

## **Alert** | Video Games & Esports



February 2022

### **An Overview of the Esports Market in Japan**

**This GT Alert covers the following:**

- Japan's growing esports<sup>1</sup> market has tournaments with prize money exceeding USD 909,000 (JPY 100,000,000).<sup>2</sup>
- Notwithstanding some problems with holding esports tournaments under current Japanese law, these issues are being addressed as discussions on interpretation of existing law progress.
- With recent discussions on legalizing sports betting in Japan, discussions on legalizing esports betting may follow.

According to [Famitsu](#),<sup>3</sup> the competitive video game market in Japan had reached USD 60,700,000 in 2020; it was expected to reach USD 78,800,000 in 2021 and USD 116,000,000 in 2022 and is growing steadily.

Among the recent esports tournaments held in Japan, the following are significant now that tournaments with prize money exceeding USD 909,000 are being held.

<sup>1</sup> Esports, according to the [Cambridge Dictionary](#), is the activity of playing computer games against other people on the internet, often for money, and often watched by other people using the internet, sometimes at special organized events.

<sup>2</sup> The U.S. dollar amounts are converted at a rate of JPY 110 to USD 1; the same applies hereafter.

<sup>3</sup> [Famitsu](#) is a line of Japanese video game magazines first published in May 1986 by KADOKAWA Game Linkage Inc., a subsidiary of KADOKAWA CORPORATION, with a nominal circulation of 200,000.

The “**Shadowverse World Grand Prix 2021**,” held from November to December 2021, has recorded the highest prize money in the history of the tournament held in Japan, with a total prize pool of USD 2,500,000, and a first prize of USD 1,300,000. “**Shadowverse**” is a multiplayer online trading card game. In terms of prize money, this is the highest amount ever paid out in an esports tournament held in Japan. In 2018, when the tournament started, the total prize money was USD 1,310,000, and first prize was USD 1,000,000. The consistent growth of the tournament size is expected to continue. The tournament is hosted by Cygames, Inc., co-hosted by the Saitama Industrial Culture Center, and sponsored by Saitama Prefecture and Nippon Television Network Corporation.

The “**PUBG MOBILE JAPAN LEAGUE SEASON 1**,” a tournament held from February to October 2021, offered a total prize pool of USD 2,700,000 and a first prize of USD 909,000. This prize pool represented the highest amount of total prize money in all of Japan at the time. “**PUBG MOBILE**” is a battle royal game published in over 200 countries and regions with over 600,000,000 downloads. This tournament was significant, as each professional esports player affiliated with the tournament was given a salary over USD 31,000 over the year regardless of the prize money. The tournament was organized by NTT DOCOMO, INC., Japan's largest mobile communications provider.

The rise of esports in Japan is attributable in part to the fact that certain legal issues that previously prevented growth, including criminal law issues, are being addressed and revised. This GT Alert briefly examines these issues and the possibility of legalized esports betting in Japan.

### **Esports in Japan: Legal Considerations**

**Copyright Act.** The Copyright Act protects esports as “cinematographic works” (Article 10, Paragraph 1, Item 7) or “works of computer programming” (Article 10, Paragraph 1, Item 9). Broadcasting game screens to a larger audience, distributing them over the internet, and recording them for secondary distribution all raise issues of copyright infringement, and therefore generally require the permission of the IP holder (game company). Broadcasting without the permission of the IP holder constitutes copyright infringement, and the responsible party may be ordered to pay damages, face an injunction, and be subject to imprisonment for up to 10 years and a fine of up to JPY 10,000,000 (USD 90,900), or both (Article 119, Paragraph 1). Some game companies (e.g., **Nintendo Co., Ltd.**) disclose copyright usage guidelines for individuals, but for individual corporations, it is generally necessary to negotiate terms of use with the IP holder before acting.

**Penal Code: Gambling.** Gambling, prohibited under the Japanese Penal Code, refers to “the act of disputing the gain or loss of property or financial gain by chance.” As an initial issue, the question of whether players participating in an esports tournament with an entry fee and competing for prize money that comes from the entry fee falls under this initial gambling definition. If these activities constitute gambling, the individual can be punished by a fine of not more than JPY 500,000 (USD 4,500) or a petty fine under Article 185 of the Penal Code, and the event organizer may also be punished by imprisonment for not less than three months but not more than five years for allowing the player to gamble under Paragraph 2, Article 186 of the Penal Code. Accordingly, so as to not fall under the Japanese legal definition of gambling, all entry fees collected from players should be used to pay for the operation of the tournament, and prize money should be paid from money contributed by sponsors. However, this structure is not without risk. It may be a violation of Japanese law if a parent company of the event organizer sponsors and pays prize money, because the entry fee may be used for prize money.

**Act on Control and Improvement of Amusement Businesses, etc. (ACIAB).** The ACIAB is a law that focuses on public morality, clean entertainment, and the sound upbringing of juveniles by stipulating business hours, business locations, and admission regulations for adult entertainment businesses. When operating an esports tournament or esports facility, setting up game machines and charging money to play games may be subject to regulations under the ACIAB (business license and prohibition of offering prizes, etc.). If an esports tournament operator conducts a tournament without a proper license, the operator may be punished by imprisonment for not more than two years or a fine of not more than JPY 2,000,000 (USD 18,100), or both, in accordance with Article 49, Item 1 of the ACIAB. In order to be exempt from regulations under the ACIAB, however, operators may consider the following adjustments:

- Limit activity to online: If an event is entirely online, the ACIAB does not apply and the operator may generally proceed;
- Compete using versatile PCs or smartphones: PCs, smartphones, and other devices are not considered “game machines” as long as they have functions other than games that can be used in real life. Thus, if the competition occurs on these devices, the competitors are not using “game machines”; or
- The entry fee is used only for set-up costs: Even if the tournament charges entry fees, so long as the total amount of the entry fees is less than or equal to the total estimated cost of the tournament set-up, the ACIAB does not apply.

**Act Against Unjustifiable Premiums and Misleading Representations (AUPMR).** When an IP holder such as a sports game manufacturer organizes an esports tournament, the prize money may be additionally capped due to the application of AUPMR. If AUPMR is applied, the maximum prize money would be JPY 100,000 (USD 909) (Article 4 of the AUPMR and Public Notice on the Restriction of Matters Concerning the Provision of Premiums through Prizes). If this rule is violated, the Prime Minister may issue a correction order (Article 7, Paragraph 1 of the AUPMR); if this order is violated, punishment may be imposed (Article 36 of the AUPMR. Punishment may consist of imprisonment of not more than two years and/or a fine of not more than JPY 3,000,000 (USD 273,000)). Previously, the regulation of prize money under the AUPMR was believed to hinder esports development. However, with the growth of esports competitions, the current legal interpretation of the rules has served to address most of these concerns.

AUPMR does not apply, and the maximum prize amount is not regulated, in the following cases:

- Free-to-play games: In free-to-play games where the amount of money spent does not affect the strength of the player; or
- Professional Players: Paying high-level professional players prize money as compensation for their work is permitted and similar to a salary. Japan esports Union (JeSU) has made inquiries to the Consumer Affairs Agency and received clarifications validating this approach ([Regarding the submission of a no-action letter to the Consumer Affairs Agency](#)).

In addition, to address issues under the AUPMR and to establish esports as a “profession,” JeSU has created the [JeSU Professional License Rules](#) for esports. JeSU will certify as professionals those who meet certain conditions, such as achieving excellent results in JeSU-approved esports tournaments. The JeSU also has established rules for tournament organizers to follow in the [JeSU-approved Tournament Rules](#).

A system is currently being put in place to hold esports tournaments while addressing the various legal issues mentioned above.

## Will esports betting be legalized in Japan?

Esports betting currently is not legal in Japan, nor is there any active debate on its legalization. Although Sports Promotion Votes (public gambling in which the public votes on the outcome of designated J.LEAGUE or B.LEAGUE games or on the number of points scored by each team, and receives a refund if their predictions are correct.), similar to totocalcio, exist for soccer and basketball (Article 2 of the Act on Carrying Out, etc. Sports Promotion Votes (ACSPV)), such Sports Promotion Votes have not been successful in attracting sports fans because of the limited number of games covered by the existing lottery system, the small number of betting options, and the high (50%) deduction rates (Article 13 of the ACSPV and Article 1 of the Ordinance of ACSPV). In effect, Sports Promotion Votes are similar to traditional lotteries. Taking soccer voting as an example, there are two types of voting: “BIG,” in which a computer predicts the winner or the number of goals, and “toto,” in which the purchaser himself makes the prediction. The voting options are limited to the number of games won or lost or the number of goals scored by a team, and even the “MEGA BIG” and “¥100 BIG,” which have the largest number of games eligible for voting, have only 14 games eligible for voting. Sports promotion lottery sales in 2019 were just under 100 billion yen (peaking in 2016 and trending downward since), of which more than 90% were BIG sales and less than 10% were toto sales (see [Study Group findings](#)). According to “[Regional x Sports Club Industry Study Group](#)” discussions, many who buy BIG, which allow computers to predict the number of wins, losses and scores, are lottery enthusiasts ([Minutes of the 6th Study Group Meeting](#)).

Recently, Japan has started to discuss legalizing sports betting. If sports betting becomes legal, discussions on the legalization of esports betting may also begin. The discussion of legalizing sports betting includes the possible expansion of Sports Promotion Votes. However, the operation of sports betting by private platforms is being evaluated as a different system. Given declining revenues from spectator sports due to COVID-19, it is hoped that new systems will be put in place to contribute to the promotion of sports, including esports, and esports betting may serve as a driver of this interest.

## Conclusion

There is still significant room for growth in the Japanese esports market in the form of competition and wagering. Favorable rulemaking by lobbying in conjunction with the debate on legalizing other sports betting may help open the esports betting market in Japan.

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