The growth of esports in India – a short review of the main legal and regulatory challenges

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Esports is booming throughout the India, helped by the proliferation of fast broadband connections and a population of 600 million under the age of 25 (more young people than any other country in the world). As readers are no doubt aware, the rapid expansion of esports globally, combined with its unique characteristics, has bought with it a complex array of legal and policy considerations that the industry as whole is currently trying to grapple with. This article tracks the trends and legal issues particular to India, most notably:

- Recognition of professional esports players as “athletes” and the need for regulatory maturity; and
- Problems around betting, match fixing and cheating.

Esports in India

India has embraced the esports phenomenon with open arms, a fact most recently demonstrated by its international success at the Asian Games 2018 where it won a Bronze medal in Hearthstone. The growth has come in cycles, largely influenced by global trends and access to the internet. In mid-2000s, Counter-Strike and Dota were extremely popular and the majority of suburbs and cities in the country had cyber-cafes where teenagers congregated. Popularity surged as the World Cyber Games and Asian Cyber Games hosted qualifying events in India. Then, as internet connectivity improved and games moved away from local area networks (LAN) to online, esports somewhat lost its charm. Now, it’s in full revival mode and considered to be in a nascent stage, primed to explode with investments being made by stakeholders such as Nazara Games and Ronnie Screwvala.

In 2016, 120 million Indians engaged in online gaming, creating a market value of USD 290 million. As per a KPMG study in 2017, the average Indian gamer is under 24 and has a preference for action and adventure games. The peak performance for esports players is said to be around this age, so Indian’s sizable young population gives it a demographic dividend that appeals to esports stakeholders.
Within this context, the main legal and policy challenges facing the development of professional esports in India are as follows.

**Recognition of professional esports players as “athletes”**

Traditional sports have evolved their jurisprudence around the fact that professional participants are considered as “athletes”. Professional esports players are not yet considered as athletes in India. This can impact participants in a number of ways, including:

- The provision of special visas to allow participation in global events. For example, the United States has allowed eSports players to apply for and be granted the P-1 visa which is an “event-only” visa that allows participation in US-based eSports events.

- Being categorized as an athlete also affords certain protections. Professional footballers, for example, are registered with FIFPro, a body dedicated to representing the interests of the players. At present there are no such organisations promoting the interests of professional esports players as a whole, protecting them from exploitation. Formal recognition as “athletes” would, in the authors’ view, help catalyse this process.

- Additional “job” security. In India, the majority of the athletes across team sports and track & field athletes are provided government jobs. These jobs include positions in the Railways, nationalised Banks and even bureaucratic positions. For example, Sandeep Sejwal who swam for India is employed with the Indian Railways. Vikas Krishnan, a boxer who represented India at London Olympics had a job as a police officer. The government provides special sports quotas which allows these exceptional athletes to train without the fear of being without a job and regular income. In 2015, the Central Government, through the then Minister of State for Youth Affairs and Sports, Shri Sarbananda Sonowal, clarified that those sportspersons who have represented a State or the country in National or International competitions are eligible for being considered for appointment in Central Government offices as meritorious sportspersons. These jobs ensure steady income and job security which allows them to focus on their sport. Esports players have yet not been provided with this luxury and thus it remains stigmatised in the larger societal context. If the Government were to recognise esports players as athletes it would help provide certainty and security to professional players. However, the Indian government has taken no steps in this regard and nothing seems to be in discussion within the governmental circles presently.

To help in the recognition process, significant regulatory developments are necessary. The Esports Federation of India (ESFI) is India’s main representative body for esports. In the authors’ view, the ESFI must maintain a healthy dialogue with stakeholders (most notably developers, events’ organizers and governmental authorities to help create standardisation, certainty and legitimacy to the spectacle. ESFI is a member of the International Esports Federation (IESF) and the Asian Electronic Sports Federation (AESF). This membership mandates that Indian esports players adhere to the same standards of conduct as laid out by these international bodies. Mr. Suji (the Co-Founder and Director of the ESFI) states

Esports athletes are the core of esports. All our discussions with Developers, organisers and government authorities are centered around esports athletes and we have received an overwhelming response.
Esports is not yet recognised as a sport in India but we have strong commitment from relevant authorities to support ESFI in growing esports in India. ESFI also has an Athlete commission, whose sole purpose is to ensure that interest of our esports athletes is taken care of and it also ensures that our athletes conduct themselves professionally.

**Betting, match fixing and cheating**

Cheating in esports is as much an issue in India as elsewhere. The recent cheating incident which occurred at eXTREMESLAND 2018 saw OpTic India being disqualified from the tournament. A member of the Counter-Strike: Global Offensive team of OpTic India was caught using “aimbot” software at the LAN tournament. An “aimbot” is a software which automatically aligns your aim in the game ensuring that you never miss your bullets.

The selection policies were questionable to say the least as the player concerned had been subject to Valve Anti-Cheat (VAC) ban for two-years. The ESIC reduced his competitive play ban from two-years to 6 months. This meant that his ban lifted in February 2018. In a mere 8-months he was caught cheating again – this example highlights the need for improvement with respect to regulation and enforcement. In traditional sports, the consequences of such blatant and intentional cheating would most likely have been more stringent. ESIC has finally banned the player for 5-years from all competitive esports which are members of ESIC. Mr. Suji states,

> “Cheating is one major problem in esports. Since most of the players are very young they do not understand the importance of integrity and get swayed by short lived fame or money. The Optic India event was very unfortunate and should not have happened at all, at least not in the context to India. To ensure that our athletes are aware of these nuances and do not get involved, ESFI along with Sportradar conducted an Integrity Workshop for the athletes going for 10th Esports World Championship-2018...”

The action against the player was taken in line with the Code on Conduct which ESIC members subscribe to and is set-out by ESIC themselves. As articulated by Mr. Suji, educating athletes is an integral to preventing and discouraging cheating in esports.

In addition to in-game cheating, the money involved, irregular income flows, lower maturity levels and lack of legal understanding makes esports athletes easy prey for potential match-fixers. The esports industry has enabled betting using in-game items which are not covered by the gambling laws of most jurisdictions. This makes young-viewers extremely susceptible to such activities and thus can result in governments clamping down on esports even before they take-off. Unlike the United Kingdom, where the Courts have ruled against websites offering unlicensed and unregulated betting services, India has no jurisprudence in this regard. There are no visible mechanisms in place to educate the esports players, content creators nor the general public about the perils of gambling, match-fixing etc.

**Looking ahead**

Esports has seen a global meteoric rise is the last few years and India has not been spared in that regard. Barring regulatory hurdles, India’s demographics and cheap nationwide internet connectivity give it a massive competitive advantage in embracing esports. In support, Nvidia’s report from 2014-2017 shows that the active esports community in India has increased from a mere 300,000 to a massive 1.5 million. This means that the rate an individual who has just entered gaming will become passionate about eSports is higher than the rate of people getting into gaming. All this points to a
singular fact, the Indian populace is ready for esports. If India can tackle the key issues identified above, most notably growing and maturing the regulatory environment, then it should be a global leader in years to come.

References

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