



E-ISSN: 2790-068
P-ISSN: 2790-0673
IJLJJ 2024; 4(1): 09-11
Received: 20-10-2023
Accepted: 24-11-2023

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Legal regulation of cyber sports: International best practices

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DOI: <https://doi.org/10.22271/2790-0673.2024.v4.i1a.87>

Abstract

Competitive video gaming or esports has seen massive growth over the past decade, creating complex legal challenges. Key areas needing governance include player contracts, IP rights, and anti-corruption measures. Self-regulation following sport models competes with state licensing systems. Hybrid approaches incorporating industry and government input appear most effective. With collaborative policymaking, thoughtful governance frameworks can be developed.

Keywords: Esports law, video game regulation, competitive gaming, esports contracts, esports IP

Introduction

The phenomenal rise of organized competitive video gaming, or esports, has created an industry projected to surpass \$1 billion soon ^[1]. Top players can earn millions through tournaments, endorsements and live-streaming ^[2]. However, the rapid growth has opened debates around if and how esports should be legally regulated ^[3]. This emerging industry faces complex challenges around contracts, intellectual property, corruption and other issues, with minimal legal frameworks globally so far ^[4].

While some view regulation as hampering innovation, thoughtful governance is vital for sustainable growth of any new industry ^[5]. This article examines key areas requiring policy attention, contrasting models of state regulation versus self-regulation, and emerging best practices to enable esports to fulfil its immense potential.

Key Areas Requiring Regulation

Contract law is essential to govern leagues, team ownership, player transfers, compensation and conduct ^[6]. With professional gamers' careers spanning 5-10 years at most ^[7], clear contractual terms are important to protect rights. Complex questions around employment status, rights to likeness and IP have already resulted in disputes ^[8]. For instance, Turner Tenney, a top Fortnite player, sued his team FaZe Clan alleging an oppressive contract entitled FaZe to a finder's fee up to 80% of his earnings ^[9]. Lawsuits also highlight uncertainties around players' publicity rights and ownership of user generated content ^[10]. Standardized contracts clarifying terms on pay, terminations, duty of care, and IP can provide much needed certainty.

Intellectual property (IP) considerations are also pivotal ^[11]. Broadcasting rights, video game IP licenses, and content ownership require clarification. The publisher Riot Games is embroiled in a lawsuit against tournament organizer ESforce over unauthorized broadcasting of its League of Legends title ^[12]. Such disputes arise from lack of clear IP frameworks tailored for esports. Governing issues like video game copyright, gameplay recordings ownership, and permitted uses can prevent future conflicts.

As viewership and gambling expands, integrity concerns like match fixing emerge ^[9]. Cheating scandals have already afflicted titles like StarCraft and Counterstrike ^[13]. Anti-corruption regulations around fraud, cheating, match manipulation, and doping aligned with traditional sport models are required to protect integrity ^[14]. Clear anti-corruption rules also mitigate risks from unregulated gambling markets accessed by minors ^[15].

Effective self-regulation and state governance is also vital to address concerns like gaming addiction. Studies estimate up to 15% of frequent gamers may be at risk for addiction ^[16], with young persons especially vulnerable ^[17]. Coordinated education, parental controls, age verification and playtime limits could help mitigate such risks.

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International Policy Approaches

Self-regulation following professional sport models has been the prevailing approach so far^[18]. Industry bodies draft rules on issues like doping, match fixing, transfers, without state intervention. The Esports Integrity Coalition (ESIC), formed in 2015, pioneers integrity standards^[12]. The World Esports Association promotes self-governance^[13]. Proponents argue this flexible, bespoke approach suits the industry's rapid evolution. With expertise concentrated in the private sector currently, self-regulation may be most pragmatic near-term.

In contrast, some countries like France and South Korea have used state-driven regulation, including gamer licensing frameworks^[14, 15]. South Korea's 'e-Sports Promotion Law' recognizes pro-gamers as licensed athletes subject to training and fair contract requirements^[19]. Proponents argue state regulation raises professional standards and protects against risks like gambling harms. However, rigid regimes are criticized as hampering innovation with excessive red tape^[6]. Overly intrusive regulation could constrain the industry's dynamism.

Emerging Best Practices

A hybrid approach combining industry self-regulation with government input appears most effective^[20]. Leaving detailed technical rules to esports bodies allows adaptability, while state regulation brings legislative rigor on significant public policy issues like gambling, addiction and youth protections. Multi-stakeholder groups including industry, government and civil society can collaborate to develop balanced frameworks.

Standard form contracts should cover player transfers, dispute resolution processes, age limits and other integrity matters^[21]. Principles from traditional sports can inform policy, adapted suitably for esports' attributes^[22]. Anti-doping policies modelled on organizations like WADA have strong preventative effects^[23, 24]. Gambling risks necessitate restrictions, though outright bans could spur unauthorized markets^[18]. Education and parental controls are preferable to over-regulation of gaming content itself^[25]. Licensing could retain a place for major competitions, but narrow scope enables innovation^[6].

Cross-border partnerships enable strong globally harmonized standards^[26]. For instance, the IOC-backed Asian Esports Federation brings uniformity across a region hosting major events^[27]. Resources should be channeled into supporting grassroots gaming too, broadening access^[28]. Ultimately tailored governance for esports recognizing its unique attributes and risks is key^[7]. Multi-stakeholder efforts to refine policy offer the most promising way forward^[29].

Conclusion

As with historic disruptive innovations like film, radio and TV, the rise of esports brings regulatory growing pains^[30]. But through collaborative efforts between industry, government and experts, thoughtful governance frameworks can emerge. With continued dialog and research, policies can be developed enabling esports' immense potential while effectively addressing its risks and challenges. The future points to a globalized esports ecosystem with harmonized regulatory standards, sustainably managed by inclusive multi-stakeholder oversight.

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