considering rules for similar practices and the principle of non-discrimination, we assume that the tournament shall, at least, give participants the option of selecting Spanish as default language.

Penalties for non-compliance

What are the penalties for non-compliance?

Since esports are not regulated in Mexico, there is no regulation stating specific penalties. However, please note that relevant penalties may arise in case that any participant submits a claim before the Consumer's Protection Agency ("Procuraduría Federal del Consumidor" (PROFECO)) and that is supported by the latter.

Key contact



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Netherlands

Governing law

What are the main applicable governing laws, sports laws or codes for esports (if any)?

With regard to the applicability of gambling laws:

NAME
The Dutch Betting and Gaming Act (Wet op de Kansspelen) ("BGA").

With regard to the applicability of prize promotion regulations to esports activities:

NAME
Code of Conduct for Promotional Games of Chance. (Gedragscode Promotionele Kansspelen) ("Promotional Code of Conduct")
Advertising Code for Games of Chance, offered by Licensees, by virtue of the Games of Chance Act (Reclamecode voor kansspelen die worden aangeboden door vergunninghouders ingevolge de Wet op de Kansspelen) ("Advertising Code for Games of Chance")
General Data Protection Regulation (Algemene Verordening Gegevensbescherming) ("GDPR")
GDPR Implementation Act (Uitvoeringswet Algemene Verordening Gegevensbescherming) ("UAVG")
Telecommunications Act (Telecommunicatiewet) ("TA")

With regard to the advertisement of esports related activities:

NAME
Dutch Advertising Code (Nederlandse Reclame Code) ("RCC")
Advertising Code for Games of Chance, offered by Licensees, by virtue of the Games of Chance Act (Reclamecode voor kansspelen die worden aangeboden door vergunninghouders ingevolge de Wet op de Kansspelen) ("Advertising Code for Games of Chance")
Dutch Civil Code, sections 6:194–6:196 (Burgerlijk Wetboek) ("DCC")

With regard to the protection of intellectual property rights as part of esports activities:

NAME
Auteurswet 1912 (the Dutch Copyright Act) ("Aw")
Benelux Convention on Intellectual Property ("BCIP")
European Union Trademark Regulation ("EUTMR")
European Patent Convention ("EPC")
Dutch Patent Act (Rijksoctrooiwet 1994) ("DPA")

With regard to the processing of personal data as part of esports activities:

NAME
GDPR
UAVG

Extra-territoriality

Are national laws enforceable against entities operating abroad?

Yes: in general, entities that operate from abroad must comply with Dutch law if they are active on the Dutch market and especially when targeting Dutch consumers.

Technical requirements of esports tournaments

Do videogames need any certification to be used as part of esports tournaments?

If an esports tournament qualifies as a game of chance, it is currently prohibited to organize such tournament. Games of chance are currently illegal in the Netherlands (except a license has been granted; however there are only a few licensees). It is expected that online games of chance will be legal as of 1 January 2021, although this date is subject to change.

If an esports tournament is to be qualified as a prize promotion, the criteria laid down in the Promotional Code of Conduct must be met, to prevent the tournament from qualifying as an illegal game of chance.

If the eSPorts tournament doesn't qualify as a game of chance, there are no dedicated certification requirements for such tournament.

However, Dutch criminal law prohibits the sale, offering or viewing of videogames to children under 16 if such games are rated as not suitable for children under the age of 16 (i.e. PEGI 16). The sanction upon violation of this rule is a prison sentence of a maximum of one year or a fine of up to € 20,750.

Sponsorship of esports tournaments

Are particular requirements applicable to sponsorship agreements relating to esports tournaments?

None other than general Dutch contract law. The Dutch Olympic Committee/Sports Federation, provides standardized sponsorship agreements with particular requirements that can be used when organizing a sports event. Indicators that esports have to be regarded as a sport (and that these sponsorship agreements can be used) are, for example, that fact that the International Olympic Committee accepted esports to be added as an official sport in the 2022 Asian Games.

However, if an esports tournament qualifies as a game of chance, it is currently prohibited to promote such tournament. Games of chance are currently illegal in the Netherlands (except for a limited amount of exceptions). It is expected that online games of chance will be legal as of 1 January 2021, although this date is subject to change.

Participation in esports tournaments

Can players pay any price to participate in esports tournaments?

Assuming that the specific esports tournament would not qualify as a game of chance or prize promotion, this should not be an issue. Consequently, esports tournaments should therefore be structured in a way that prevents them from qualifying as either a game of chance or a prize promotion.

If an esports tournament qualifies as a prize promotion, participants are not allowed to be charged more than the communication costs for participation, amounting to €0.45. Exceeding this amount will lead to the prize promotion to qualify as an illegal game of chance.

Selection of participants

Is it possible to place any restriction to the players that can participate in an esports tournament?

No specific legislation limits the possibility to restrict who can participate in an esports tournament.

However, if an esports tournament can be considered a prize promotion, parental consent is required for participation of minors.

Contracting esports players

Are there particular requirements for T&Cs of esports tournaments?

In general, Dutch T&Cs regime is protective in favour of consumers in case of B2C relationships. Should players qualify as consumers, such protective legislation applies. However, it could be argued that concluding agreements with professional esports players does not qualify as a B2C-relationship.

Should an esports tournament qualify as a prize promotion, additional rules are applicable as to what information is to be included in the T&Cs.

Selection of winners

Are there any requirements for the selection of winners and award of prizes for esports tournaments?

If an esports tournament does not qualify as a prize promotion or other game of chance, no rules other than general contract and (if applicable) consumer laws apply.

If an esports tournament qualifies as a prize promotion, the selection of winners and award of prizes should take place in an impartial manner (e.g., by a civil-law notary, bailiff, a person without any interest in the tournament or through a randomized instrument such as a computer).

Sanctions against players

Can esports tournament organizers impose sanctions against players involved in match-fixing, corruption or illegal gambling during a tournament?

This can be achieved by including such sanctions in the T&Cs of the esports tournament. However, the scope of these sanctions may be limited to those sanctions that are enforceable without a court order.

Additionally, match-fixing, corruption or illegal gambling during a tournament might qualify as criminal offences. Such offences can be prosecuted by the public prosecutor.

Prizes of esports tournaments

Is there any restriction on the type of prizes that can be awarded as part of esports tournaments?

Only if an esports tournament qualifies as a prize promotion. In such case, the total value of the prizes may not exceed an amount of €100,000.

In other scenarios, there are no restrictions.

Online vs. offline esports tournaments

Are different regulations applicable to online esports tournaments compared to land-based esports tournaments?

If an esports tournament qualifies as a game of chance, it is currently prohibited to organize such tournament. Games of chance are currently illegal in the Netherlands (except a license has been granted; however there are only a few licensees). It is expected that online games of chance will be legal as of 1 January 2021, although this date is subject to change.

Other local requirements

Are there any other key local requirements?

Dutch law does not provide for any dedicated regimes applicable to esports.

If an esports Tournament would qualify as a land-based game of chance, strict licensing requirements apply.

If the esports Tournament qualifies as a prize promotion, the Promotional Code of Conduct states that the total value of prizes to be won cannot exceed the amount of €100,000. Such tournament may be organized once per year per company, brand or product.

Timing

Is there the need to comply with specific timing to ensure compliance (other than reviewing the terms and conditions)?

No.

Translations

Are the terms of the esports tournament required to be translated by law?

Under Dutch law, no obligation exists to have these terms translated to Dutch. However, under Dutch consumer law, terms and conditions shall be construed in clear and comprehensible language. To stay on the safe side, we recommend to translate the terms to

Dutch, to prevent any discussion about whether the terms are “clear and comprehensible”.

This does not apply in non B2C-relations, e.g. when professional esports players sign an agreement with an esports operator.

Penalties for non-compliance

What are the penalties for non-compliance?

The Dutch Gambling Authority (Kansspelautoriteit, “KSA”) can impose administrative fines of up to €830,000 or 10% of the annual turnover of the year preceding the year in which the violation was committed for offering illegal games of chance. When the violation is considered an economic offence, the violation may be punished by imprisonment (with a maximum of two years).

Furthermore, the Advertising Code Committee may issue a “recommendation” for violations of the RCC or the Advertising Code for Games of Chance, which means that an esports tournament organizer that is in violation is recommended to discontinue the promotion in the form in which it is currently being or has been advertised.

Finally, there is the possibility that the personal data processing aspects of an esports tournament could breach GDPR, which has maximum fines of up to €20 million or 4% of the organizers global annual revenue.

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Norway

Governing law

What are the main applicable governing laws, sports laws or codes for esports (if any)?

With regard to the applicability of gambling laws:

NAME
The main acts applicable to gaming in Norway (the “Gaming Acts”) are the Act dated 1 July 1927 no. 3 relating to betting using a totalisator system, Act of 28 August 1992 no. 103 relating to Cash Gaming etc. and Act dated 24 February 1995 no. 11 relating to Lotteries etc. In addition there is a Payment Blocking Regulation of 19 February 2010 no. 593 under which banks and payment providers are obliged to block payments to and from account numbers associated with gambling which do not have a license in Norway.

With regard to the applicability of prize promotion regulations to esports activities:

NAME
No specific regulation issued to date in addition to the general laws referred to above.
No specific regulation issued to date in addition to the general laws referred to above.

With regard to the advertisement of esports related activities:

NAME
Act relating to the control of marketing and contract terms and conditions, etc. dated 9 January 2009 (the “Marketing Act”)
Act relating to distance selling contracts dated 20 June 2014 No. 27 (“Distance Selling Act”)
Regulation on unfair commercial practice dated 1 June 2009 No. 565

With regard to the protection of intellectual property rights as part of esports activities:

NAME
Act relating to copyright etc. dated 15 June 2018 No. 40
Act relating to trademarks etc. dated 26 March 2010 No. 8

With regard to the processing of personal data as part of esports activities:

NAME
Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data
Act dated 15 June 2018 No. 38 with regard to the processing of personal data

Extra-territoriality

Are national laws enforceable against entities operating abroad?

Entities operating abroad shall comply with Norwegian law in cases of esports events addressed to Norwegian players and/or consumers, even if they are also open to players and/or consumers of other jurisdictions.

The usage of claims in Norwegian, accepting payments in Norwegian currency, language of web-site, nationality of sponsor and other circumstances will be considered by Norwegian authorities as indicators of the applicability of Norwegian law.

The applicability of Norwegian law can lead to significant obligations under the rules, including tax liabilities.

Technical requirements of esports tournaments

Do videogames need any certification to be used as part of esports tournaments?

There is no dedicated certification for the usage of video games in esports tournaments imposed by law. The rating systems provided by the Norwegian video game and Internet content age rating system are based on the self-certification rule (e.g PEGI).

Sponsorship of esports tournaments

Are particular requirements applicable to sponsorship agreements relating to esports tournaments?

There are not any specific requirements applicable to sponsorship agreements for esports tournaments, other than the general ban on any form of direct and indirect advertising related to betting activities, gambling and other types of games with cash winnings which do not have a Norwegian license as well as the prohibition on marketing of certain alcoholic beverages and tobacco.

Also, the type of consideration due by the sponsor and the services provided by and to the sponsor can lead to regulatory and tax issues.

Participation in esports tournaments

Can players pay any price to participate in esports tournaments?

The Gaming Acts grants the monopoly to the State or subject to a license issued by the state on *“the organization and exercise of games of skill and betting competitions, for which a reward of any kind is paid and whose participation requires the payment of a monetary stake”*.

In this respect, the risk is that the payment of an annual registration fee to an esports tournament league might be considered as the monetary stake against which the reward is granted.

Therefore, agreements with players need to be structured so that such risk is avoided.

Selection of participants

Is it possible to place any restriction to the players that can participate in an esports tournament?

Criteria for the selection of participants need to be objective, transparent, and non-discriminatory.

Contracting esports players

Are there particular requirements for T&Cs of esports tournaments?

T&Cs shall be drafted in accordance with Norwegian consumer laws, if the tournament is not directed to professional players, and with misleading advertising rules, if the tournament is addressed to professional players.

Additionally, the mechanics of the esports tournament shall be structured to avoid the applicability of gambling laws and shall, in any case, comply with data protection regulations and intellectual property laws.

Selection of winners

Are there any requirements for the selection of winners and award of prizes for esports tournaments?

General contract and consumer law rules will apply to the proper selection of winners.

Sanctions against players

Can esports tournament organizers impose sanctions against players involved in match-fixing, corruption or illegal gambling during a tournament?

Organizers can only enforce contractual provisions set out by the T&Cs of the tournament. However, limitations can apply to actions that can be taken against players without a court order.

Prizes of esports tournaments

Is there any restriction on the type of prizes that can be awarded as part of esports tournaments?

No.

If players are paying in cash to participate in an esports tournament which contains elements of chance and obtain a prize in cash or in kind with economic value, there is a risk of requalification of the tournament as gambling.

Online vs. offline esports tournaments

Are different regulations applicable to online esports tournaments compared to land-based esports tournaments?

No, where the Norwegian gambling laws apply it does not matter whether there is an online or offline esports tournament.

Other local requirements

Are there any other key local requirements?

The Norwegian Operators holding a Norwegian online gambling and betting license can offer bets on esports events, within the limits set out by gambling regulations and subject to the approval of the type of esports event and the type of bet by the Norwegian gambling regulator.

Esports are not currently recognized in Norway as sports, and therefore exemptions applicable to them are not applicable. Additionally, there is no dedicated regime applicable to esports.

As a consequence, a deeper review of the mechanics of esports tournaments is necessary to avoid challenges.

Timing

Is there the need to comply with specific timing to ensure compliance (other than reviewing the terms and conditions)?

No.

Translations

Are the terms of the esports tournament required to be translated by law?

Under consumer regulations, the information intended for consumers and users shall also be shown in Norwegian.

Penalties for non-compliance

What are the penalties for non-compliance?

In cases of infringement of marketing law, an administrative sanction can be issued. The level will depend on the gravity of the case and whether there are repeated instances. In case of breach of gambling laws, criminal sanctions can apply. Additional sanctions and fines can apply, depending on the challenged breach.

Key contact



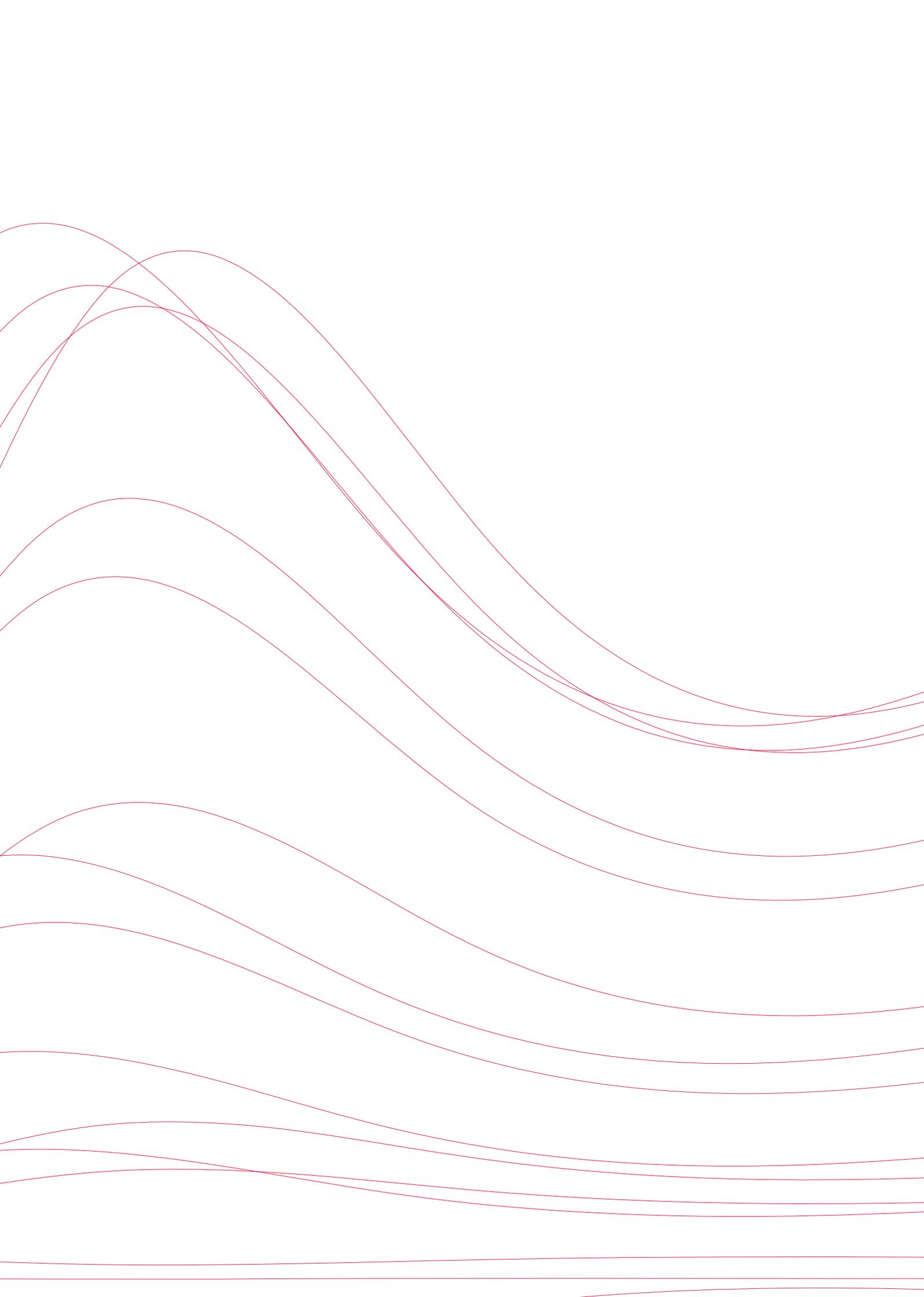
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Poland

Governing law

What are the main applicable governing laws, sports laws or codes for esports (if any)?

With regard to the applicability of gambling laws:

NAME
Gambling Act of 19 November 2009
Sport Act of 25 June 2010

With regard to the applicability of prize promotion regulations to esports activities:

NAME
The Civil Code of 23 April 1964
Gambling Act of 19 November 2009
Act of 30 May 2014 on Consumer Rights

With regard to the advertisement of esports related activities:

NAME
Act of 16 April 1993 on Fair Trading
Act of 23 August 2007 on Combating Unfair Commercial Practices
Broadcasting Act of 29 December 1992
Press Law of 26 January 1984
Law on Land Planning of 27 March 2003
Act of 21 March 1985 on Public Roads
Act of 26 October 1982 on Upbringing in Sobriety and Counteracting Alcoholism
Act of 9 November 1995 on Protection From the Negative Consequences of Tobacco and Tobacco Products Use

With regard to the protection of intellectual property rights as part of esports activities:

NAME
Act of 4 February 1994 on Copyright and Related Rights
Industrial Property Law of 30 June 2000

With regard to the processing of personal data as part of esports activities:

NAME
Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data ("GDPR")
Act of 10 May 2018 on Personal Data Protection

With regard to application of Polish law to foreign entities' esports activities:

NAME
Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations (Rome I)
Private International Law of 4 February 2011
Act of 18 July 2002 on Electronically Supplied Services
Act of 7 October 1999 on Polish Language

With regard to the security of events organized in connection with esports activities:

NAME
Act of 20 March 2009 on Security of Mass Events

Extra-territoriality

Are national laws enforceable against entities operating abroad?

As regards contractual obligations between an entity operating abroad and Polish players, Rome I Regulation provisions will apply. If a player is a professional (plays in a professional team for a living), a contract between this player and an esports entity operating abroad is governed by the law chosen by the parties. If no law is chosen, the law governing the contract depends on the circumstances, but in general the contract should be governed by the law of the country where the esports entity has its habitual residence.

However, if a contract (that includes the Terms and Conditions of a tournament) is concluded between an eSport entity and a player who is not a professional (a consumer) and that entity directs its activities to Poland (or to several countries including Poland), by default that contract will be governed by Polish law. Under the circumstances specified above the parties may nevertheless choose the law applicable to a contract (for example the law of the country where the entity operates), however, the consumer cannot

be deprived of protection afforded to him by Polish consumer law (i.e. Polish consumer law still applies).

The comments above do not apply to the supply of services by electronic means.

If the esports entity's activity consists of supplying services by electronic means (organizing online tournaments, online coaching, selling merchandise on its website etc.), it is governed by the law of the EU member state, EFTA country or territory in which this entity's place of residence or registered office is located. However, in the case of contracts entered into by players who are consumers, these players cannot be deprived of protection afforded to them by Polish consumer law.

Regarding supplying services by electronic means, Polish law will also apply under other specific circumstances, such as if entities' services are qualified as gambling under Polish law (e.g. betting on esports teams) or if an entity plans to send commercial information to consumers in Poland via electronic mail (consent is required).

Technical requirements of esports tournaments

Do videogames need any certification to be used as part of esports tournaments?

There is no dedicated certification for the usage of video games in esports tournaments.

However, if an esports tournament was subject to gambling law regulations, a permit would be necessary. While there is no case law regarding the relationship between gambling and video games, in theory some video games in which the outcome of a game relies on an element of chance (e.g. digital card games) could be qualified as a game of chance under Polish gambling law. In this case, the organization of a tournament would require obtaining a permit.

It is important to point out that, regardless of legal obligations stipulated by Polish law (or lack thereof), most video game licences require that the video game's publisher/producer gives their consent to a tournament being organized. Organization of a tournament without such consent may result in legal claims.

Sponsorship of esports tournaments

Are particular requirements applicable to sponsorship agreements relating to esports tournaments?

There are no specific requirements applicable to sponsorship agreements for esports tournaments, however general civil law provisions as well as general provisions regarding advertising and sponsorship apply.

Esports tournaments can be sponsored by producers and distributors of alcoholic beverages, although it is forbidden to inform the public about such sponsorship if the sponsor produces or distributes alcoholic beverages which have over 18% alcohol by volume. Information about such sponsorship can be distributed within a limited scope (only by certain means) in the

case of sponsors producing or distributing alcoholic beverages which have between 8% and 18% alcohol by volume. No restrictions apply to informing the public about sponsorship by a producer or distributor of alcoholic beverages which have less than 8% alcohol by volume (i.e. most beer brands).

Esports tournaments cannot be sponsored by a producer or importer of tobacco products or other linked products.

Esports tournaments can only be sponsored by betting companies which operate legally in Poland, i.e. they have obtained a specific permit in Poland.

Certain obligations have to be met regarding the provision of information about sponsorship within specific media such as television, radio, press and outdoor advertising.

If an esports tournament were to be directly connected with gambling, further limitations to the advertising, promotion and marketing of gambling games would be applicable.

Participation in esports tournaments

Can players pay an admission fee in order to participate in esports tournaments?

Yes. A player accepting the Terms and Conditions of the tournament would mean that a contract is concluded between this player and the organizer, thus general rules of the Civil Code regarding contracts would apply to admission fees. It is important to remember a players' legal capacity under the Civil Code – in practice players below 13 years old can only pay small admission fees and all players below 18 would have to obtain their legal guardian's consent to participation in a tournament with high admission fees/substantial rewards.

Selection of participants

Is it possible to place any restriction on the players that participate in an esports tournament?

In general, criteria relating to the selection of participants need to be objective, transparent, and non-discriminatory to avoid legal claims on the basis of an infringement of personality rights. These criteria should be stipulated in the tournament's Terms and Conditions.

In some circumstances it is possible to only allow players above a certain age to participate in a tournament. The nature of a game (PEGI rating might be an indication in this case), admission fee (see above), nature of the prize pool (amount of money, type of reward) and other factors have to be taken into consideration. Also, it is advised to only allow players who do not have any serious health problems which could result in injury or death in connection with the games played (e.g. epilepsy) to participate.

The organizer of an offline tournament is responsible for the security of the event (in general they are responsible on the basis of the Civil Code and in some instances have to meet certain obligations, in particular if the tournament is qualified as a mass event under the Act on Security of Mass Events), thus players who pose a threat to others should not be allowed to participate in the tournament. In particular, players (and participants) who have dangerous items on them (guns, knives, explosives) or any substances which could affect their mental and/or physical state (alcohol, drugs, psychotropic substances) should not be allowed onto the premises of the event unless they hand those items in.

If a tournament is qualified as a game of chance (gambling), only players above 18 years old are allowed to participate.

Contracting esports players

Are there particular requirements for T&Cs of esports tournaments?

In general, the Terms and Conditions of a tournament are considered to be a contract between the organizer and the player under Polish law, therefore the organizer may determine the contract at his own discretion, provided that its content or purpose do not prejudice the nature of the contract, the law or the principles of community coexistence.

What is more, if the tournament is directed at consumers, Polish consumer law applies.

As indicated above, specific provisions relating to the event's security should also be included.

Data protection regulations (specifically the General Data Protection Regulation and Polish Act on Personal Data Protection, for example information obligations towards the players) and intellectual property regulations (Act on Copyright and Related Rights and Industrial Property Law e.g. regarding recordings of the tournament) have to be taken into consideration as well.

If feasible, Terms and Conditions should be drafted in a manner which eliminates any elements of chance which could arise during the competition so that there is no possibility of qualifying the tournament as a game of chance under the Gambling Act. If a tournament is qualified as a game of chance (gambling), very strict and specific requirements apply to the contents of the Terms and Conditions of a tournament.

Selection of winners

Are there any requirements for the selection of winners and award of prizes for esports tournaments?

There are no particular requirements for the selection of winners. General contract and consumer law rules apply, meaning that the selection of winners has to be in line with the rules stipulated in the tournament's Terms and Conditions.

Sanctions against players

Can esports tournament organizers impose sanctions against players involved in match-fixing, corruption or illegal gambling during a tournament?

Organizers can only enforce contractual provisions set out by the Terms and Conditions of the tournament. However, some actions can be taken against players only on the basis of a court order.

Prizes of esports tournaments

Is there any restriction on the type of prizes that can be awarded as part of esports tournaments?

There are no particular restrictions on the type of prizes that can be awarded as part of esports tournaments – general civil law rules apply (e.g. no *rei extra commercium* such as illegal drugs can be awarded). Apart from that, awarding players with alcoholic beverages or tobacco products is inadvisable and potentially illegal, as it could be viewed as an illegal promotion of said products. If the organizer allows minors to participate in the tournament, awarding players with alcoholic beverages or tobacco products is prohibited.

Online vs. offline esports tournaments

Are different regulations applicable to online esports tournaments compared to land-based esports tournaments?

Offline tournaments:

As indicated above, certain rules regarding security of the event may apply if the tournament is qualified as a mass event. Apart from that, different data protection rules (e.g. connected with CCTV) and intellectual property rules (e.g. regarding recording of the event, sponsorships of the teams participating in the tournament etc.) may apply to those of an online tournament.

Online tournaments:

As indicated under section 2, if the esports entity has its place of residence or registered office in an EEA country other than Poland, this country's law will apply to online tournaments (with some exceptions like Polish consumer law). If the entity's place of residence or registered office is located in Poland, the Act on Electronically Supplied Services will apply, which means that certain information has to be provided and other obligations have to be met.

Other local requirements

Are there any other key local requirements?

There are no dedicated Polish acts or provisions applicable to esports as it is covered by the general Sport Act.

In case of land-based esports events, the Act on Security of Mass Events may be applicable, which dictates the safety standards and regulations regarding mass events, the terms of obtaining a permit for the organization of such events, rules on the processing of personal data during such event and the principles of organizers' liability in this regard.

Depending on the scope of the planned event, the abovementioned regulation would need to be complied with.

Further regulations may be applicable, subject to the scope of the planned event/service.

Timing

Is there the need to comply with specific timing to ensure compliance (other than reviewing the terms and conditions)?

There is no specific timing for the performance of esports tournaments.

Translations

Are the terms of the esports tournament required to be translated by law?

Under the Act on Polish Language, any information intended for consumers and all labor law documentation has to be drafted in Polish if the consumer or candidate for a job has their place of residence in Poland when the contract is concluded or if the contract is to be performed in the territory of Poland. This means that, for example, Terms and Conditions of an amateur esports tournament (both online and offline) directed at Polish players should be drawn up in Polish.

Penalties for non-compliance

What are the penalties for non-compliance?

The scope of potential sanctions depends on the applicable regulations. For example, breach of the rules on Electronically Supplied Services is subject to a fine of 5000 PLN (approx. 1157 EUR). Liability under the applicable intellectual property or consumer regulations is dependent on the scope of potential third party claims and specifics of the case. Practically, the most severe sanctions may be due to the infringement of

the personal data protection laws, for example a breach of the GDPR can lead to administrative fines of up to 20 000 000 EUR, or in the case of an undertaking, up to 4 % of the total worldwide annual turnover of the preceding financial year, whichever is higher.

As mentioned, the applicable regulations, facts of the case and the involvement of third parties may affect the scope of the potential penalties.

Key contact



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Portugal

Governing law

What are the main applicable governing laws, sports laws or codes for esports (if any)?

With regard to the applicability of gambling laws:

NAME
There is no specific legal framework on esports. However, considering the particularities of esports, there are Portuguese laws and regulations which have an impact in the scope of such type of games: Decree Law no. 422/89, 02, December – “Game Law” (as amended) – establishing the legal framework on fortune games and certain specific provisions regarding the operation of and engagement in skill games in Portugal and establishing the sanctions for such provision’s violation;
Decree Law no. 66/2015, 29, April – “Online Gambling and Betting Legal Framework” (as amended) – granting the monopoly of online gambling and betting to the State and regulating the conditions for operation of online gambling and betting by private entities, as well as establishing the sanctions for the illegal operation and offering of online gambling and betting.
Decree Law no. 67/2015, 29, April granting the monopoly on sports land-based betting to the State and by the State to Santa Casa da Misericordia and establishing the sanctions for the illegal operation and offering of land-based betting.

With regard to the applicability of prize promotion regulations to esports activities:

NAME
Decree Law no. 422/89, 02, December – “Game Law” (as amended) – establishing certain specific provisions regarding the operating of and engagement in skill games in Portugal and establishing the sanctions for such provision’s violation;

With regard to the advertisement of esports related activities:

NAME
Law no. 24/96, 31, July – “Consumer Law” (as amended) establishing the general principles on consumer protection;
Decree Law no. 330/90, 23, October – “Advertising Code” (as amended) regulating advertising in general terms and establishing restrictions to games and betting advertising.
Decree Law no. 57/2008, 26, March – Legal framework on Unfair Commercial Practices (as amended) regulating unfair commercial practices within the scope of B2C, including misleading advertising.
Decree Law no. 23/2014, 14, February – Legal framework on entertainment and artistic events (as amended)

With regard to the protection of intellectual property rights as part of esports activities:

NAME
Decree Law no. 63/85, 14, March – “Code on Copyright and Connected Rights” (as amended) setting out Portuguese law on copyright and connected rights
Decree Law no. 110/2018, 10, December – “Industrial Property Code” setting out the Portuguese Industrial Property Code regulating, among other, trademarks and patents.

With regard to the processing of personal data as part of esports activities:

NAME
Regulation (EU) 2016/679 – “General Data Protection Regulation” – on the protection of natural persons with regard to the processing of personal data and on the free movement of such data
Law no 58/2019, 8, August executing the General Data Protection Regulation in Portugal on the protection of individuals with regard to the processing of personal data and free movement of such data
Law no 41/2004, 18, August on personal data processing within the scope of electronic communications (as amended)

Extra-territoriality

Are national laws enforceable against entities operating abroad?

In general terms, entities operating abroad shall comply with Portuguese law in cases of esports events addressed to Portuguese players and/or consumers, even if they are also open to players and/or consumers of other jurisdictions.

The usage of claims in Portuguese language, the reference to Portugal in the T&C's and other circumstances might be considered by Portuguese authorities as indicators of the applicability of Portuguese law. The applicability of Portuguese law can lead to significant obligations under the rules, including tax liabilities.

Regarding online gambling, please note that any website available to be assessed from Portugal is subject to national laws and therefore access should be blocked if the online gambling licensing requirements are not complied with.

Technical requirements of esports tournaments

Do videogames need any certification to be used as part of esports tournaments?

There is no dedicated certification for the usage of video games in esports tournaments, apart from the certifications necessary for their sale to the public, notably prior authorization from IGAC (Inspeção Geral das Atividades Culturais) and age rating.

However, if esports tournaments are subject to the application of the games similar to the fortune games legal framework (applicable to games depending on chance or on chance combined with skill), prior authorization from the competent authorities will be necessary and, within such scope, the software and technological tools used will be assessed by such authorities. Furthermore, limitations on the entities allowed to display such games may apply.

Please also note that the operation of machines for which the results depend exclusively or mainly on skill and prizes are granted in cash, chips or anything of economic value is prohibited, except for the free extension of the machine use in view of the points obtained. However, this prohibition is not designed specifically for esports and it is not likely that a machine (for these purposes) exists.

Sponsorship of esports tournaments Contracting esports players

Are particular requirements applicable to sponsorship agreements relating to esports tournaments?

There are no specific requirements applicable to sponsorship agreements for esports tournaments, other than those provided by Article 21^o of the Advertising Code that forbids the existence of references, explicit or implicit to games and betting in events addressed to minors or in which they may participate as the main participant, as well as in commercial communications and advertising of such events.

Also, the type of consideration due by the sponsor and the services provided by and to the sponsor can lead to regulatory and tax issues.

Participation in esports tournaments

Can players pay any price to participate in esports tournaments?

The Decree Law no 66/2015, 29, April and the Decree Law no 67/2015, 29, April grant the monopoly on online gambling and land-based betting to the State and, in the latter case, the State has granted the monopoly to Santa Casa da Misericórdia.

Although not likely, there is the risk that the payment of an annual registration fee to an esports tournament league might be considered as the monetary stake against which the reward is granted. Therefore, agreements with players need to be structured so that such risk is avoided.

Please note that at this stage, esports are not currently recognized in Portugal as sports, and therefore any gambling on esports is forbidden.

Selection of participants

Is it possible to place any restriction to the players that can participate in an esports tournament?

Criteria of selection of participants need to be objective, transparent, and non-discriminatory. In principle the provisions applicable to games similar to fortune games (depending on chance or on chance combined with skill) are not applicable as esports tournaments are likely to fall within the scope of skill games. However, in cases such rules are considered to apply, esports tournaments would be limited to participants located in Portugal.

Are there particular requirements for T&Cs of esports tournaments?

In principle the provisions applicable to games similar to fortune games (depending on chance or on chance combined with skill) are not applicable as esports tournaments are likely to fall within the scope of skill games. However, in cases that such rules are considered to apply, stringent requirements apply to the contents of T&Cs and the formalities to be followed in an esports tournament. Furthermore, prior authorization and assessment of all the tournament materials (including software) would be required.

Additionally, T&Cs shall be drafted in accordance with Portuguese consumer laws and misleading advertising rules.

The mechanics of the esports tournament shall be structured to avoid the applicability of gambling laws and shall, in any case, comply with data protection regulations and intellectual property laws.

Selection of winners

Are there any requirements for the selection of winners and award of prizes for esports tournaments?

In cases where the tournament falls under the concept of games similar to fortune games (depending on chance or on chance combined with skill), these activities may require the presence of local public authorities. Aside from such a scenario, general contract and consumer law rules will apply to the proper selection of winners.

Sanctions against players

Can esports tournament organizers impose sanctions against players involved in match-fixing, corruption or illegal gambling during a tournament?

Organizers can only enforce contractual provisions set out by the T&Cs of the tournament. However, limitations can apply to actions that can be taken against players without a court order.

Prizes of esports tournaments

Is there any restriction on the type of prizes that can be awarded as part of esports tournaments?

If esports tournaments fall under the concept of games similar to fortune games (depending on chance or on chance combined with skill) then prizes can only be in kind, not in cash.

Online vs. offline esports tournaments

Are different regulations applicable to online esports tournaments compared to land-based esports tournaments?

In the case that esports tournaments are qualified as gambling, the online esports tournaments can fall under the online gambling licensing regime. However, please note that at this stage esports are not currently recognized in Portugal as sports, and therefore any gambling activity on esports is forbidden.

Other local requirements

Are there any other key local requirements?

Esports are not currently recognized in Portugal as sports, and therefore the gambling activity on esports is forbidden. Additionally, there is no dedicated regime applicable to esports. As a consequence, a deeper review of the mechanics of esports tournaments is necessary to avoid challenges.

Also note that in certain circumstances esports events may be deemed as public entertainment events or non-artistic entertainment events carried out in artistic events venues which are subject to previous communication or license (depending on its specific characteristics) and may be subject to the fulfillment of other legal requirements.

Timing

Is there the need to comply with specific timing to ensure compliance (other than reviewing the terms and conditions)?

If the tournament falls under the concept of games similar to fortune games (depending on chance or on chance combined with skill), these activities require authorization. Such competence was recently transferred to the President of the Competent Municipality which should be filed at least 15 days prior to its start (depending on the Municipality).

Translations

Are the terms of the esports tournament required to be translated by law?

Under consumer regulations, the information intended for consumers and users shall also be shown in Portuguese and must be shown in characters that are no less visible and legible than those used for the other languages. In the case of esports tournaments addressed to professional players, this requirement would still apply.

Penalties for non-compliance

What are the penalties for non-compliance?

In the case of infringement of the law on unfair practices, an administrative sanction between € 250 and € 3,740 (for individuals) and between € 3,000 and € 44,891.81 (for legal persons) can be issued. In the case of breach of gambling laws, both criminal and administrative sanctions can apply. Additional sanctions and fines can apply, depending on the challenged breach.

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Romania

Governing law

What are the main applicable governing laws, sports laws or codes for esports (if any)?

With regard to the applicability of gambling laws::

NAME

Government Emergency Ordinance no. 77/2009 on the organization and exploitation of games of chance

With regard to the applicability of prize promotion regulations to esports activities:

NAME

Government Ordinance no. 99/2000 regarding the marketing of products and services

Government Ordinance no. 21/1992 on consumer protection

Law no. 363/2007 on the fight against unfair commercial practices of traders in their relationship with consumers and the harmonization of regulations with European consumer protection legislation

With regard to the advertisement of esports related activities:

NAME

Law no. 148/2000 on advertising

Law no. 158/2008 on misleading and comparative advertising

Law no. 185/2013 on the placement and authorization of means of advertising

With regard to the protection of intellectual property rights as part of esports activities:

NAME

Law no. 8/1996 on copyright and neighbouring rights

Law no. 84/1998 on trademarks and geographical indications

Regulation on the application of Law no. 84/1998 on trademarks and geographical indications

With regard to the processing of personal data as part of esports activities:

NAME

Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation)

Law no. 190/2018 on the measures for the application of the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation)

Extra-territoriality

Are national laws enforceable against entities operating abroad?

Entities operating abroad shall comply with the provisions of Romanian law in cases where esports services/products are addressed to Romanian consumers, even if such services/products can be accessed/bought by consumers from other jurisdictions.

Technical requirements of esports tournaments

Do videogames need any certification to be used as part of esports tournaments?

There are no legal provisions with respect to a certification for the use of videogames as part of esports tournaments, apart from the certifications necessary for their sale to the public.

Sponsorship of esports tournaments

Are particular requirements applicable to sponsorship agreements relating to esports tournaments?

There are no legal provisions with respect to sponsorship agreements relating to esports tournaments.

Participation in esports tournaments

Can players pay any price to participate in esports tournaments?

The payment by the players of any price for the participation in esports tournaments can be construed as the payment of a participation fee for gambling.

Selection of participants

Is it possible to place any restriction to the players that can participate in an esports tournament?

While there are no legal provisions with respect to the possibility of placing restrictions on the players participating in an esports tournaments, it is recommended to have provided such restrictions in the T&Cs, by using objective, transparent and non-discriminatory criteria.

Contracting esports players

Are there particular requirements for T&Cs of esports tournaments?

There are no particular requirements for the T&Cs of esports tournaments.

However, as a general comment, the T&Cs of an esports tournament should be drafted with the observance of the consumers laws' provisions.

In addition, should the esports tournament imply a lottery (i.e. a practice of promoting products/services so as to indicate to the participants the idea of a prize following a drawing), a regulation must be in place. Among other conditions that need to be fulfilled with respect to this regulation, the regulation must be authenticated by a public notary before such lottery takes place.

Also as a general comment, the esports tournament should be structured so as to observe the data protection and intellectual property law provisions.

Selection of winners

Are there any requirements for the selection of winners and award of prizes for esports tournaments?

There are no specific requirements regarding the selection of winners and award of prizes for esports tournaments. However, general contract and consumer law rules will apply, thus the criteria for selecting the winners and awarding the prizes should be objective, transparent and non-discriminatory.

Sanctions against players

Can esports tournament organizers impose sanctions against players involved in match-fixing, corruption or illegal gambling during a tournament?

Organizers can only enforce contractual provisions set out by the T&Cs of the tournament. Certain limitations can apply to actions that can be taken against players without a court order.

If the unlawful conduct of a player can be deemed a criminal deed under Romanian law, the organizer has the possibility to submit a complaint with the Romanian criminal investigation authorities.

Prizes of esports tournaments

Is there any restriction on the type of prizes that can be awarded as part of esports tournaments?

There is no specific restriction on the type of prizes that can be awarded as part of esports tournaments.

In case the prizes are awarded randomly, this prize awarding mechanism might make Romanian prize promotion regulations applicable, depending on the mechanics of the tournament. If these provisions apply, certain additional requirements must be fulfilled by the organizer (e.g. the organizer has to publicly communicate the list of the awarded prizes and to publish a regulation of the prize promotion authenticated by a notary public).

If players are paying in cash to participate in an esports tournament which contains elements of chance and obtain a winning in cash or in kind with economic value, there is a risk of requalification of the tournament as gambling.

Online vs. offline esports tournaments

Are different regulations applicable to online esports tournaments compared to land-based esports tournaments?

There is no specific major difference between online esports tournaments and land-based esports tournaments. However, certain minor differences may arise, specifically in respect of the acceptance of the terms and conditions of the tournament, which can be accepted by means of a click in case of online tournaments and in writing, in case of land-based tournaments.

Further, in the case that the tournament would be re-qualified as gambling, given that the players are paying in cash to participate and the tournament contains elements of chance allowing the players to obtain a winning in cash or in kind with economic value, then the certification requirements that the organizer has to fulfill may differ depending on whether the tournament is online or land-based.

Other local requirements

Are there any other key local requirements?

Operators holding a general online gambling and betting license as well as those holding a betting shop license can offer bets on esports events, within the limits set out by gambling regulations.

Esports are not currently recognized in Romania as sports and there is no dedicated regime applicable to esports.

Timing

Is there the need to comply with specific timing to ensure compliance (other than reviewing the terms and conditions)?

No specific timing restrictions are applicable. However, the T&Cs of the tournament should be made available to the participants prior to their entrance into the competition.

Translations

Are the terms of the esports tournament required to be translated by law?

Under consumer regulations, the information intended for consumers and users shall be shown in Romanian, in an accessible form, so that it can be easily understood by the consumers and users.

Penalties for non-compliance

What are the penalties for non-compliance?

In case of infringement of the laws aimed at ensuring consumers protection, an administrative sanction between RON 100 and RON 100,000 can be applied. In case of breach of gambling laws, criminal sanctions can also be applicable. Additional sanctions and fines may be applicable, depending on the challenged breach.

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Russia

Governing law

What are the main applicable governing laws, sports laws or codes for esports (if any)?

With regard to the applicability of gambling laws:

NAME
Federal Law 244-FZ "On State Regulation of Organization and Conduct of Gambling Activities and Adoption of Amendments to Various Laws" providing that undertaking the business of bookmaking (including totalizators) is subject to strict licensure and regulation. Online betting in this sphere is limited to bookmaking and totalizators, again under strict regulation

With regard to the applicability of prize promotion regulations to esports activities:

NAME
Russian Federal Law on Lotteries (No. 138-FZ)
Russian Federal Law "On Advertising" (No. 3-FZ)

With regard to the advertisement of esports related activities:

NAME
Law "On Advertising" (No. 3-FZ)

With regard to the protection of intellectual property rights as part of esports activities:

NAME
There are no specific rules regarding IP rights in the context of esports activities. The general rules regarding IP rights (the basic framework being in Part IV of the Russian Civil Code) will apply.

With regard to the processing of personal data as part of esports activities:

NAME
There are no specific rules regarding personal data processing in the context of esports activities. The general rules of personal data protection (the basic framework being in the Law "On Personal Data" (No. 152-FZ)) will apply.

Extra-territoriality

Are national laws enforceable against entities operating abroad?

Russian laws in this sphere generally do not have extra-territorial effect, but in certain circumstances, Russian authorities will seek to assert jurisdiction where the foreign operators conduct their activities through websites or other means which are targeted specifically to the Russian market. For example, Russian language websites clearly focused on Russian participants or operating through domain names in traditionally Russian-oriented ranges (.ru. su, etc.).

In practice, the most likely and only sanction which can be applied to foreign esports activities violating Russian 'public order', is the blocking of the website through which the violating activity is run. In practice, we have not heard of practical precedents of such enforcement.

Technical requirements of esports tournaments

Do videogames need any certification to be used as part of esports tournaments?

There is no dedicated certification under law for the usage of video games in esports tournaments, apart from the certifications necessary for their sale to the public, such as those provided by video game and Internet content age rating systems which are based on the self-certification rule.

While there are no special certification requirements under law, to the extent that the tournament organizers are working under the auspices of the Russian e-Sports Federation (a non-governmental trade organization), any requirements established by the federation may apply.

Sponsorship of esports tournaments

Are particular requirements applicable to sponsorship agreements relating to esports tournaments?

There are not any specific requirements applicable to sponsorship agreements for esports tournaments as a general matter. If the tournament is considered to be a promotional or advertising activity, the rules applicable to advertising would apply. We note that the law forbids any form of direct or indirect advertising related to betting activities or gambling.

Also, the type of consideration due by the sponsor and the services provided by and to the sponsor can lead to regulatory and tax issues.

Participation in esports tournaments

Can players pay any price to participate in esports tournaments?

Competitions where a price is paid in by the player with a financial result are likely to be considered gambling, which would not be allowed under law.

In addition the law prohibits a player from placing bets on games in which they may influence the outcome.

Selection of participants

Is it possible to place any restriction to the players that can participate in an esports tournament?

Criteria of selection of participants need to be objective, transparent, and non-discriminatory.

Contracting esports players

Are there particular requirements for T&Cs of esports tournaments?

The standard rules under law for organizing any tournament would apply to esports tournaments.

Tournaments and contests of skill are specifically regulated under law. The main requirements set are:

- The competition must be directed to the achievement of socially amenable purposes;
- The announcement of the competition must contain, at least, the essence of the task, criteria and procedure of assessment of results, place, term and order of delivery of results, amount and type of award, order and terms of announcement of the competition's results;

The competition organizer may modify or cancel the competition only within the first half of the set term of delivery and must make the announcement in the same way as the initial announcement. The organizer must reimburse the expenses incurred by participants before such cancellation or modification.

To the extent that the tournament organizers are working under the auspices of the Russian e-Sports Federation (a non-governmental trade organization), any requirements established by the federation may apply.

Additionally, the mechanics of the esports tournament must be structured to avoid the applicability of gambling laws and shall, in any case, comply with data protection regulations and intellectual property laws.

Selection of winners

Are there any requirements for the selection of winners and award of prizes for esports tournaments?

The selection of winners must be done fairly, transparently and in accordance with the published terms and conditions of the tournament.

Additionally, general contract and consumer law rules will apply to the proper selection of winners.

Sanctions against players

Can esports tournament organizers impose sanctions against players involved in match-fixing, corruption or illegal gambling during a tournament?

Organizers can only enforce provisions set out by the terms and conditions of the tournament.

Prizes of esports tournaments

Is there any restriction on the type of prizes that can be awarded as part of esports tournaments?

There are no specific restrictions on the types of prizes that can be awarded as part of an esports tournament as opposed to other types of tournaments.

Online vs. offline esports tournaments

Are different regulations applicable to online esports tournaments compared to land-based esports tournaments?

There are no specific regulations applicable to online esports tournaments, so the general rules applicable to online activity will apply.

Other local requirements

Are there any other key local requirements?

Licensed bookmakers and totalizator organizers can generally offer bets on esports events, within limits set out by gambling regulations.

Esports are recognized in Russia as sports. The Russian e-Sports Federation is the emerging sports federation for esports and is establishing its official recognition at this time. However, esports activities do not necessarily have to be undertaken under the auspices of the federation.

Timing

Is there the need to comply with specific timing to ensure compliance (other than reviewing the terms and conditions)?

Timing requirements would be those established generally for skill contests.

Translations

Are the terms of the esports tournament required to be translated by law?

To comply with Russian consumer regulations, the information intended for consumers and users should be clearly shown in Russian and/or any applicable local language.

Penalties for non-compliance

What are the penalties for non-compliance?

The general provisions for non-compliance with consumer and promotion rules would apply – there are no specific rules for esports.

Aside from the civil damage awards (in the case of any breach of the rules), there may be administrative (or even criminal) sanctions applied to an organizer.

The average sanction is an administrative fine of 200,000 Russian Rubles (approx. US\$3,000).

The maximum sanction for gross violations is three years imprisonment (applicable to officers of legal entities), but it is not likely to transpire in practice.

In addition, access to websites through which violations are conducted can be blocked.

Key contact



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Singapore

Governing law

What are the main applicable governing laws, sports laws or codes for esports (if any)?

With regard to the applicability of gambling laws:

We are not aware of any gambling laws in Singapore which would apply specifically to esports. However, we would like to highlight the following:

NAME
<p>GAMBLING GENERALLY</p> <p>The Common Gaming Houses Act (the “CGHA”) regulates the playing of any game of chance or of mixed chance and skill for money or money’s worth (except for remote gambling). The Remote Gambling Act 2014 (the “RGA”) regulates remote gambling.</p> <p>“Remote gambling” is defined under the RGA as gambling in which a person participates by the use of remote communication, even if the gambling is done only partly by means of remote communication.</p> <p>“Gambling” is defined under the RGA as betting, gaming and/or participating in a lottery, and “gaming” means playing a game of chance (whether this involves both an element of chance and an element of skill or is a game that is presented as involving an element of chance) for money or money’s worth.</p> <p>Please refer to “Governing law – With regard to the applicability of prize promotion regulations to esports</p>
<p>GAMBLING AT ESPORTS EVENTS</p> <p>a) Online Gambling</p> <p>Online esports gambling may be regulated under the RGA.</p> <p>Under the RGA, it is an offence for an individual who in Singapore gambles using (i) remote communications, and (ii) a remote gambling service by non-exempt operators. An individual who commits an offence under the RGA may be liable to a fine or imprisonment (or to both).</p> <p>It is also unlawful under the RGA for a person to provide remote gambling services. This prohibition applies to a wide range of persons including agents providing remote gambling services for another (whether such agent is inside or outside Singapore), overseas remote gambling services with Singapore–customer link and Singapore–based remote gambling service (whether that service has a foreign–customer link or a Singapore customer–link). Contravention of this prohibition may result in a fine or imprisonment (or both) .</p> <p>Generally speaking, a person who intends to provide a Singapore–based remote gambling service with a Singapore–customer link must apply to the Minister for Home Affairs for an exemption from the RGA before providing such services.</p>

NAME**b) Land-based gambling**

The CGHA and the Betting Act (Chapter 21) (the “BA”) may apply to land-based gambling at esports tournaments/events.

(i) CGHA

Under the CGHA, it is an offence for a person to game in a common gaming house (which includes, amongst others, any place kept or used for gaming to which the public or any class of the public has or may have access). Such an offence may attract a fine or imprisonment (or both).

The term “gaming” is defined under the CGHA to mean the playing of any game of chance or of mixed chance and skill for money or money’s worth.

Any person or organisation who conducts or supervises any gaming may apply to the Minister for Home Affairs for an exemption from all or any of the provisions of the CGHA. If an exemption is obtained from the Minister for Home Affairs, participation in such games will be lawful.

(ii) BA

Under the BA, it is also an offence for a person to bet or wager in a common-betting house (which includes, amongst others, any place kept or used for betting or wagering on any event or contingency of or relating to any sporting event to which the public or any class of the public has or may have access to) or with a bookmaker in any place or by any means, or who for the purpose of betting or wagering loiters in any place to which the public has or may have access.

Such offence may attract fines or imprisonment (or both). However, any persons or organisations organising or supervising betting can apply to the Minister for Home Affairs for an exemption from all or any of the provisions of the BA.

With regard to the applicability of prize promotion regulations to esports activities:

NAME

The Media Development Authority of Singapore (“MDA”) (now the Infocommunications Media Development Authority (IMDA) issued a press release on 28 January 2015 to clarify that the RGA does not cover games which do not, as part of the game design, enable players to receive money or money’s worth consequent to the outcome of that game.

The following types of games will therefore not be covered by the RGA:

- Games which do not allow players to win, through an in-game facility, money or real-world merchandise which can be exchanged for money;
- Games which allow players to purchase or exchange game credits or tokens, but do not provide an in-game facility to convert these game credits or tokens to money or real-world merchandise which can be exchanged for money;
- Games which allow players to purchase, gain or exchange game enhancement features, e.g. weapons, skills, but do not provide an in-game facility to convert these game enhancement features to money or real-world merchandise which can be exchanged for money; and
- Games which rank players but do not provide in-game facility to convert these ranking positions to money or real-world merchandise which can be exchanged for money.

The MDA also clarified in its press release that leaderboards which rank and reward top players or tournaments organized by game developers or promoters where players are able to win real-world prizes would generally not be prohibited by the RGA, provided that such games are not casino-style games or used as a means of facilitating syndicated criminal activity.

With regard to the advertisement of esports related activities:

NAME
Advertisements published in Singapore must adhere to the Singapore Code of Advertising Practice (the "Code") administered by the Advertising Standards Authority of Singapore (the "ASAS"). In particular, the ASAS Advisory on Gambling Advertisements and Promotions (the "ASAS Advisory") sets out guidelines on gambling advertisements and promotions. The ASAS Advisory must be read in conjunction with the Code.
In addition, the RGA prohibits the publication of remote gambling service advertisements, unless such publication is carried out by a person who has obtained an exemption and the publication of the remote gambling services advertisement is in accordance with this person's certificate of exemption.

With regard to the protection of intellectual property rights as part of esports activities:

NAME
Copyright Act (Chapter 63) of Singapore relating to copyright and matters related thereto.
Trade Marks Act (Chapter 332) of Singapore setting out the law for trademarks and to enable Singapore to give effect to certain international conventions on intellectual property and for matters in connected therewith.
Patents Act (Chapter 221) of Singapore setting out the law of patents and to enable Singapore to give effect to certain international conventions on patents, and for matters connected therewith.

With regard to the processing of personal data as part of esports activities:

NAME
The Personal Data Protection Act 2012 of Singapore (the "PDPA") governs the collection, use and disclosure of individuals' personal data by organizations.
The PDPA sets out data protection obligations which all organizations must comply with when carrying out activities relating to the collection, use or disclosure of personal data. For more information on the penalties which may be imposed for non-compliance with the PDPA, please refer to "Penalties for non-compliance".

Extra-territoriality

Are national laws enforceable against entities operating abroad?

In general, entities operating abroad are required to comply with applicable Singapore law where esports events are held in Singapore and/or addressed to Singapore players and/or consumers, even if they are also open to players and/or consumers of other jurisdictions.

In addition, certain sections of the RGA are expressed to have extra-territorial effect. For example, the following persons will have to comply with the RGA:

- a person who provides an overseas remote gambling service with a Singapore-customer link; and
- a person who by any conduct (inside or outside Singapore) authorizes a promotion in Singapore of any remote gambling.

Technical requirements of esports tournaments

Do videogames need any certification to be used as part of esports tournaments?

We are not aware of any dedicated certification in connection with the usage of online video games in esports tournaments.

Speaking generally, the Films Act (Chapter 107) of Singapore (the "FA") requires all video games that are contained in a disc, tape, storage device or other article or thing, and which is for distribution or public exhibition in Singapore, to be submitted to the IMDA for rating and classification. To the extent that the video games used in the esports tournament are made available via internet download, the video game classification system under the FA does not appear to apply.

Sponsorship of esports tournaments Sanctions against players

Are particular requirements applicable to sponsorship agreements relating to esports tournaments?

We are not aware of any specific requirements under Singapore law applicable to sponsorship agreements for esports tournaments. However, there are certain regulations and guidelines applicable to the advertisement of esports related activities and esports gambling. Please refer to "Governing Law" for more details.

Participation in esports tournaments

Can players pay any price to participate in esports tournaments?

We are not aware of any specific statutory requirements under Singapore law governing the price which players pay to participate in esports tournaments.

Selection of participants

Is it possible to place any restriction to the players that can participate in an esports tournament?

As at the date of this report, the criteria of selection of players who can participate in an esports tournament will be regulated by the respective game rules of the esports tournament.

Contracting esports players

Are there particular requirements for T&Cs of esports tournaments?

The contents of the T&Cs should be drafted in compliance with applicable contract law and other Singapore laws such as its data protection laws and intellectual property laws.

Selection of winners

Are there any requirements for the selection of winners and award of prizes for esports tournaments?

The selection of winners and award of prizes for esports tournaments are generally governed by the T&Cs and respective game rules of the esports tournament. However, please note that the award of certain prizes may potentially result in the esports activities being construed as gambling and regulated under the RGA, please see "Governing Law" and "Prizes of esports tournaments".

Can esports tournament organizers impose sanctions against players involved in match-fixing, corruption or illegal gambling during a tournament?

Organizers of esports tournament may enforce the relevant contractual provisions (if any) as set out by the T&Cs of the tournament.

Prizes of esports tournaments

Is there any restriction on the type of prizes that can be awarded as part of esports tournaments?

We are not aware of any specific statutory requirements under Singapore law prescribing the type of prizes that may be awarded in an esports tournament.

However, where players play to acquire a chance of winning money and where the game format allows for conversion of in-game credits to money or real-world merchandise, such activities may be prohibited or regulated under the RGA.

In respect of tournaments organized by game developers or promoters where players can win real-world prizes, the RGA does not generally prohibit mechanisms to reward players for their skill, provided that these are not within casino-style games or are not used as a means of facilitating syndicated criminal activity. Please refer to "Governing law – With regard to the applicability of prize promotion regulations to esports activities" for more details.

Online vs. offline esports tournaments

Are different regulations applicable to online esports tournaments compared to land-based esports tournaments?

Whether the participation in an esports game constitutes gambling by the player under the CGHA and the RGA is dependent on the game design/format (for example, whether an element of chance is involved). Whether the esports tournament is online or land-based is not relevant. However, different regulations apply to online gambling and land-based gambling on esports tournaments/events. Please refer to "Governing law" for more information.

Other local requirements

Are there any other key local requirements?

Esports is a relatively new phenomenon and the law on esports is developing. As a consequence, a deeper review of the mechanics of esports tournaments and its ecosystem is necessary to avoid challenges.

Timing

Is there the need to comply with specific timing to ensure compliance (other than reviewing the terms and conditions)?

Not applicable.

Translations

Are the terms of the esports tournament required to be translated by law?

No such statutory requirement under Singapore law.

Penalties for non-compliance

What are the penalties for non-compliance?

Non-compliance with the PDPA

The Personal Data Protection Commission (PDPC) may, if it is satisfied that an organization is not complying with any provision in Parts III to VI of the PDPA (in relation to the protection, collection, use, disclosure, access to, correction of and care of personal data), give the organization such directions as the PDPC thinks fit in the circumstances to ensure compliance with the relevant provision(s). The PDPC may, amongst others, direct the relevant organization to pay a financial penalty of such amount not exceeding S\$1 million as the PDPC thinks fit.

For information on the penalties for non-compliance with the RGA, CHGA and the BA, please refer to "Governing law".

Key contacts



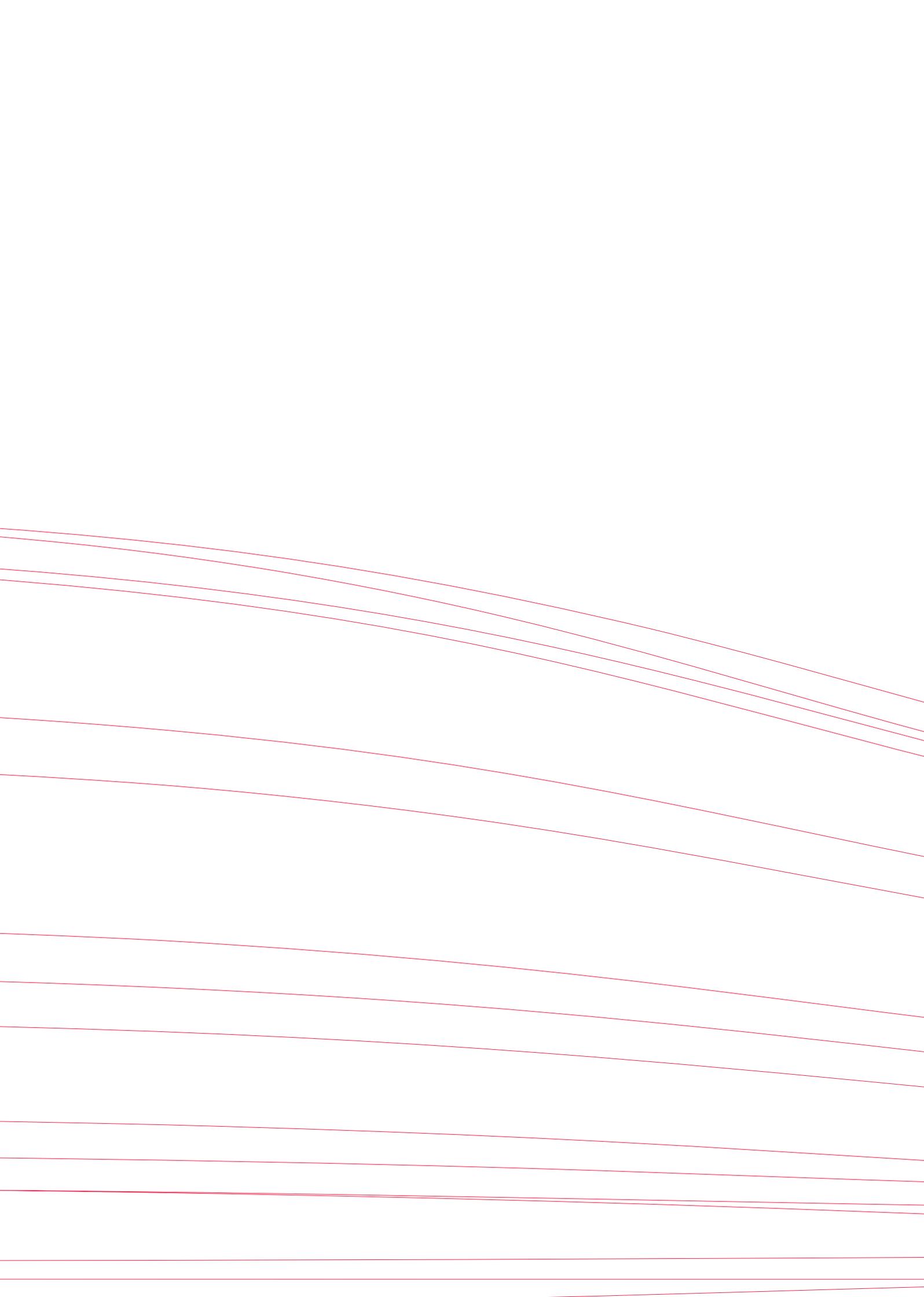
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Slovakia

Governing law

What are the main applicable governing laws, sports laws or codes for esports (if any)?

With regard to the applicability of gambling laws:

NAME
Act No. 513/1991 Coll. the Commercial Code, as amended (the "Commercial Code")
Act No. 40/1964 Coll. the Civil Code, as amended (the "Civil Code")
Act No. 300/2005 Coll. the Criminal Code, as amended (the "Criminal Code")
Act No. 91/2016 Coll. on Criminal Liability of Legal Entities, as amended

With regard to the applicability of prize promotion regulations to esports activities:

NAME
Act No. 513/1991 Coll. the Commercial Code, as amended (the "Commercial Code")
Act No. 250/2007 Coll. on Consumer Protection, as amended (the "Consumer Protection Act")

With regard to the advertisement of esports related activities:

NAME
Act No. 513/1991 Coll. the Commercial Code, as amended (the "Commercial Code")
Act No. 250/2007 Coll. on Consumer Protection, as amended (the "Consumer Protection Act")
Act No. 40/1964 Coll. the Civil Code, as amended (the "Civil Code")
Act No. 147/2001 Coll. on Advertising, as amended
Act No. 270/1995 Coll. on State Language, as amended

With regard to the protection of intellectual property rights as part of esports activities:

NAME
Act No. 185/2015 Coll. the Copyright Act, as amended
Act No. 506/2009 Coll. on Trademarks, as amended
Act No. 435/2001 Coll. on Patents, Supplementary Protection Certificates, as amended (the "Patent Act")

With regard to the processing of personal data as part of esports activities:

NAME
Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (“General Data Protection Regulation” or “GDPR”)
Act No. 18/2018 Coll. on Personal Data Protection

Extra-territoriality

Are national laws enforceable against entities operating abroad?

If the foreign entities focus on Slovak consumers (even online only) or otherwise conduct their activities in the territory of the Slovak Republic, they must observe the rules for consumer protection valid in the Slovak Republic.

With respect to gambling games operation, the Slovak Gambling Act has a specific regime and may be enforceable also against entities operating abroad. Slovakia currently has a blocking regime in place in order to prohibit the operation of gambling games without a license.

Technical requirements of esports tournaments

Do videogames need any certification to be used as part of esports tournaments?

Only equipment and systems technically assessed by an authorized testing laboratory holding a valid certificate can be used in gambling game operation. However, this method of the authorized testing of videogames does not seem to be required for videogames used in esports tournaments. The videogames shall meet the general requirements for placing products on the Slovak market. Slovakia is also a member of PEGI (Pan European Game Information) and committed to respecting the age rating system of the videogames with respect to violence and other aspects of videogames. The videogames have to comply with intellectual property laws.

Sponsorship of esports tournaments

Are particular requirements applicable to sponsorship agreements relating to esports tournaments?

There are no particular requirements applicable to sponsorship agreements relating to esports tournaments. Such agreements are not explicitly regulated and can be concluded as innominate contracts pursuant to the Commercial Code or the Civil Code.

Participation in esports tournaments

Can players pay any price to participate in esports tournaments?

The players can pay any price to participate in the tournaments as there is no explicit regulation in Slovakia. There are no limitations or restrictions for the organizers. However, the price to participate in the tournament shall be published in advance and be clearly stated in the terms and conditions applicable to the tournament.

Selection of participants

Is it possible to place any restriction to the players that can participate in an esports tournament?

The selection of the participants has to be objective and non-discriminatory with pre-known criteria capable of creating a sufficient framework for the tournaments. For instance, the participants may be required to bring their own computer sets with other accessories. The players can be randomly checked for using unauthorized software or third-party programs that may change the features of the games or favor certain players over others. In any case, the use of alcoholic beverages during the tournaments shall be prohibited.

Contracting esports players

Are there particular requirements for T&Cs of esports tournaments?

Currently, no particular requirements for T&Cs of esports tournaments are explicitly regulated mainly due to the fact that esports is not recognized under Slovak law. However, the T&Cs of esports tournaments have to comply with the applicable legal regulations of the Slovak Republic in general, in particular the consumer protection laws, the applicable intellectual property laws and data protection laws.

The esports tournaments are organized by entrepreneurs on the basis of free trade licenses issued by the competent authorities.

Selection of winners

Are there any requirements for the selection of winners and award of prizes for esports tournaments?

In general, the requirements are set forth by the consumer protection laws and it is advisable to determine the requirements for the selection of winners and award of prizes in the applicable T&Cs of esports tournaments. The conditions of the T&Cs of esports tournaments have to be transparent for all the participants before they enter the esports tournaments. In addition, prior to entering the esports tournaments, information on the process of selection of winners (e.g. by random draw), determination and award of prizes must be provided.

Sanctions against players

Can esports tournament organizers impose sanctions against players involved in match-fixing, corruption or illegal gambling during a tournament?

The organizers can enforce the contractual provisions in the applicable T&Cs of esports tournaments. Sanctions may be imposed depending on the seriousness of the violations. For instance, the organizers may impose minor sanctions such as deduction of points or termination of the game, up to more serious sanctions such as disqualification from the tournament or a permanent ban on participating in the tournaments.

Nevertheless, the organizers can also initiate proceedings against the players involved in illegal gambling or corruption as such unlawful conduct may trigger criminal liability.

Prizes of esports tournaments

Is there any restriction on the type of prizes that can be awarded as part of esports tournaments?

There are no specific legal restrictions on the type of prizes that can be awarded. The T&Cs shall determine the type of the prize. From the consumer protection point of view, the prizes have to correspond to those prizes which were announced in the T&Cs. The prizes have to be legally distributable types of prizes (no alcohol, tobacco, weapons, etc.).

Online vs. offline esports tournaments

Are different regulations applicable to online esports tournaments compared to land-based esports tournaments?

No, there are no different regulations applicable to online esports tournaments compared to land-based esports tournaments.

Other local requirements

Are there any other key local requirements?

Currently no specific local requirements are regulated.

Timing

Is there the need to comply with specific timing to ensure compliance (other than reviewing the terms and conditions)?

Currently, no specific timing has to be observed.

Translations

Are the terms of the esports tournament required to be translated by law?

From a consumer protection point of view, the terms and conditions and other related documentation must be in the Slovak language.

Penalties for non-compliance

What are the penalties for non-compliance?

In the case of breach of the obligations set forth by the Consumer Protection Act, the supervising authority may impose a fine of up to EUR 66,400 or up to EUR 166,000 for repeated infringements within 12 months.

In the case of breach of the obligations set forth by the State Language Act, the supervising authorities may impose a fine of up to EUR 2,500.

For breach of personal data processing rules fine of up to 20 million EUR or 4 % of the entity's worldwide annual revenues may be imposed.

Key contacts



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Spain

Governing law

What are the main applicable governing laws, sports laws or codes for esports (if any)?

With regard to the applicability of gambling laws:

NAME
Act 13/2011 of 27 May on Gambling ("LJU").
Order EHA 3079/2011 of 8 November approving the regulations for other fixed odds betting.
Decision of the General Directorate for Gambling Affairs of 11 July 2019 on the prohibition to offer bets on events participated in mainly or exclusively by minors.

With regard to the applicability of prize promotion regulations to esports activities:

NAME
Act 13/2011 of 27 May on Gambling ('LJU').
Spanish Consumers' Protection Act RDL1/2007 ('LPCU').

With regard to the advertisement of esports related activities:

NAME
Spanish Publicity Act 34/1988 ('LGP')
Spanish Act 3/1991 on Unfair Competition ('LCD')
Spanish Consumers' Protection Act RDL1/2007 ('LPCU').
Self-Regulation Code of Advertising for Gambling Activities of Autocontrol

With regard to the protection of intellectual property rights as part of esports activities:

NAME
Spanish Royal Decree 1/1996 on Intellectual Property Rights ('LPI')
Spanish Act 17/2001 on trademarks ('LM')
Spanish Fundamental Act 1/1982 on Image Rights ('LDH')

With regard to the processing of personal data as part of esports activities:

NAME
Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data ('RGPD')
Spanish Fundamental Act 3/2018 on the protection of personal data and guarantee of digital rights ('NLOPD')

Extra-territoriality

Are national laws enforceable against entities operating abroad?

Entities operating abroad shall comply with Spanish law in the case of esports events addressed to Spanish players and/or consumers, even if they are also open to players and/or consumers of other jurisdictions.

LJU and NLOPD are explicitly drafted to prevent parties based abroad from failing to comply with Spanish regulations in this regard. The same applies to the Spanish Consumers' Protection Act RDL1/2007 when the competition is addressed towards Spain i.e. carried out physically in Spain or the addressee is a consumer based in Spain.

The usage of Spanish wording, the reference to Spain in the T&Cs and other circumstances might be considered by Spanish authorities as indicators of the applicability of Spanish law.

The applicability of Spanish law can lead to significant obligations under the rules, including tax liabilities.

Technical requirements of esports tournaments

Do videogames need any certification to be used as part of esports tournaments?

There is no dedicated certification for the usage of video games in esports tournaments, apart from the certifications necessary for their sale to the public.

The offering of bets on the outcome of esports tournaments is subject to prior license and technical certification.

If esports tournaments are subject to prize promotion regulations, using a previous certified RNG will be recommendable to avoid disputes.

Sponsorship of esports tournaments

Are particular requirements applicable to sponsorship agreements relating to esports tournaments?

There are not any specific requirements applicable to sponsorship agreements for esports tournaments to the extent that these are not considered as a gambling activity. Please note that if the esports tournament falls within the category of gambling activity as defined in the LJU, it could only be sponsored if (i) such activity has been specifically regulated and (ii) approved/licensed under Spanish regulations.

Participation in esports tournaments

Can players pay any price to participate in esports tournaments?

If a price is required to participate in esports tournaments and a prize is involved, this will most likely be considered as a gambling activity, subject to the applicable gambling regulations. The Spanish Gambling Act 13/2011 sets forth that only those game variants which have been expressly authorized by the regulatory body (the General Directorate of Gambling Activities or "DGOJ") are allowed. Esports tournaments are not specifically regulated in Spain, and therefore if a tournament is considered to be gambling activity this would fall under the non-permitted categories of games.

In this respect, the risk is that the payment of an annual registration fee to an esports tournament league might be considered as a monetary stake against which the reward is granted.

Therefore, agreements with players need to be structured so that such risk is avoided.

Selection of participants

Is it possible to place any restriction to the players that can participate in an esports tournament?

Criteria of selection of participants need to be objective, transparent, and non-discriminatory.

The Spanish Decision of the General Directorate for Gambling Affairs of 11 July 2019 prohibits the offering of bets on events participated in mainly or exclusively by minors. Therefore, if minors are allowed to participate in esports tournaments, this prohibition should be taken into account in the offering of bets on the outcome of those tournaments.

Contracting esports players

Are there particular requirements for T&Cs of esports tournaments?

T&Cs must appear in Spanish, must be available to the participants before entering the competition and shall be drafted in accordance with Spanish consumer laws, if the tournament is not directed to professional players, and with misleading advertising rules, if the tournament is addressed to professional players.

Additionally, the mechanics of the esports tournament shall be structured to avoid the applicability of gambling laws and shall, in any case, comply with data protection regulations and intellectual property laws.

Selection of winners

Are there any requirements for the selection of winners and award of prizes for esports tournaments?

General contract and consumer law rules, as well as the terms and conditions of each tournament will apply to the proper selection of winners.

Furthermore, if the tournament falls under the prize promotions regulations, these activities require the presence of a public notary, who is in charge of drawing up the minutes of the results of the competition. Also, in such a case, the video game shall be certified to prove the inability to alter its operation.

Sanctions against players

Can esports tournament organizers impose sanctions against players involved in match-fixing, corruption or illegal gambling during a tournament?

Organizers can only enforce contractual provisions set out by the T&Cs of the tournament. However, organizers can report the illegal activity to the corresponding authorities who can investigate and impose the corresponding sanctions.

Prizes of esports tournaments

Is there any restriction on the type of prizes that can be awarded as part of esports tournaments?

The absence of an ad hoc regulation for esports tournaments implies that there are no restriction on the type of prizes that can be awarded as part of esports tournaments. Having said this, prizes should be compliant with the applicable consumer laws.

If players are paying in cash to participate in an esports tournament which contains elements of chance and obtain a winning in cash or in kind with economic value, there is a risk of requalification of the tournament as gambling activity, and due to not being specifically regulated, will not be permitted.

Online vs. offline esports tournaments

Are different regulations applicable to online esports tournaments compared to land-based esports tournaments?

Where the Spanish gambling laws apply, the online esports tournaments can fall under the online gambling licensing regime.

Other local requirements

Are there any other key local requirements?

Operators holding a Spanish General Betting License and a Singular license for other fixed odds betting can offer online bets on esports events, within limits set out by these gambling regulations.

Esports are not currently recognized in Spain as sports, and therefore exemptions applicable to them are not applicable. Additionally, there is no dedicated regime applicable to esports.

As a consequence, a deeper review of the mechanics of esports tournaments is necessary to avoid challenges.

Timing

Is there the need to comply with specific timing to ensure compliance (other than reviewing the terms and conditions)?

Specific timings for the performance of esports tournaments could apply if they are to be considered as a prize promotion. In the case of prize draws (or any other competition where a random element is involved), it is necessary to pay the 10% promotional tax. Preparing and filing the related tax forms with the tax authorities may take a week. Should the sponsor of the competition be based abroad, a Spanish Tax ID for non-residents shall be obtained. The formalities attached to it may take one to two weeks.

If an esports tournament is not to be considered as a prize promotion, no specific timing requests will apply.

Translations

Are the terms of the esports tournament required to be translated by law?

Under consumer regulations, the terms of the competition must at least be drafted in the Spanish language. In regional promotions, regional language translations may be mandatory as well (or strongly recommended).

In the case of esports tournaments addressed to professional players, this requirement would not apply.

Penalties for non-compliance

What are the penalties for non-compliance?

The LJU establishes fines ranging from €100,000 (approx. US\$112,000) to €1,000,000 (approx. US\$1,120,000). Higher fines could be imposed, however, depending on the specific circumstances of the case.

Sanctions under the new data protection regime for infringing data protection law can be very high (the fines could reach the higher of €20 million (approx. US\$22.4) or 4% of the global turnover of the infringing company or its group, in the most aggravated cases).

Additional sanctions and fines can apply, depending on the challenged breach.

Key contact



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Sweden

Governing law

What are the main applicable governing laws, sports laws or codes for esports (if any)?

With regard to the applicability of gambling laws:

NAME
The Swedish Gambling Act (SFS 2018:1138)
The Swedish Gambling Ordinance (SFS 2018:1475)

With regard to the applicability of prize promotion regulations to esports activities:

NAME
The Swedish Marketing Act (SFS 2008:486)
The Consolidated ICC Code of Advertising and Marketing Communication Practice
The Swedish Gambling Act (SFS 2018:1138)

With regard to the protection of intellectual property rights as part of esports activities:

NAME
The Swedish Act on Copyright in Literary and Artistic Works (SFS 1960:729)
The Swedish Trademarks Act (SFS 2010:1877)

With regard to the processing of personal data as part of esports activities:

NAME
Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation)
Section 17 of the Swedish Gambling Act (SFS 2018:1138)
Section 12 of the Swedish Gambling Ordinance (SFS 2018:1475)

Extra-territoriality

Are national laws enforceable against entities operating abroad?

The rules of the Swedish Gambling Act apply in relation to all games for money and other prizes with a monetary value that is offered in Sweden or directed at the Swedish market, including e.g. prize promotions, online gambling and betting. If such games are offered in Sweden or actively target the Swedish market, they fall within the scope of the Swedish Gambling Act. A foreign entity may consequently be subject to Swedish regulations if the Gambling Act is applicable to, or in connection with, an event.

Furthermore, winnings from esports are classified as income under Swedish tax law and a person liable for tax in Sweden may have to pay Swedish income tax on winnings if the amount is over a certain threshold.

The Swedish Marketing Act may also be applicable to an esports event in case any related marketing targets Swedish consumers. Applicability will depend on whether the advertisement originates from an EU/EEA member state or from another country. If the advertisement originates from an EU/EEA member state, the marketing regulation in the relevant member state will apply. However, if the advertisement originates from a third country and targets Swedish consumers, the Marketing Act is applicable.

Swedish law may also be applicable to claims both in tort and contract arising from the event. In the case of tort, if damage for an individual occurs in Sweden and in the case of contract, if the main performing party under the agreement has his habitual residence in Sweden.

Technical requirements of esports tournaments

Do videogames need any certification to be used as part of esports tournaments?

There are no specific certifications for the use of video games in esports tournaments, provided that the event is not classified as regulated gambling.

Please note, however, that internet cafés and other venues which offer access to computers or video consoles for LAN-games, etc, may require a permit under the Swedish Act on the arrangement of certain games on game machines (SFS 1982:636).

Sponsorship of esports tournaments

Are particular requirements applicable to sponsorship agreements relating to esports tournaments?

There are not any specific requirements applicable to sponsorship agreements relating to esports tournaments. However, sponsors must comply with the applicable marketing regulation such as the Marketing Act.

If the marketing contains information regarding betting or gambling, sponsoring entities must be moderate in their marketing efforts and compliant with the information requirements in Section 15 of the Gambling Act. In this regard, please note that the Swedish Gambling Act includes an express prohibition against using a gambling operator's name or names of gambling products or services in connection with products intended to be used by individuals under the age of 18.

Both sponsoring entities and the sponsored person will need to consider any potential tax effects from the sponsorship, subject to the type of consideration.

Participation in esports tournaments

Can players pay any price to participate in esports tournaments?

There are not any specific requirements applicable to the participation in tournaments that require payment for participation.

With that said, should the payment be deemed to constitute a bet, wager or similar, there is a risk that the license requirements in the Swedish Gambling Act would apply to the event.

Selection of participants

Is it possible to place any restriction to the players that can participate in an esports tournament?

The organizer may select participants freely as long as the selection criteria do not violate mandatory requirements relating to e.g. discrimination or other applicable regulations. An organizer may consequently need to ensure that the selection criteria do not constitute direct or indirect discrimination on the basis of e.g. the participant's sex, ethnicity, religion or other belief, disability or sexual orientation.

Contracting esports players

Are there particular requirements for T&Cs of esports tournaments?

If the esports tournament in itself falls within the scope of prize promotion regulations or if the organizer offers bets on the tournament, the T&Cs will be subject to extensive requirements such as the provisions in the Gambling Act. The same conditions must apply to all players.

Furthermore, both spectators as well as players may, depending on the circumstances in a given case, be considered consumers. If so, the organizer must ensure that the T&Cs are drafted in accordance with mandatory consumer regulations.

In all cases, the organizer should take measures to ensure that the T&Cs comply with data protection regulations as well as any regulations pertaining to intellectual property rights.

Selection of winners

Are there any requirements for the selection of winners and award of prizes for esports tournaments?

The T&Cs or other documents where the relevant rules for the selection of winners and award of prizes are found must comply with Swedish contract law, marketing laws and mandatory consumer regulations.

If the esports tournament is classified as a prize promotion or regulated gambling it is not permissible to select the winner in an arbitrary manner. Information given to the players should include a detailed and unambiguous description of the assignment, and how the winner is to be selected. Furthermore, players must be able to assess the nature and the objective of the competition and the information should include a comprehensive description of the assessment and the decisive factors when choosing a winner.

Sanctions against players

Can esports tournament organizers impose sanctions against players involved in match-fixing, corruption or illegal gambling during a tournament?

Organizers themselves can only enforce contractual provisions contained in the T&Cs or other applicable agreements with the players. Sanctions regarding match-fixing, corruption or illegal gambling that are in violation of Swedish law may only be enforced by Swedish public authorities.

Prizes of esports tournaments

Is there any restriction on the type of prizes that can be awarded as part of esports tournaments?

There are no restrictions on the type of prizes that may be awarded barring illegality of the prize itself. The aforementioned also applies to an esports tournament classified as a prize promotion. However, in the case of a prize promotion, information concerning the prizes such as the number, value and type of prize, must be provided before, or at the time of, entry. In these cases, the organizer is also required to provide information regarding whether or not the prize may be exchanged for a cash substitute equal to its value. The organizer must also provide information pertaining to the winner's tax liability.

If participation requires payment of a wager, bet or similar, and the esports tournament includes elements of chance, i.e. if the selection of the winner is not based solely on the participants' individual skills, the tournament may be classified as gambling. In these cases, the organizer is required to have a Swedish gambling license.

Online vs. offline esports tournaments

Are different regulations applicable to online esports tournaments compared to land-based esports tournaments?

The same regulations apply to both land-based and online esports tournaments. If the tournament is subject to prize promotion regulations, e.g. the Gambling Act, these will apply as long as the event is provided in Sweden or directed at the Swedish market.

When considering organizing a land-based or online esports tournament, organizers should take into account intellectual property matters.

Organizers of esports tournaments should take into careful consideration any intellectual property matters before organizing the event. Although many game developers in their end user license agreements allow for individual players to stream game footage via third party services such as Youtube or Twitch, the costs for the organizer to obtain a license to stream the game to an, in many cases, uncontrolled audience may be large. Streaming game footage without a license may constitute an intellectual property infringement under Swedish law.

Other local requirements

Are there any other key local requirements?

There is no dedicated legal regime for esports although organizers must comply with general applicable regulations regarding e.g. contracts, consumer protection and marketing. To avoid any complications, organizers should take precautionary measures to ensure that they are compliant with the applicable regulations.

Gambling agents holding a Swedish gambling license may offer bets on esports tournaments within the limits of applicable regulations and under the supervision of the Swedish Gambling Authority.

Furthermore, extensive information requirements concerning e.g. the prizes, T&Cs and tax matters will be applicable if the tournament is classified as a prize promotion.

Timing

Is there the need to comply with specific timing to ensure compliance (other than reviewing the terms and conditions)?

There is no specific timing required to ensure compliance when organizing an esports tournament. However, organizers should allocate enough time to ensure compliance with mandatory provisions and facilitate proper management of data protection issues such as adopting a suitable privacy policy.

Translations

Are the terms of the esports tournament required to be translated by law?

There is no legal obligation for the organizer to translate the T&Cs. However, the organizer as a contracting party will be liable for ensuring that the players participating in the tournament have understood the T&Cs. As such, it is advisable to translate the T&Cs.

Penalties for non-compliance

What are the penalties for non-compliance?

Damages to affected parties may apply depending on the circumstances.

Furthermore, if the organizer is in breach of any mandatory provisions e.g. if the organizer is operating or promoting unlicensed gambling activities, heavy fines as well as criminal sanctions may apply. There are currently no set limits for the fines and the Swedish Gambling Authority determines the amount on a case-by-case basis.

Violations of other provisions such as the Marketing Act may lead to orders or prohibitions under penalty of fines. Such fines may amount to SEK 1,000,000 depending on the severity of the transgression. Furthermore, although relatively uncommon, marketing disturbance fees ranging from SEK 5,000 to SEK 5,000,000 may apply (maximum ten percent of the annual turnover).

Key contacts



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Thailand

Governing law

What are the main applicable governing laws, sports laws or codes for esports (if any)?

With regard to the applicability of gambling laws:

NAME
<p>Thai Gambling Act 1935 (as amended) ("TGA")</p> <p>In general, the TGA prohibits or restricts the organization of, participation in or gambling on a number of forms of gambling which are on a 'gain' or 'spend' basis. Although the participants do not 'spend' and the arrangement may not fall under the definition of 'gambling', it may be considered a 'prize promotion event' which is restricted and controlled under the TGA. A license must be obtained from the competent authority prior to an arrangement of the prize promotion event. In the case of skill competitions, they are not subject to any restriction under the TGA, provided that the winner is determined on the basis of skill, and not chance.</p>
<p>Sub-ordinate legislations issued under the TGA.</p>
<p>Sports Authority of Thailand Act 2015 (as amended) ("SATA")</p> <p>Although esports have been recognized in the past couple of years and Thailand has many gamers and esports players, the question whether esports should be classified as a 'sport' or not has been controversial. Nevertheless, as Thailand aimed to send Thai players to participate in esports tournaments arranged by the International esports Federation ("IeSF"), the Thai E-Sports Association ("TESA") was formed in 2013. Later in 2017, the board of Sports Authority of Thailand ("SAT") decreed that esports be classified as a sport and could be registered as a sport association under the SATA. As a result, the TESA has been changed to Thailand E-Sports Federation ("TESF") since then.</p>
<p>Sub-ordinate legislations issued under the SATA</p>
<p>Codes for esports issued by Thailand E-Sport Federation ("TESF")</p> <p>TESF can arrange for esports tournaments and also send players to participate in international esports tournaments. In the last couple of years, there have been esports arrangements in Thailand, various esports teams have been formed and the Thailand E-Sports Arena has been established.</p> <p>At present, there is only a policy ("TESF Policy") issued by TEF for its members and no code or regulation has been issued yet. Even though esports are still considered new for Thai society, they are expected to grow very fast.</p>

With regard to the applicability of prize promotion regulations to esports activities:

NAME
<p>The TGA and its subordinated legislations.</p> <p>Under the TGA, a prize promotion event is considered to be an arrangement for complimentary gifts or prizes, awarded to people trying their luck in any manner in the conduct of a business or in the pursuit of an occupation.</p> <p>Before the TESF's establishment in 2017, esports could fall under the definition of 'prize promotion event' under the TGA. Nevertheless, as esports have been categorized as a 'sport' under the SATA, it would no longer be considered a prize promotion event and would not be restricted under the TGA.</p>

With regard to the advertisement of esports related activities:

NAME
<p>Consumer Protection Act 1979 (as amended) ("CPA")</p> <p>Subordinated legislations, including Ministerial Regulation Nos. 3 and 5 issued under the CPA ("CPA-MR").</p> <p>As esports are also considered a competition, when advertising an esports event, the arranger must also ensure that it complies with the CPA-MR, i.e. certain particulars, including the following, must be included in the advertisement: criteria, method and any conditions, date of commencement and ending of the event, and the type of prize/award and its value.</p>

With regard to the protection of intellectual property rights as part of esports activities:

NAME
<p>The Thai Copyright Act 1994 (as amended) ("CA")</p> <p>The CA prescribes a copyright protection over various kinds of copyright work, including (but not limited to) audiovisual, cinematographic, sound and video broadcasting.</p> <p>As esports are also considered an online game, they are mainly protected by the CA in Thailand.</p>
<p>The Trademark Act 1991 (as amended) ("TA")</p> <p>The TA prescribes trademark protection over trade marks, trade names, service marks, certification marks and collection marks. It also regulates the licensing arrangement between trademark owners and licensees.</p>
<p>The Patent Act 1979 (as amended) ("PA")</p> <p>The PA prescribes patent protection over inventions and designs.</p>

With regard to the processing of personal data as part of esports activities:

NAME
<p>The Personal Data Protection Act 2019 governs the processing of personal data in Thailand.</p>

Extra-territoriality

Are national laws enforceable against entities operating abroad?

There are certain laws imposing punishments on an offender even though such offender is located and operating abroad. Those laws include the Penal Code, the Computer Crime Act 2007 as amended, and the Personal Data Protection Act 2019.

However, uncertainty still remains in relation to the applicability of the law to offshore operators. Locating personnel (i.e. agents or affiliates) and equipment within the jurisdiction or opening local establishments will obviously give the Thai authorities the nexus they need to enforce their prohibition on gambling, making administrative and criminal sanctions more likely.

Technical requirements of esports tournaments

Do videogames need any certification to be used as part of esports tournaments?

Under the TESH Policy, games designated by TESH must be games designated in the IeSF only. If any game service provider wishes to promote its game, TESH would help in proposing such game to the related authorities, in particular SAT. Apart from that, there is no clear regulation or guidance yet relating to this issue; however, it is expected to be put in place in the future.

Sponsorship of esports tournaments

Are particular requirements applicable to sponsorship agreements relating to esports tournaments?

The TESH member who is an entity could be promoted to be co-arranger of an esports tournament arranged in Thailand according to the TESH Policy. Apart from that, there is no clear regulation or guidance relating to this issue, but this is expected to be put in place in the future.

Participation in esports tournaments

Can players pay any price to participate in esports tournaments?

One qualification of a member of TESH is stated under the TESH Policy is to not be involved with any form of gambling. Therefore, so long as it could be proved that the price paid by the players is not for gambling,

the payment is allowed. Apart from that, there is no clear regulation or guidance yet relating to this issue; however, it is expected to be put in place in the future.

Selection of participants

Is it possible to place any restriction to the players that can participate in an esports tournament?

It is stated under the TESH Policy that the player must be a member of TESH and could then be promoted to be the national player for participating further in international tournaments. The member (i.e. the player) is therefore required to be qualified as prescribed under the TESH Policy, including being not less than 18 years of age, not using drugs and not being subject to any criminal punishment.

Apart from that, there is no clear regulation or guidance yet relating to this issue; however, it is expected to be put in place in the future. It should therefore be possible to place the restrictions on the players who can participate in an esports tournament, provided that it is agreed by TESH.

Contracting esports players

Are there particular requirements for T&Cs of esports tournaments?

There are no particular requirements for T&Cs of esports tournaments.

Selection of winners

Are there any requirements for the selection of winners and award of prizes for esports tournaments?

There is no clear regulation or guidance yet relating to this issue; however, it is expected to be put in place in the future.

Sanctions against players

Can esports tournament organizers impose sanctions against players involved in match-fixing, corruption or illegal gambling during a tournament?

There is no clear regulation or guidance yet relating to this issue; however, it is expected to be put in place in the future. Such sanctions could be imposed as long as they do not conflict with the SATA and the codes/regulations to be issued by TESH.

Prizes of esports tournaments

Is there any restriction on the type of prizes that can be awarded as part of esports tournaments?

As esports could fall under the definition of 'sport', the prizes to be awarded should be in compliance with the requirements, if any, for the prizes given in other sport tournaments. There is no clear regulation or guidance yet relating to this issue.

Online vs. offline esports tournaments

Are different regulations applicable to online esports tournaments compared to land-based esports tournaments?

There are currently no different regulations for online and offline esports tournaments.

Other local requirements

Are there any other key local requirements?

At this stage, esports are still considered new and are not broadly recognized by the Thai authorities. There is no clear regulation or guidance for esports arrangement yet; however, it is expected to be put in place in the future.

Timing

Is there the need to comply with specific timing to ensure compliance (other than reviewing the terms and conditions)?

At present there is no such specific timing required to ensure compliance. This is because there is no clear regulation or guidance for esports arrangement yet; however, it is expected to be set out in place in the future.

Translations

Are the terms of the esports tournament required to be translated by law?

Under consumer regulations, the information intended for consumers and users shall also be shown in Thai. Further, the License application forms and all supporting documents must be in Thai.

Penalties for non-compliance

What are the penalties for non-compliance?

Non-compliance with the TESP Policy may cause such member (i.e. individual or entity) to be deregistered from his/her/its membership. There is no clear regulation or guidance yet for the penalties for non-compliance; however, it is expected to be put in place in the future.

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Ukraine

Governing law

What are the main applicable governing laws, sports laws or codes for esports (if any)?

With regard to the applicability of gambling laws

NAME
The Law of Ukraine "On Prohibition of Gambling Business in Ukraine" as of 15 May 2009 No. 1334-VI

With regard to applicability of lottery laws:

NAME
The Law of Ukraine "On State Lotteries in Ukraine" as of 6 September 2012 No. 5204-VI

With regard to the applicability of prize promotion laws:

NAME
Civil Code of Ukraine as of 16 January 2003 No. 435-IV
The Law of Ukraine "On Advertisement" as of 3 July 1996 No. 270/96-BP
The Law of Ukraine "On Protection of Customers' Rights" as of 12 May 1991

With regard to the advertisement of esports related activities:

NAME
The Law of Ukraine "On Advertising" as of 3 July 1996 No. 270/96-BP
The Law of Ukraine "On Protection from Unfair Competition" as of 7 June 1996 No. 236/96-BP

With regard to the protection of intellectual property rights as part of esports activities:

NAME
Civil Code of Ukraine as of 16 January 2003 No. 435-IV
The Law of Ukraine "On Copyright and Related Rights" as of 23 December 1993 No. 3792-XII
The Law of Ukraine "On Protection of Rights to the Marks for Goods and Services" as of 15 December 1993 No. 3689-XII

NAME

The Law of Ukraine "On Protection of Rights to Inventions and Utility Models" as of 15 December 1993 No. 3687-XII

The Law of Ukraine "On Protection from Unfair Competition" as of 7 June 1996 No. 236/96-BP

With regard to the processing of personal data as part of esports activities:

NAME

The Law of Ukraine "On Protection of Personal Data" as of 1 June 2010 No. 2297-VI

Typical Order of Processing of Personal Data approved by the Order of Ombudsman as of 8 January 2014 No. 1/02-14

Extra-territoriality

Are national laws enforceable against entities operating abroad?

Ukrainian legislation does not have any specific regulation for esports tournaments as such; at the same time, Ukrainian legislation on skills competitions, gambling, lotteries and advertising may apply to esports tournaments. Based on the complex interpretation of such legislation, it may be applied and enforced with respect to esports tournaments operated by non-resident legal entities, if: (i) the esports tournament is being held in the territory of Ukraine, and/or (ii) the esports tournament, even if it is operated from abroad (via the Internet regardless of the location of servers), is aimed at Ukrainian players.

Technical requirements of esports tournaments

Do videogames need any certification to be used as part of esports tournaments?

Ukrainian legislation does not provide for any requirements for certification of videogames as such. However, videogames must comply with the following main requirements prescribed by Ukrainian laws:

- user interface of software distributed in Ukraine needs to be in Ukrainian language; the volume and content of interface in Ukrainian language shall not contain less information than the one provided in foreign language. In practice, the videogame needs to at least to have an option to switch to a Ukrainian interface;

- videogames must be compliant with public morality requirements established by the Law of Ukraine "On Protection of Public Morality". More specifically, video games must be labeled to represent age restrictions if they contain erotic or violent content;
- videogames must not contain content, which is prohibited in Ukraine, for example, content which popularizes or contains symbols of communist and national-socialist (nazi) totalitarian regimes, etc.

Sponsorship of esports tournaments

Are particular requirements applicable to sponsorship agreements relating to esports tournaments?

The following main general requirements established by the Law of Ukraine "On Advertising" will apply to sponsorship of esports tournaments:

- during sponsored events it is only allowed to show the name of the sponsor and its trademark, while the provision of any kind of information of an advertising nature on the sponsor and/or its goods/services is prohibited;
- producers/providers of goods/services which are prohibited in Ukraine cannot be sponsors. To this point, gambling activity is prohibited in Ukraine. Thus, sponsorship of esports tournaments by organizers of gambling activities would be prohibited;
- producers/providers of goods/services which are prohibited for advertising in Ukraine (e.g. lotteries organized abroad, certain medicines etc.) cannot be sponsors.

Participation in esports tournaments

Can players pay any price to participate in esports tournaments?

Players can pay a price to participate in (i) competitions based on skill or (ii) state lotteries operated by licensed entities. Otherwise, tournaments based on chance which requires payment for participation would be regarded as gambling, which is prohibited in Ukraine.

Selection of participants

Is it possible to place any restriction to the players that can participate in an esports tournament?

The law does not address placing restrictions on players. Any restrictions should not violate constitutional and other rights provided by Ukrainian legislation and should be clearly stipulated in the T&Cs. According to the Civil Code of Ukraine, the provisions of the T&Cs must be the same for all participants.

Contracting esports players

Are there particular requirements for T&Cs of esports tournaments?

According to the Civil Code of Ukraine, T&Cs for competitions based on skills:

- must be communicated to the participants at the same time when the competition was announced to public;
- must contain information on the prize, number of winning places and type of prize for each winning place;
- must define the term for completion of task/ conducting of some action;
- may only be changed before the competition starts. A change of conditions after the start of the competition is not allowed.

The legislation requires information on the timeframes, location of the competition and resources where T&Cs can be found to be included in the advertisement of the competitions, lotteries and prize promotions.

Selection of winners

Are there any requirements for the selection of winners and award of prizes for esports tournaments?

According to the Civil Code of Ukraine, a winner of a skill competition shall be defined according to the criteria set out by a competition organizer in its T&Cs.

Based on the results of a skill competition, the competition organizer may approve one of the following decisions:

- to award all prizes, provided by the T&Cs of the competition;
- to award specific prizes, if several of them were envisioned;
- to refuse the awarding of prizes, if none of the entries meets the requirements of the competition;
- to award an encouragement prize.

The results of the skill competition may be disputed by an interested party in court.

No other requirements are established by the law.

Sanctions against players

Can esports tournament organizers impose sanctions against players involved in match-fixing, corruption or illegal gambling during a tournament?

Organizers of esports tournaments can establish specific rules of conduct during the tournament in the T&Cs and enforce them as players' contractual obligations.

Prizes of esports tournaments

Is there any restriction on the type of prizes that can be awarded as part of esports tournaments?

Generally, the prizes can be monetary (established and paid in UAH) or in kind, whereas prizes which are in kind shall be allowed for circulation in Ukraine.

According to the law, prizes (types, quantity, etc.) shall be defined in the T&Cs of the competition. In this regard, from a consumer protection perspective, the prizes to be awarded must correspond to those prizes which were announced by the organizer in the T&Cs of the esports tournament.

Online vs. offline esports tournaments

Are different regulations applicable to online esports tournaments compared to land-based esports tournaments?

No.

Other local requirements

Are there any other key local requirements?

Ukrainian legislation does not contain a separate regulation for esports tournaments. At the same time, Ukrainian legislation regulates the following activities, which depending on their mechanics, may represent esports tournaments:

- competition based on skill – the Civil Code of Ukraine establishes that skill competitions may relate to intellectual or creative activity, commission of a certain action, performance of work, etc. The legislation establishes some requirements for the T&Cs of competitions, rights of the winners etc.;
- gambling – the Law of Ukraine on 'Prohibition of Gambling in Ukraine' prohibits gambling activity in Ukraine. The law defines gambling as any game that requires a player to pay for playing (payment can be done by any means, including through any electronic/online payment system), which allows the player either to receive or not receive a prize (in any form) based on chance. According to the mentioned Law, a gambling business is defined as activity related to the organization, conducting and provision of the possibility of access to gambling in casinos, gambling machines, computer simulators, bookmaker's offices and/or interactive facilities, or electronic (virtual) casinos, regardless of the server location. The law provides an exhaustive list of activities which are not regarded as gambling in Ukraine: organization and conducting of lotteries, organization and conducting of creative contests; billiards, bowling and other games where players do not obtain prizes; prize promotions with advertising purposes; prize promotions in the form of competitions which imply free of charge participation etc.

It is expected that gambling will be legalized in Ukraine by December 2019. Such an aim and timeline have been communicated by the President of Ukraine

in August 2019. Both the Parliament and the Cabinet of Ministers have started developing the respective draft law.

- lottery – a mass game irrespective of its name, the conditions of which imply prize pool draws among its participants, in which winning depends on chance and where the territory in which it is conducted extends beyond one building, regardless of the method of accepting money to participate in such a game. The law prohibits holding lotteries without a license. Currently, the application process for lottery licenses is blocked due to the absence of adopted license requirements. Lottery operators operate based on the respective old licenses issued to them prior to adoption of the Law of Ukraine on "State Lotteries in Ukraine", whereas the order allowing new licenses to be obtained has not been adopted.

Timing

Is there the need to comply with specific timing to ensure compliance (other than reviewing the terms and conditions)?

There is no such requirement in relation to competitions based on skills or prize promotions. However, such a requirement is established for lotteries – they must be filed by a licensed operator for mandatory state registration with the Unified Register of the State Lotteries within 15 days upon publication of the T&Cs.

Translations

Are the terms of the esports tournament required to be translated by law?

Yes, they must be translated in Ukrainian language

Penalties for non-compliance

What are the penalties for non-compliance?

The following penalties³⁰ may be relevant to organizing esports tournaments:

- for non-compliance by advertisers relating to the content of advertisements or regarding the dissemination of such advertisements – fines amount to five times the cost of the distributed advertisement;

³⁰ All fines are set in UAH; respective amounts have been converted into USD based on official exchange rate of the National Bank of Ukraine as of 25 September 2019.

- for breach of requirements of the Law of Ukraine “On Protection from Unfair Competition” – fines of up to 5% of business profits (group) for the last year (if profits of the business entity for the last year is not declared – an amount of USD 7,015);
- for breach of data protection rules – fines of approximately USD 70 – 210.
- criminal liability for conducting gambling business – fines of approx. USD 7,015 – USD 28,061;
- administrative liability for participation in gambling – fines of USD 2 – 17 plus confiscation of gambling facilities and any property which was a stake in gambling activities.

Penalties related to the prohibition of gambling:

- penalty established by the Law of Ukraine “On prohibition of gambling” for organizing and conducting gambling – fines for organizers of gambling in the amount of around USD 1,377,660 plus confiscation of gambling facilities and all the realized profit which is to be paid to the state budget of Ukraine;

Penalties related to lotteries:

- the Law of Ukraine on “State Lotteries in Ukraine” establishes a fine of approx. USD 2,755,320 plus confiscation of gaming facilities for the organization and conducting of lotteries without a license.

Key contact



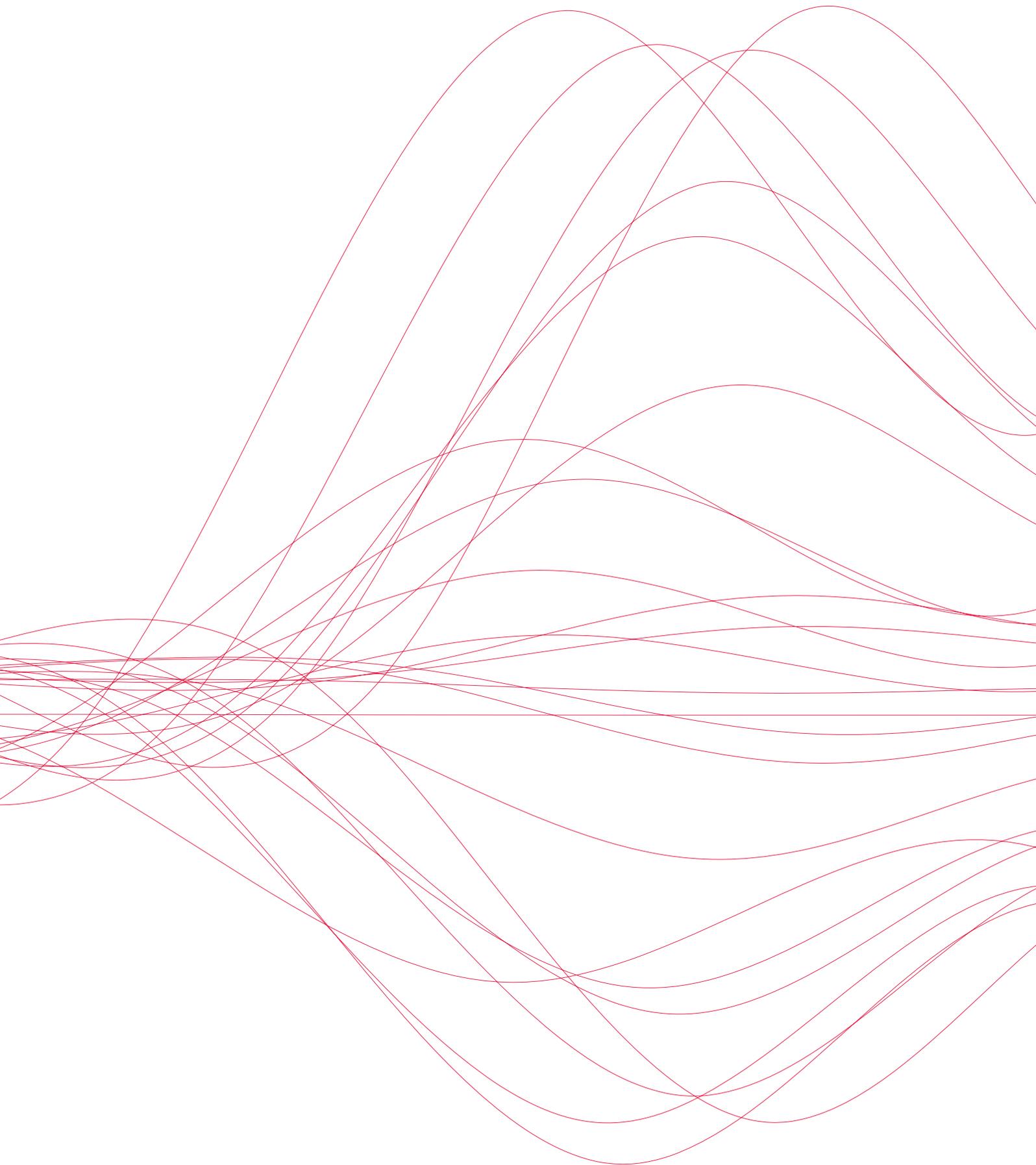
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United Kingdom

Governing law

What are the main applicable governing laws, sports laws or codes for esports (if any)?

With regard to the applicability of gambling laws:

NAME
Gambling Act 2005 s6 – Gaming
Gambling Act 2005 s9 – Betting
Gambling Act 2005 s11/339/Schedule 1 – Prize Competitions
Gambling Act 2005 s12 – Pool Betting
Gambling Act 2005 s13 – Betting Intermediary
Gambling Act 2005 s14 – Lottery
Gambling Act 2005 s16–18 – Cross-category activities
The Gambling Act largely applies to Great Britain only, separate rules may be held to apply in Northern Ireland.
The Government has the power to provide that a particular activity is to be treated as a sport and outside the definition of gaming. No such designation has been made in respect of esports.

With regard to the applicability of prize promotion regulations to esports activities:

NAME
Gambling Act 2005 – see Lotteries and Prize Competitions above UK Code of Non-broadcast Advertising and Direct & Promotional Marketing (CAP Code)

With regard to the advertisement of esports related activities:

NAME
UK Code of Non-broadcast Advertising and Direct & Promotional Marketing (CAP Code)
UK Code of Broadcast Advertising (BCAP Code)
Consumer Protection from Unfair Trading Regulations 2008

With regard to the protection of intellectual property rights as part of esports activities:

NAME
Copyright, Designs and Patents Act 1988
Trade Marks Act 1994

With regard to the processing of personal data as part of esports activities:

NAME
Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data
Data Protection Act 2018

Extra-territoriality

Are national laws enforceable against entities operating abroad?

Under the Gambling Act 2005 (as amended) any offshore operator offering or promoting gambling facilities to UK consumers must be licensed in accordance with UK law. The UK gambling regulator, the Gambling Commission has taken action against entities operating abroad.

In line with applicable jurisdictional law, the UK consumer regulator, the CMA, has taken action under the Consumer Protection from Unfair Trading Regulations 2008 and the advertising regulator, the ASA, has taken action under its Codes, in each case against entities operating abroad which are targeting UK consumers – and/or they have referred matters to equivalent regulators in the home territory of those entities.

Technical requirements of esports tournaments

Do videogames need any certification to be used as part of esports tournaments?

There is no specific esports certification but a combination of local licensing requirements for public performances (which vary across the UK) and the general law will likely require that video games used in an esports tournament, and the age of the audience gaining access to view them, should be in accordance with the statutory backed framework for video games classification in the UK which has adopted the Pan European Game Information (PEGI) rating system.

Sponsorship of esports tournaments

Are particular requirements applicable to sponsorship agreements relating to esports tournaments?

Although the CAP Code has a narrow sponsorship exclusion which applies to the arrangement or contract between the brand and another party, any advertising, promotions or other marketing communications arising out of that sponsorship or containing images from the sponsorship which would otherwise fall within the remit of the CAP Code.

Additional limitations may, however, apply to certain brands and sectors. For example, the Tobacco Advertising and Promotions Act 2002 prohibits sponsorship agreements relating to tobacco products, the Gambling Act 2005 prohibits unlicensed gambling sponsorship and the Portman Group's Code of Practice regulates sponsorship activities undertaken by alcohol brands.

Participation in esports tournaments

Can players pay any price to participate in esports tournaments?

Payment to participate in or to view an esports tournament – and the amount paid – will be relevant to how the event is treated under general licensing law and the status of the parties under contract and consumer law, as well as the enforcement policy of the relevant regulator and approach of any court.

The existence of payment to enter may also impact on the application of certain gambling law restrictions under the Gambling Act 2005 – but not all e.g. there is no requirement for any money to be staked for an activity to be held to be gaming.

Selection of participants

Is it possible to place any restriction to the players that can participate in an esports tournament?

Licensing and gambling law, as referred to above, as well as the general legal limitations on contracting with minors and in respect of safeguarding, may require that age restrictions must be applied. Other restrictions would need to comply with equalities legislation preventing unlawful discrimination and, if relevant, consumer law.

Contracting esports players

Are there particular requirements for T&Cs of esports tournaments?

There are no specific requirements for esports tournaments but any contract with a player or tournament/competition contract should set out essential terms such as relationship of the parties, hours, exclusivity, payment, restrictions (including under 6. above), obligations and intellectual property rights. Employment law considerations may be relevant.

Again safeguarding and other issues regarding minors, including general legal limitations on contracting are key.

The CAP Code sets out the requirements which must be included in the T&Cs of any prize promotion. This must include any significant conditions or information where the omission of such conditions or information is likely to mislead. Where relevant, they should also be structured in accordance with consumer and data protection laws.

Selection of winners

Are there any requirements for the selection of winners and award of prizes for esports tournaments?

There are no specific requirements for esports tournaments and the requirements will largely be controlled by the contractual arrangements discussed above – which in turn may be influenced by the advertising, consumer and gambling law considerations mentioned. See also the CAP Code requirements for prize promotions.

Sanctions against players

Can esports tournament organizers impose sanctions against players involved in match-fixing, corruption or illegal gambling during a tournament?

These are key aspects and tournament organizers can and should provide for contractual requirements and sanctions, as well as the appointment of integrity officers to enforce these, in addition to the provisions of the general law prohibiting fraudulent, corrupt or other unlawful activity.

The Gambling Commission has called on the sector to tighten integrity practices. Its Sports Betting Intelligence Unit and Memorandum of Understandings with governing bodies have been key measures to safeguard integrity in other sports. It will be a critical aspect in the further development of esports leagues.

Section 42 of the Gambling Act 2005 prohibits cheating in gambling i.e. an actual or attempted act of deception or interference in connection with the process by which gambling is conducted, or a real or virtual game, race or other event or process to which gambling relates.

Prizes of esports tournaments

Is there any restriction on the type of prizes that can be awarded as part of esports tournaments?

There is no specific restriction on the types of prizes which can be awarded as part of esports tournaments. Depending on the persons competing then certain prizes may be inappropriate or unlawful e.g. alcohol or other age-restricted products awarded to underage competitors.

To the extent the tournament involved regulated gambling, restrictions on prizes for some forms of gambling under the Gambling Act could be relevant.

Online vs. offline esports tournaments

Are different regulations applicable to online esports tournaments compared to land-based esports tournaments?

There is no specific regulation distinguishing between online and land-based esports tournaments but, as with any online activity, general provisions of UK law relating to online services and e-commerce will apply to the former, whilst premises based licensing/regulations and laws relevant to physical access to them will apply to the

latter. Gambling licensing and regulation, for example, distinguish between remote and land-based activities. Relevant intellectual property licensing and content regulation regimes also distinguish between the two. General liability and operational concerns, and measures taken to limit exposure, will vary too.

Other local requirements

Are there any other key local requirements?

As discussed above, esports are not formally recognized under UK law as sports and there is no dedicated legal or regulatory regime applicable to esports.

Accordingly the full range of issues applicable to the development, operation and promotion of live events and the use of interactive entertainment software and services whether in physical premises, online or by a mix of both must be considered in each case. The precise scope and context of these will vary across the relevant stakeholders: players, teams, leagues, publishers, developers, event organisers, sponsors, media partners and fans/audience.

As also described above, key issues around gambling regulatory requirements including betting on esports activities, wider integrity and ethical issues, the protection of individuals and commercial/contractual frameworks must be taken into account.

Timing

Is there the need to comply with specific timing to ensure compliance (other than reviewing the terms and conditions)?

Where relevant, specific timing is set out in the CAP Code for promotional activity and the regulated gambling regimes under the Gambling Act 2005.

Other relevant licensing and regulatory requirements, particularly in relation to premises and live events, can involve notice and other time periods, so this must be factored into operational planning and timelines.

Translations

Are the terms of the esports tournament required to be translated by law?

English language terms, in plain language for consumer law purposes, will generally be sufficient.

Penalties for non-compliance

What are the penalties for non-compliance?

Different potential penalties and applicable enforcement policies apply to each of the legal and regulatory regimes discussed above. For example, where activity falls within the scope of the Gambling Act 2005, there may be fines of up to £200,000 and/or imprisonment, the most serious cases of breach under the Consumer Protection from Unfair Trading Regulations 2008 can carry a potentially unlimited fine or a maximum prison sentence of 2 years and breaches of GDPR in relation to the personal data of players in esports tournaments could carry a fine of up to 20 million Euros or 4% of global turnover. This is in addition to general contractual, civil and criminal liability for other unregulated activities that must always be taken into consideration.

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United States

Governing law

What are the main applicable governing laws, sports laws or codes for esports (if any)?

With regard to the applicability of gambling laws:

LAWS

The esports industry implicates a number of laws in the United States that are not specific to the industry itself but are instead triggered by the activities that teams, leagues, sponsors, players, media platforms and other industry stakeholders engage in. Because esports, by definition, involves playing video games professionally, the industry is based on competition. Competition, in the form of both online and offline esports leagues and tournaments, implicates contest and sweepstakes laws, often collectively referred to as “anti-lottery” laws, and anti-gambling laws in the United States. Esports competitions must be structured in a way that mitigates the risk of violating those laws. A gambling operation can legally operate in the United States only if it both operates in a state that allows gambling and is duly licensed by the gaming commission in those states in which it operates. Currently, there is no mechanism in the United States for licensing esports competitions under the gambling laws. So if an esports competition is not structured properly, it will constitute unlicensed gambling. Unlicensed gambling in various forms violates criminal law in the United States. Gambling is principally regulated at the state level. But state law violations can also form a predicate act under various federal criminal statutes, and gambling can constitute an independent federal crime if interstate travel or instrumentalities (most notably phone or wire transmissions) are involved. A violation of the criminal anti-lottery or anti-gambling laws can also constitute a predicate act that exposes the party violating those laws to civil liability.

The most frequently-invoked federal anti-gambling statutes in the United States include: (1) **Illegal Gambling Business Under The Organized Crime Control Act (“OCCA”)**, 18 U.S.C. §1955. This is a federal offense based on violating state anti-gambling laws. (2) **The Travel Act**, 18 U.S.C. §1952. The so-called Travel Act makes it a federal crime to travel or use any facility in interstate or foreign commerce to carry on “unlawful activity,” defined as a business enterprise involving gambling “in violation of the laws of the State in which they are committed or of the United States.” The Act would appear to be limited to the transportation of physical items, but courts have held “facilities” includes telephone lines carrying gambling information. See *U.S. v. Villano*, 529 F.2d 1046, 1052 n.6 (10th Cir. 1975); *U.S. v. Smith*, 209 F.Supp. 907 (E.D.Ill. 1962). The Travel Act would not apply if no American interstate facility is used, nor if no other state or federal gambling law is violated. (3) **Racketeer Influenced and Corrupt Organizations Act (“RICO”)**, 18 U.S.C. § 1961 et seq. Broadly stated, RICO makes it unlawful to participate in the conduct of an enterprise through a pattern of racketeering activity or a pattern of collecting unlawful debt. Racketeering activity includes any act involving gambling or that is otherwise indictable under, among other statutes, the Wire Act. 18 U.S.C. § 1962(c). (4) **Unlawful Sports Gambling Act**, 28 U.S.C. § 3702. This statute expressly prohibits sports gambling but it provides only for civil and not criminal penalties and very few cases have been brought under the statute. (5) **Federal Lottery Statutes**, which contain broad prohibitions on importing, shipping in interstate or foreign commerce, or using the U.S. mails for lottery material; (6) **Various State**

Laws, with several states having either passed new laws specifically prohibiting online gambling or relying on pre-Internet era laws broadly banning all types of gambling. (7) **The Unlawful Internet Gambling Enforcement Act of 2006** (the “**UIGEA**”), which defined “bet or wager” to mean “the staking or risking by any person of something of value upon the outcome of a contest of others, a sporting event, or a game subject to chance, upon an agreement or understanding that the person or another person will receive something of value in the event of a certain outcome”, and provides that no person engaged in the business of betting or wagering may knowingly accept credit or payment in connection with the participation of another person in unlawful Internet gambling (defined as “to place, receive, or otherwise knowingly transmit a bet or wager by any means which involves the use, at least in part, of the Internet where such bet or wager is unlawful under any applicable Federal or State law in the State in which the bet or wager is initiated, received, or otherwise made”). This is a criminal statute and penalties can include fines and imprisonment for up to five years. And (8) **The Wire Act**, 18 U.S.C. § 1084. This law contains two general clauses, with each clause prohibiting two different kinds of wire transmissions as follows: Whoever being engaged in the business of betting or wagering knowingly uses a wire communication facility for the transmission in interstate or foreign commerce of bets or wagers or information assisting in the placing of bets or wagers on any sporting event or contest, or for the transmission of a wire communication which entitles the recipient to receive money or credit as a result of bets or wagers, or for information assisting in the placing of bets or wagers, shall be fined under this title or imprisoned not more than two years, or both.

With regard to the applicability of prize promotion regulations to esports activities:

NAME

To be legal in the United States, esports tournaments and other competition activity must be structured in a way that complies with (a) federal and state anti-gambling laws [which generally prohibit (i) placing a “bet, stake or wager” (ii) on an event whose outcome is determined predominantly by chance (iii) in the hope of receiving a prize or something of value], and (b) federal and state laws prohibiting illegal private lotteries [generally defined as consisting of (i) a “prize” (i.e. legally defined as just about anything that has measurable value – such as money, a new car, or even a contestant spot on a game show – that is discriminatingly provided to contestants based on chance or their relative merit), (ii) chance (i.e. the selection of a winner through a random drawing or any means other than bona fide skill) and (iii) mandatory consideration, which may be monetary or non-monetary in nature (i.e. in order to enter, participants must make a purchase, pay an entry fee, engage in a substantial amount of time or effort, provide personally sensitive information that is not required in the context of the game or for purposes of awarding a prize, or waive a legal right)]. If all three elements exist in an esports competition or in any online, offline or mobile gaming operation, that operation constitutes an illegal private lottery or illegal gambling, which are treated interchangeably for purposes of this Guide.

With regard to the advertisement of esports related activities:

NAME

The Federal Trade Commission Act (5 U.S.C. §§ 41–58) prohibits “unfair” and “deceptive” acts and practices.

The Federal Trade Commission Guides Concerning the Use of Endorsements and Testimonials in Advertising, 16 CFR Part 255

With regard to the protection of competition and intellectual property rights as part of esports activities:

NAME
The Copyright Act, codified in Title 17 of the United States Code.
The Lanham Act (15 U.S.C. §§ 1051 et seq.) is the primary federal trademark law in the United States. The Lanham Act prohibits a number of activities, including trademark infringement, trademark dilution, and false advertising.
State Franchise Laws and the Federal Franchise Rule (16 CFR Parts 436 and 437) gives prospective purchasers of franchises (including esports teams sold in a franchised league) the material information they need in order to weigh the risks and benefits of such an investment. The Rule requires franchisors to provide all potential franchisees with a disclosure document containing 23 specific items of information about the offered franchise, its officers, and other franchisees.
California Talent Agency Act (Cal. Lab. Code §1700 et seq.) prohibits unlicensed talent agents from procuring employment for an artist.
Sherman Antitrust Act (15 U.S.C. § 1) prohibits unreasonable restraints on trade; and unlawfully obtaining, maintaining, or abusing monopoly power.

With regard to the processing of personal data as part of esports activities:

NAME
The Children’s Online Privacy Protection Act of 1998 (15 U.S.C. 6501–6505) and the Children’s Online Privacy Protection Rule (16 CFR Part 312) impose certain requirements on operators of websites or online services directed to children under 13 years of age, and on operators of other websites or online services that have actual knowledge that they are collecting personal information online from a child under 13 years of age.
State Privacy Laws, including without limitation, the California Consumer Privacy Act (CCPA), (Cal. Civ. Code § 1798.100–199), which creates new consumer rights relating to the access to, deletion of, and sharing of personal information that is collected by businesses. It also requires the California Attorney General to enact regulations that establish procedures to facilitate consumers’ new rights under the CCPA and provide guidance to businesses on how to comply.

Extra-territoriality

Are national laws enforceable against entities operating abroad?

Entities operating abroad are required to ensure that their activities in the United States and their online activities that are directed to users in the United States comply with United States privacy, consumer protection and other laws.

Technical requirements of esports tournaments

Do videogames need any certification to be used as part of esports tournaments?

No certifications are needed to use video games in esports tournaments, but the game developer and/or publisher controls the public performance rights in the games that they own, so public esports tournaments

that are conducted without permission from the game owner risk violating the game owner’s copyright and other rights in the game. Also the Entertainment Software Rating Board (“ESRB”) provides ratings to provide information about what’s in a game or app so parents and consumers can make informed choices about which games are right for their family. Ratings have 3 parts: Rating Categories, Content Descriptors, and Interactive Elements. Organizing an esports tournament for a game title that is rate M for Mature could expose the tournament organizer to a possible regulatory or other claim if the tournament is open to younger players who the game is deemed to be unsuitable for.

Sponsorship of esports tournaments

Are particular requirements applicable to sponsorship agreements relating to esports tournaments?

No specific requirements apply to sponsorship agreements for esports tournaments, but the California Talent Agency Act (Cal. Lab. Code §1700 et seq.) prohibits unlicensed talent agents from procuring employment for an artist and could be implicated by various sponsorship structures that require players to perform certain types of services.

Participation in esports tournaments

Can players pay any price to participate in esports tournaments?

Under United States law as currently interpreted and enforced, esports tournament organizers can generally require participants to pay an entry fee to compete, provided the tournament is properly structured as a skill-based competition and the prize pool is structured in a way that prevents the entry fee from being converted into an illegal bet, stake or wager.

Selection of participants

Is it possible to place any restriction to the players that can participate in an esports tournament?

Most esports tournaments are open only to players who are 13 years of age or older. Other criteria for selecting participants need to be non-discriminatory. Services Agreements with players need to be structured in a way that complies with state and federal labor and employment laws.

Contracting esports players

Are there particular requirements for T&Cs of esports tournaments?

Esports tournaments need to be structured in accordance with United States contest and sweepstakes laws and anti-gambling laws, with long form Official Rules governing participation in the tournament, game play rules describing how the tournament will be scored, short form disclosures that inform prospective entrants about basic tournament information and where they can learn all the relevant information about the tournament, and tax laws and rules governing the prizes that are awarded. Because personally identifiable

information and other personal data will be actively and passively collected from players who participate in the tournament, state and federal privacy laws also need to be taken into account in the Official Rules or other T&Cs for the esports tournament, including any qualifying rounds.

Selection of winners

Are there any requirements for the selection of winners and award of prizes for esports tournaments?

The Official Rules for each esports tournament should describe how winners are selected and the prizes that are available. The winner selection protocols must be structured in a way that complies with United States contest and sweepstakes laws and anti-gambling laws.

Sanctions against players

Can esports tournament organizers impose sanctions against players involved in match-fixing, corruption or illegal gambling during a tournament?

Organizers can enforce any such restrictions set out by the T&Cs for the tournament. This activity could also expose the people or entities that participate in such activity to potential criminal prosecution by government authorities.

Prizes of esports tournaments

Is there any restriction on the type of prizes that can be awarded as part of esports tournaments?

Cash and non-cash prizes can be awarded in esports tournaments that are conducted in the United States, but prize restrictions and limitations should be described in the Official Rules for the tournament and tax law and rules may affect how the prize fulfillment is administered and, in particular, whether withholding taxes must be taken out of or otherwise paid for by the winner before the prize is awarded.

If players are paying a cash entry fee to participate in an esports tournament, care must be taken to avoid converting the prize pool into an illegal purse, which would risk converting the entry fee into an illegal bet, stake or wager.

Online vs. offline esports tournaments

Are different regulations applicable to online esports tournaments compared to land-based esports tournaments?

Offline esports tournaments generally implicate the same laws, rules and regulations as online esports tournaments, and *vice versa*, except some United States privacy laws are technically focused on the online collection of information, as opposed to the offline collection of information.

Other local requirements

Are there any other key local requirements?

Local city permits may need to be secured to both hold a live esports tournament in an offline venue and film or stream the game play and other tournament activity. Until recently, it was an open question whether the National Collegiate Athletic Association (NCAA) would exert jurisdiction over esports tournaments held on college or university campuses or between teams affiliated with a college or university in the United States. But the NCAA opted not to govern collegiate esports, with NCAA's Board of Governors voting in mid-2019 to

table the issue of governing and holding championships for collegiate esports, allowing third-party organizations to continue developing the space and establishing leagues and competitions.

Timing

Is there the need to comply with specific timing to ensure compliance (other than reviewing the terms and conditions)?

No.

Translations

Are the terms of the esports tournament required to be translated by law?

No.

Penalties for non-compliance

What are the penalties for non-compliance?

A violation of the criminal anti-lottery or anti-gambling laws can result in criminal prosecution and can also constitute a predicate act that exposes the party violating those laws to civil liability.

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