The Future Is eSports: Why States Should Follow New Jersey's Lead on Esports Betting

By Michelle Cohen and Jessica Fell, Attorneys Ifrah Law

As the rush to legalize sports betting continues through the United States following the U.S. Supreme Court’s decision in Murphy v. NCAA, New Jersey has emerged as a leader. The state’s regulatory authority, the Division of Gaming Enforcement (DGE), has taken progressive and forward-thinking steps, including in particular by allowing for wagering on esports. Esports are emerging as central to the gaming industry’s efforts to draw in younger customers. Now, New Jersey is poised to capitalize on this progress—and other states would be wise to follow suit.

What is esports—and who is betting on it? Esports, at its core, is competitive video gaming. While the first video game competitions began in the 1970s, the advent of the Internet in the 1990s saw truly revolutionized esports. With internet-connected gaming consoles, players from around the world can compete with one another from the comfort of their own homes. The popularity of esports has led to esports competitions in large arenas, such as Madison Square Garden and the MGM Grand Garden Arena. The history of esports is replete with memorable moments. For example, in 2019, the Fortnite World Cup was held in New York City, with a prize pool of $100 million.

As each year passes, the number of players grows. According to gaming industry experts, the number of esports players worldwide is expected to reach 265 million by 2025. The global esports market is projected to reach $1.1 billion by 2023, with the United States being the largest market.

What other states can and should learn from New Jersey Pennsylvania is far behind New Jersey’s. The Commonwealth issued sports betting regulations over the summer, providing that wagering would be permitted on professional athletic events, collegiate athletic events, professional motor race events, and international team and individual events such as the Olympics. While the regulatory language does not expressly provide for wagering on esports, the Pennsylvania Gaming Control Board may issue rules for sports book operators flexibility to offer esports betting pending further permission from regulators. As other states work to enact sports betting legislation, it is likely they will follow in the path of New Jersey and Pennsylvania.

And for good reason. The esports market is growing exponentially. Until 2023, it is estimated that the esports market will generate $1.3 billion in revenue, with the United States expected to capitalize on this through tax revenue. As states turn to regulated sports betting to fund tax revenue, they must consider including esports wagering as part of the package. Sports books around the world have already seen the huge growth in wagering driven by younger, tech-savvy fans. In the United States, the incredible rapid growth of skin betting further shows the appetite for betting on online and offline sports wagering—or, worse, to ban it outright—would be a back step for any state legalizing sports wagering.

As various states move forward with legalization of sports betting, states must ensure that sports books are positioned for success well into the future. It is essential that the regulations take into consideration the unique characteristics of esports wagering. States may consider explicitly authorizing esports wagering in their legislation or simply ensuring their legislation is broad enough to encompass this growing industry. The esports industry brings an expanded demographic, offers innovative games, and is already self-regulating. States are encouraged to seize the opportunity to include esports in the category of permissible sports wagering.

Rooted firmly in the nation’s Capitol with strong relationships and credibility across the Branches of government, Ifrah Law’s diverse range of corporate services for clients across the spectrum of the gaming industry, including attorneys, consultants, and industry experts, focuses on helping you navigate the ever-evolving landscape of sports, fantasy sports, social gaming, esports, and more.

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As Practice Group leader of the Firm’s Data Protection and Cyber Security group, Michelle Jones advises online companies, including but not limited to daily fantasy sports and esports companies, on privacy matters such as the drafting of online terms and conditions, and the preparation of legal opinions and analysis to support launching of services, including working with payment processors. Michelle also leads Ifrah Law’s Sports, Gaming, and Esports Services, guiding companies which collect, store or manage the personal data of European residents on compliance with the General Data Protection Regulation.

O’Connell Lottery Industry Lifetime Achievement Award

Matthew Whalen

O’Connell has been a leader in the lottery industry and implementation. His work in these areas has set the standard for how modern lottery leverage and evaluate technology.

In less than a decade, Matt rose to the positions of Vice President, Systems Integration, Vice President, Research & Development and Vice President, International Technology Solutions. In 2008 he was named Senior Vice President of Global Technology Solutions and in 2012, CTO of Lottery. Matt has led more than 1,500 system integration projects with an annual delivery performance consistently more than two-million labor hours. "Matt’s ability to deliver to customers what we need while keeping at the forefront of Responsible Gaming principles has been a cornerstone to the global lottery industry," said Rebecca Paul, Chair, Corporate Social Responsibility Committee of the World Lottery Association.

In 2010, when lotteries in the United States began to cross-sell Powerball and Mega Millions, Matt marshaled the people and resources to ensure that 27 jurisdictions had the technological capabilities in just a few short weeks. During the record $1.6 billion Powerball mega-jackpot in 2016, Matt led a nationwide team across 27 jurisdictions. An annual maximum uptime of 99.99 percent with an average of more than 500,000 transactions per minute across 386,000 terminals, and more than one trillion transactions in the final week.

Matt was instrumental in the conceptualization, design, execution and delivery of IGT’s new core lottery system, Aurora. He has been the architect of omni-channel capabilities providing a seamless player experience across all channels. Internationally, Matt and his team have collaborated with jurisdictions like the example of B2B and B2C lottery platforms customized to meet specific partner requirements, as well as machine-to-machine connectivity in the U.K. (Camelot), Finland (Veikkaus), New Zealand, and Singapore. New functionality delivered during delays for omni-channel North America as well as in Germany, France, Portugal, Israel, South Africa and Belgium has been integrated into future product releases. Leasing, the leading lower risk labor intensive, additional multi-jurisdictional products and international opportunities.

O’Connell is a Certified Public Accountant and 2014 recipient of the Mayor Peter J.