Five Things to Know About eSports

By Jennifer Roberts, Esq., Brett Abarbanel, Ph.D., and Robert Rippee

Just last month, the Gaming Policy Committee (GPC) met on the UNLV campus. The Gaming Policy Committee is an advisory committee made up of the Governor, the Chairman of the Nevada Gaming Control Board, the Chairman of the Nevada Gaming Commission, gaming industry members, and representatives from academia, the Nevada legislature, Native American tribes, and the Nevada citizenry. See NRS 463.021. The GPC is an advisory body convened to discuss the state’s policy on gaming matters. Id. They meet at the call of the governor and, prior to 2012 when it convened to discuss Internet gaming, it hadn’t met in its entirety for over 20 years.

Since 2012, the GPC has discussed issues that impact the gaming industry, including Internet gaming, daily fantasy sports, technology and innovation, and now eSports. As eSports is expected to become more popular, this article will provide five things you should know about the topic.

1. What is eSports?
In a nutshell, eSports is competitive video gaming. You may not know what League of Legends or Call of Duty is, but your kids definitely do. These are popular video games that have online play, local play, and a tournament system leading to championships where teams play the game in a matchup against other teams. eSports exist for amateur up to professional levels, much like the sports you know and love. There are gamers gathering together for a friendly game of Hearthstone, much as groups meet up for a friendly game of basketball. There are also high level competitions culminating in world championships, and weekly professional competitive leagues. If you are asking yourself why anyone would watch other people play video games, earlier this year, Las Vegas held an eSports tournament with an estimated 15,000 in attendance, essentially to watch 10 people actually play the game. See Narus Advisors, “Largest eSports Weekend in Las Vegas History Capped Off by Team Liquid Takeover at Downtown Grand Casino” (Apr. 18, 2016), available at http://finance.yahoo.com/news/largest-esports-weekend-las-vegas-225300940.html. Another eSports championship tournament held last year resulted in a peak of 1.6 million concurrent viewers and an added five million views on YouTube. See John Gaudiosi, “Poland Is Home to the Biggest eSports Event in the World” (Mar. 3, 2016), available at http://fortune.com/2016/03/03/poland-is-home-to-the-biggest-esports-event-in-the-world/. The prizes for winning these tournaments can be in the millions of dollars.

2. Is eSports a sport?
It depends on who you ask. There has been no official ruling on whether competitive video gaming is a sport. However, if you ask those familiar with eSports, many of them agree that it is. In addition, the United States government has for over three years formally recognized participants in eSports tournaments as professional athletes when issuing visas. See Paul Tassi, “The U.S. Now Recognizes eSports Players as Professional Athletes” (July 14, 2013), available at http://www.forbes.com/sites/insertcoin/2013/07/14/the-u-s-now-recognizes-esports-players-as-professional-athletes/#49d9d2ce691d. Even the GPC has heard testimony from eSports players about strict diet regimens and exercise routines engaged in by players to prepare for tournament play.

Whether or not it is officially classified as a sport, there are eSports associations that monitor the integrity of the competitions and help protect against match fixing. In addition, there is growing momentum within the eSports industry to establish greater standards and structural oversight of the players, matches, and tournaments. The game developers, of which the two largest are companies called Blizzard Entertainment and Riot Games, design and license the games. As the developers, they also design all of the rules built into the software of the games. The games are played on either computers or console systems (xBox and PlayStation being the most popular).

3. Is eSports gambling?
On a basic level, determining whether something is gambling requires analysis of whether there is prize, chance,
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and consideration present. States conduct the analysis using various tests in reviewing these basic elements. The eSports tournaments themselves have not really raised any questions because, even if there is some form of buy-in to participate, competitive video gaming requires a substantial amount of skill to participate. Therefore, the question really hasn’t required much discussion.

4. What is eSports wagering?

When the GPC met last month, the question was how to accept wagering on eSports tournaments. The GPC recommended that the Nevada Gaming Control Board begin to accept betting on such events under the legal and regulatory structure of “other event” wagering. In Nevada, a licensed sports book can accept wagers on sporting events, such as football, baseball, or hockey, and “other events” that are approved by the Nevada Gaming Control Board. See NRS 463.0193; NGC Reg. 22.120. Another example of an “other event” that can be wagered on is The World Series of Poker. After the GPC recommendation, licensed sports books can now accept wagers on certain eSports tournaments authorized by the Nevada Gaming Control Board.

5. What is skins betting?

Associated with the eSports world, but not part of the tournaments, is the unregulated market of game-mediated wagering. “Game-mediated betting is a huge, opaque segment of betting on eSports. In game-mediated betting, the bettors do not directly bet with money but instead bet with virtual items, which are valuable assets in the game itself. Game-mediated betting thus capitalizes on the in-game market for virtual items, such as weapons, armor, abilities, and aesthetic items (commonly referred to as “skins”). These items are then wagered on the outcome of different events, such as actual eSports competitions, random number draws and, poker or other card games. Often, these items have some form of monetary value and can also be purchased for cash through other channels.” Abarbanel, B., & Fiedler, I., “Social gaming and social gambling: eSports. Market analysis and regulatory recommendations.” [White Paper]. University of Hamburg and University of California, Los Angeles (2016).

A skin might be likened to a trading card in that you hope when you purchase a pack, it is a rare Michael Jordan card containing a piece of his jersey. This card could be valued at tens of thousands of dollars because there were so few made. Skins are similar. There might be a pink camouflage version of a gun used in Call of Duty (a first-person shooter game) that could be sold on eBay for hundreds or thousands of dollars. In essence, they have value. What happens in this skins betting underground is that people would use a valuable skin to play a game, such as roulette, against others.
If they won the game, they may have received a prize of someone else’s skin that was also bet in the roulette game. In essence, you had the three elements of gambling present – consideration (skin put up to participate), chance (roulette involves little to no skill), and prize (winning a skin from the roulette game).

Nevada has the opportunity to become the eSports capital of the world. Wagers on eSports are now be-

As we become more reliant on technology, the sports and gaming worlds will continue to see a lot of innovative change.

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