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Power Play: Regulatory Frameworks of Esports in Asia and Europe

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INTRODUCTION

Competitive gaming, esports, continues to attract hundreds of millions of spectators in different parts of the world both through online streaming on Twitch, YouTube, and similar platforms as well as via traditional broadcast media. Esports players belong to teams that are sponsored by business organizations, and the field constitutes an expanding industry where stakes are growing, infrastructures are being built specifically for spectating, and investors and gamblers are getting in on the game. In both academia and popular media, esports are still contrasted with regular sports, especially when finances and viewership ratings are discussed, but there are also great differences – especially in terms of their regulatory frameworks (e.g. Taylor 2012; Karhulahti 2017; Scholz 2019). These frameworks are the topic of this paper.

Beyond promotional institutions such as the International Esports Federation, there is no formal, global governance structure as of yet despite the fact that there are international tournaments and transnational teams competing. Individual games are regulated mainly by the game publishers who own the game IP. However, the sustainability and legitimacy of esports in the long term depends on the regulation of issues such as cheating, match fixing, doping, the use of insider information, betting, and gambling (see Comerford 2012; Hollist 2015; Holden et al. 2017). While public discussions tend to propose following traditional sports governance, some would like to see title-specific regulation – individual regulatory bodies established for each esports (see Swerdlow 2018). Organizations like Esports Integrity Commission are currently working on solving these issues.

In this paper, we comparatively review two regulatory frameworks that are geographically delimited. First, the General Data Protection Regulation (GDPR) imposed by the EU in 2018, which has already had an impact on data protection of European citizens and companies offering services that utilize the data of European citizens, aims to provide consumers with more control over their data and to simplify the regulatory environment for international businesses. In esports, the GDPR is in conflict with established practice as well as some emerging trends of profit-making. For instance, there are strong incentives for leagues, tournaments, and team owners to gather players' personal data (even biometric data) and monetize it by licensing it to third parties – something that the regional GDPR restricts excessively. In its first 12 months, the GDPR has led to fines of over €56 million hitting 91 companies.

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Meanwhile, on June 16, 2019, the Cyberspace Administration of China released a draft that will expand their existing cyber laws and policies. The draft largely follows the principles of the European GDPR, with some notable differences. For instance, its approach to user consent is more relaxed: esports companies, among others, do not need to ask for ‘explicit consent’ from players when transferring their personal information forward but ‘implied consent’ is enough (for a summary, see Chen 2019). Moreover, these consent policies concern only “sensitive” personal information – meaning, data that does not concern personal information such as health issues, political views, or private details may be collected and transferred without (implied) consent. Of note, since China does not belong to the GDPR list of countries with an adequate level of data protection, companies are not allowed to transfer data from the EU to China without “appropriate safeguards” (defined and listed in the GDPR).

Ultimately, this paper argues that esports – as a truly global phenomenon that is driven by multinational companies – is currently facing a major ethical-legal challenge that will have high impact on its future development. For instance, as South Korea is currently being considered for inclusion in the GDPR list of countries with an adequate level of data protection, the country that has largely dominated esports in terms of competitive success (see Kim & Thomas 2015) may also see a new wave of related production companies and international tournament organization – areas that have so far been driven by China (see Yu 2018; Szablewicz 2020). In this paper, we present a number of potential future scenarios that result from the challenges described above and discuss their implications.

As a case study of the above challenges, we examine the relationship between esports and betting/gambling. Gambling in traditional sports is big business and tightly regulated, but in esports a concern for issues such as gambling for in-game items is only emerging as of late (for a popular review, see Purewal & Davies 2016). Digital platforms, specific communication methods, and IP ownership provide unique challenges for esports betting and gambling across regions, and our presentation provides an overview of these from the above described regulatory perspective in the China-EU context (cf. Sweeney et al. 2019). New regulatory frameworks emerge and are needed globally in order to advance the development of esports into a fair and sustainable cultural activity and industry (Karhulahti & Chee 2020).

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