

## Has Gambling on Esports Finally Arrived?



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*Could the ongoing sports void turn into a launchpad for betting on esports? These days, the idea doesn't seem so far-fetched. Legal experts at Greenberg Traurig explain why the time is right.*

By William Grossenbacher and David Schulman | **June 28, 2020** | GGB Magazine

As states and municipalities across the country implemented stay-at-home orders in response to the coronavirus pandemic, Americans had to adjust to new ways of life in the age of social distancing. As workplaces went fully remote, meetings switched over to video chat. As movie theaters were shuttered, studios released many movies direct to video on demand. As concerts were canceled, musicians performed online to fans on social media. As bars and restaurants were restricted to carry-out only, people gathered for virtual happy hours.

But noticeably absent from all of this were live sporting events.

Although many leagues initially proposed holding games without fans, the danger of transmission between athletes eventually led all traditional college and professional sports leagues to cancel or postpone their seasons. This meant that for the better part of two months, sports fans were limited to spending each weekend watching reruns of prior-year PGA tournaments or reliving the glory of Michael Jordan at his prime by bingeing “The Last Dance.”

Although it might be enjoyable to re-watch Tiger at last year's Masters or Jordan's performance in Game 6 of the 1998 NBA Finals, these reruns lack the thrill of live sports, and because everyone already knows the outcome, there's no betting on them.

Throughout all of this, one notable exception to the lack of live sports has been esports. What began as a niche market only a few years ago, esports—or competitive video games—has grown into a multibillion-dollar industry. Because video games are a digital entertainment medium playable from home, esports virtual competitions are thriving. And yet, sportsbooks have largely not offered wagers on esports.

With the Nevada Gaming Control Board's recent approval of sports betting for a CounterStrike Global Offensive (CS:GO), Call of Duty and Overwatch esports leagues, are sports books and regulators ready to embrace esports

Now the PGA, UFC and NASCAR have returned to hosting live tournaments, fights and races. The NBA and MLB have announced plans to return later in the summer. At the same time, other leagues are still weighing options for a safe return. The landscape for traditional sports has changed dramatically and may remain that way for the foreseeable future. While it's too early to tell whether esports can compete with traditional sports for gamblers' attention once live traditional sports have returned in full force, for the many reasons listed below, esports provide an attractive avenue for growth in the gambling industry.

### **Nevada Approves Esports Wagers**

Sportsbooks decreased significantly during the Covid-19 lockdown. Nevada sportsbooks saw a 76 percent decline in March when compared to last year, and that includes bets placed in the first weeks of March before the Covid-19 shutdown was complete. Betting on New Jersey sports books dropped 68 percent in April, and that was even with a five-fold increase in bets placed on the NFL draft.

During much of March and April, available bets on William Hill's Nevada Sports Book were limited to futures bets for a variety of traditional professional sports and bets on such obscure traditional sports and leagues as Division 1 Handball in Belarus, Moscow Liga Pro Table Tennis and Tajikistan Higher League Soccer matches. During this time, William Hill has also offered a suite of bets for esports leagues and tournaments.

For the first time ever, the Nevada Gaming Control Board has approved betting on esports league play. Pursuant to an order issued March 25, the Nevada Gaming Control Board approved offering wagers on Counter-Strike—ESL Pro League Season 11: North America. Since then, Nevada regulators have also approved betting on the 2020 Call of Duty League and the 2020 Overwatch League, along with various tournaments for CS:GO, League of Legends, Dota 2 and iRacing. For the three leagues, the Gaming Control Board approved three wager types—head to head, winner of each match and overall season winner—with a note that any other wager types will require separate approval. While New Jersey regulators had previously approved sports betting on a handful of esports tournaments, these decisions mark the first time that U.S. regulators have approved betting on esports league play.

Overwatch, Call of Duty and CS:GO are all multiplayer first-person shooter (FPS) games, where teams of five or six players compete in head-to-head matches. The CS:GO ESL Pro League consists of 24 teams. Matches for Season 11 began on March 16, and daily best-of-three matches continued over a period of four weeks capped by a best-of-five final on April 12, 2020. The Call of Duty League 2020 season consists of 12 teams based in 11 major markets in Europe and North America (Los Angeles hosts two teams).

The Call of Duty League 2020 season initially began in January 2020 with live matches hosted in each team's home city. After a hiatus in March, the season resumed in April with fully virtual matches that will continue through the end of July. The Overwatch League consists of 20 city-based teams. The 280-match 2020 season began in February and will conclude with postseason playoffs in the fall. As with the Call of Duty League, the Overwatch League initially began with live, in person matches before pivoting to virtual competitions.

### **Why Haven't U.S. Sportsbooks Offered Esports Wagers?**

In the past few years, esports has grown into multibillion-dollar industry, with hundreds of millions of fans worldwide. In the same time frame, sports betting in the United States has also increased.

In 2018, the U.S. Supreme Court allowed states to legalize sports wagering in its decision, *Murphy v. National Collegiate Athletic Association*. Prior to the Murphy decision, sports betting had been restricted to just four states—Nevada, Oregon, Delaware, and Montana—that had legal sportsbooks or sports lotteries before the passage of a 1992 law. Since Murphy was decided in May 2018, sportsbooks have accepted \$17 billion in wagers, and 17 states spread throughout the U.S. (with three more on the way) now have legal sports betting.

Despite this, state regulators had only approved wagers on a limited number of esports tournaments prior to Nevada's recent approval of the ESL Pro League Season 11 for CS:GO. Why the dearth of wagers for esports despite their clear popularity?

There are at least four reasons that may help explain this phenomenon.

First, many video games are marketed to and played by children and adolescents, and video game publishers have traditionally wanted to steer clear of gambling for obvious incompatibility with their primary customers. Second, many games marketed at adult audiences—typically FPS games—had content with too much blood, gore, weapons or vice to attract wagers from sportsbooks (which, for an industry that was illegal outside of a few states and long struggled against associations with illegal activity, makes sense). Third, there has been a sense that wagering on esports events would not be approved because the purely online nature of the competition was too open to manipulation. Finally, and most importantly, bringing this new form of entertainment medium to a highly regulated industry has led to the delays in making it available for wagering.

Although esports had not experienced significant interest from sportsbooks operators or regulators prior to the Covid-19 pandemic, esports by their very nature are appealing platforms upon which to place and accept wagers. In order to preserve the integrity of matches, powerful anti-cheat software programs are integrated into video games. Because all of the action occurs virtually, esports also generate a wealth of stats and data with which to verify an outcome. Additionally, the lack of a human referee removes an element of human error that can cause controversy in traditional sports bets.

With esports, there can be no controversial penalties (or lack thereof) or winning by a nose—all the stats are recorded as the match progresses, and at the end, the winner is clear. Finally, while the outcome of esports events, like any other sport events, can be open to manipulation by the players (such as match fixing or "throwing the game"), that risk is not any greater in esports than in other sports. In fact, because esports are based on intellectual property owned by a specific company, a player who is caught cheating in esports can be subject not just to a ban from the league or from entry into the Hall of Fame (like Pete Rose), but to a lifetime ban from playing the game itself (meaning, in the Pete Rose analogy, he can never hit a baseball ever again).

The esports community as a whole has also actively worked to instill an ethic of integrity in the matches. This includes the common practice of calling out cheaters in online esports communities, and partnerships between esports league owners and organizations that fight cheating in esports, such as the Esports Integrity Commission (ESIC). In fact, since 2017, ESIC and the Nevada Gaming Control Board have agreed to share information regarding suspicious bets and suspected match fixing.

Even more recently, Activision Blizzard, publisher of both Call of Duty and Overwatch, signed a multiyear betting integrity partnership with Sportradar, a company that also provides its betting integrity services to professional sports organizations such as the NFL, NBA, MLB, NHL, FIFA, and Tennis Australia. Under the terms of its deal with Activision Blizzard, Sportradar will use data monitoring to identify potential issues such as match fixing, create a player education program, develop an app to anonymously report integrity issues, and provide Activision Blizzard with investigation support services.

### **Future Growth in Esports and Gambling in the U.S.**

Although the gambling industry has traditionally steered clear of FPS games, the CS:GO, Call of Duty, and Overwatch approvals may indicate that, in the post-Murphy world, sportsbooks appear to have shrugged off their hesitation over the FPS format. In addition to FPS games, multiplayer online battle arena (MOBA) games such as League of Legends and Dota 2 have been subject to sports betting on a smaller scale, and the MOBA format provides an additional outlet for sports betting because of the similarity with traditional sports.

In MOBA games, each player controls a single character as part of a team competing against another team of players. MOBA games are typically viewed on a map in an isometric perspective to give a three-dimensional visual perspective. MOBAs mimic many aspects of the traditional sports from the single end goal (defeat the other team) to the isometric view on a map (think of the angled overhead view of most football broadcasts and the grid of the field). Although the medium is relatively new, the pieces that makeup the MOBA esports experience are similar to traditional sports, and that similarity may help to lower the barriers to entry for both sport books and regulators.

Esports games based on traditional sporting leagues also provide an easy avenue for sports betting. One of the most popular of these games—NBA 2K—already has a professional esports league that is a joint-venture between Take-Two Interactive, the game’s publisher, and the NBA. NBA players and fans have flocked to the game when the NBA suspended its current season. Esports leagues also already exist for games portraying professional football, baseball, hockey, soccer and racing. With the disruption in traditional sports due to the Covid-19 pandemic, esports based on traditional sports present a fertile sector for sportsbooks to embrace.

Finally, the rise of esports and sports betting presents the unique opportunity for collaboration between the two “gaming” industries and for further growth for both. A partnership between a casino or sportsbook operator and a video game publisher might provide an opportunity to either convert an existing game—like INDYCAR’s iRacing—or to develop a fit-for purpose game that it is exclusively tailored to wagering and casinos in the same vein as greyhound racing. Esports also represent a broad new market and consumer base that the gambling industry has yet to tap in a significant way.

Not since the start of UFC and MLS in the 1990s have U.S. sportsbooks had a new professional sport available for wagers, and esports, as a new entertainment genre, offers multiple games and leagues and numerous fan bases. The Covid-19 pandemic has shaken the global economy, disrupted many aspects of daily life and presents a significant threat to the lives and wellbeing of millions of people.

However, this period of uncertainty may also present opportunities for new and emerging industries, and the time appears to be ripe for continued growth in sports betting on esports.

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