

Red Tape Redemption: Global Regulation of Video Games

April 16, 2020



Join Steve and Nick as they dive into the complex and conflicting world of global video game regulations. They discuss various countries' approaches to regulation, provide tips on how to enter coveted foreign markets, and peer into the future of video game and esports regulations in the United States and abroad.

Transcript:

Steve Blickensderfer: Hello and welcome to another episode of the LAN Party Lawyers podcast. My name is Steve Blickensderfer and I'm joined by my cohost, Nick Brown. To our regular listeners, welcome back. To our new listeners, on this podcast we tackle issues at the intersection of video games, law, and business. Through debate, discussion, and interviews, we focus on the legal issues in particular and offer our takeaways and thoughts. But remember: nothing we say is legal advice.

Today we're going to be talking about the concept of government regulation of video games. Nick, when I'm talking about this - government regulation of video games - could you maybe give us the lay of the land of what that might mean?

Nick Brown: Absolutely! So we're going to be looking at this topic from a global perspective, not from the perspective of any one country. And we're not today going to be talking about laws of general applicability like intellectual property laws or employment laws that may affect video games companies just by virtue of them being companies that create things. Instead, today we're going to talk about issues where a government introduces a law or regulation that regulates video games specifically. And we're going to explore different approaches to that regulation like what type of games are allowed or how games are allowed to be enjoyed or whether particular in-game activities are permitted, like, for example, loot boxes or micro-transactions. Although we have separate episodes on those which we recommend you take a look at, today we're going to focus on other elements of the regulatory scheme.

So, the first, and we're going to start with the biggest one, which is countries that have banned particular games entirely. Steve, why don't you tell us about that?

Steve Blickensderfer: Yeah, it doesn't get any more clear than when a government just straight-up bans a video game. And there are a few of them that banned them last year, actually. I guess it was a popular year for banning video games and a few specific ones. So let's start with the country of Nepal, which in 2019 banned a game called Players Unknown Battlegrounds or PUBG...

Nick Brown: PUBG. Right.

Steve Blickensderfer: ...which was made by South Korea's Bluehole. And the government telecommunications regulatory body cited concerns that that particular game was distracting children from schoolwork and other duties resulting in violent behavior from addicted players. When pressed for specific incidents or proof, none was offered. But ultimately...

Nick Brown: Imagine that!

Steve Blickensderfer: ...yeah...

Nick Brown: Nepal was not able to produce the evidence that no one on the planet has found yet that violent behavior is increased by video games.

Steve Blickensderfer: Well, we'll put a pin in that for later because that theme...

Nick Brown: *[laughs]*

Steve Blickensderfer: ...might be coming back. But this ban in particular was lifted later by Nepal's supreme court under its constitutional guarantee of freedom of expression. So that's Nepal, but it doesn't stop there, Nick. Iraq also banned a specific game, this time PUBG and also Epic's Fortnite, a very, very popular game, which many people know or their children know it. This particular ban was voted on by the Iraqi parliament and they cited the negative influence of these particular games on the young in a country long plagued by real life bloodshed, which, as you can imagine...

Nick Brown: Right, because these are the only two violent games...

Steve Blickensderfer: Right. Right, right.

Nick Brown: ...that are out there.

Steve Blickensderfer: Right, well, they are among the more popular ones. But it wasn't just the parliament in that country that got on the bandwagon. Influential religious leaders in the country also called on the government to ban PUBG saying, "It's not a game for intelligence or a military game that provides you with the correct way to fight." Because, Nick, you know, that's the only reason why you play video games. So, that you can learn...

Nick Brown: I was going to say. The correct way to fight comment, they may have been watching me. They're probably right with that, but I don't know. Some people are pretty strategic about it. But, didn't Jordan also ban PUBG. I mean, this one game is getting banned all around the world, right?

Steve Blickensderfer: Right. It's just getting singled out left and right. Jordan in 2019 also banned PUBG. This time they cited, in addition to all the other stuff that was already mentioned, they represented, they misrepresented a World Health Organization study as classifying PUBG as a violent game leading to addiction and social isolation. And, again when reporters pressed for this, they we're unable to find any such report.

Nick Brown: So hey, well, you know, I will say last year PUBG hit it big and this year we're all socially isolated, so, maybe they were on to something.

Steve Blickensderfer: Yeah. Exactly. Maybe Jordan was right. I, you know, the verdict's out on that. But that does not end our list of countries to ban individual games. India joins the ranks. They had regional and temporary bans in March of 2019 citing PUBG's again, they reported negligent, here again, negative influence of this violent video games on the health culture and security of their society. And, this was in particularly notable: if you're found playing the games, when the ban went into effect, you could be prosecuted under the penal code that covers disobedience to an order lawfully promulgated by a public servant. I can't get any more general than that...

Nick Brown: *[laughs]* Yeah.

Steve Blickensderfer: So, you know, just a side note: there are concrete reports disputing the link between video games and violent behavior. And, now the World Health Organization, who is actually embracing gaming as a way to stay isolated as you say Nick, and to stop the spread of COVID-19, which we're all currently undergoing. So, interesting how things turn around.

Nick Brown: Yeah. That was a pretty quick 180. But you know, not all games - I'm sorry. Not all countries are outright banning games. A lot of countries, they are and have for a long time now, been regulating the player use or consumption of the games without outright banning them, And so, we're going to tell you about a couple of examples of those. The first one is one a lot of people think of which is Germany.

Germany has a set of what are called Youth Protection Laws, which historically were among the strictest in the world. Although, we've seen a trend were they've kind of relaxed since the 80s and 90s when they were in their hay day. And, so what did they do? They prohibited a bunch of violence and graphic content. And, so to get around these restrictions, you know, game companies still wanted to sell their product and so they did things like changed the color of blood from red to green. So, when you shoot someone they're spouting this green stuff. Or changed the game such that you fight aliens instead of humans. They'll remove the assets for human enemies and replace them with aliens or something else.

Steve Blickensderfer: And you can imagine, you know, for a game company it could be as little as changing the skins or a few lines of code, or it could be a big overhaul, depending on how much of that is a part of the core game mechanic.

Nick Brown: Right, and some of the games as a result never made it past the filters, and they were actually banned in Germany. And, it wasn't just fringe games. We're talking classics like Wolfenstein, Doom, Quake and Duke Nukem - household titles. And so what we saw is that in the 90s the industry shifted to a more self-regulation model. So, here's a very high level look at how it works. Keep in mind, we don't practice in Germany. And I don't speak German, so this is a little bit of a translation, but I think it will give you a flavor of how it works.

Basically, the baseline rule was that you couldn't distribute a game in Germany for a while without a particular rating from the regulatory body, which is abbreviated USK, because, again, I don't speak German.

Steve Blickensderfer: You say my last name so well though, so I figured you probably speak German.

Nick Brown: We'll call it the Blickensderfer body from now on since I can pronounce that. But, the way it works is the government cannot ban a game that has been rated by the USK, but at the same time the USK cannot rate certain games based on a certain factors that are governed by law. So, factors that go into games not getting a rating, these include things like gratuitous violence, high frequency of killings, or extreme violence against human enemies.

Notably, zombies were at one time treated like humans. So, games where you don't actually fight the living people, like Dead Rising or Killing Floor, were not rated by the USK.

Steve Blickensderfer: That doesn't make any sense. Everybody knows that zombies are the undead, they are the opposite of humans.

Nick Brown: Well, you know, sometimes I guess the message takes a while to get through. One adaptation that we saw, kind of like replacing enemies with aliens, was on the other end: replace enemies with robots. Who gets mad if you shoot a robot, right? And, so that's what they ended up doing for the Germany versions of Half-Life and Command and Conquer 2. You know, large following games. And so what this did is it eventually resulted in kind of a predictable pattern regarding what this rating body would actually rate. And game companies found it very helpful over time with that precedent that allowed them to figure out what might be considered legit going forward.

And, what we've seen is this is how it still works in Germany, although, the rating system has loosened a bit over time. One famous example is that for a long time there was understandably a zero-tolerance policy on Nazi symbols in games in Germany. But now it's been relaxed to the point, where - not that it's, you know, free reign - but, it's possible that games with Nazi symbols can get through the ratings filter. Games are looked at on a case-by-case basis. For example it would be really hard to play Wolfenstein without the Nazis, who are a big part of the plot of that game. So, they're still dealing with that and it's developing overtime.

Steve Blickensderfer: Just to jump in there, Nick. This actually reminds me of something we have here in the U.S. If you're a game company and you need to put up a privacy policy to comply with privacy laws that require privacy notices or the Children Online Privacy Protection Act, COPPA, the industry has a regulator or it's self-regulating through the Entertainment Software Ratings Board, the ESRB. And, they have created basically a structure through which, it's like a safe harbor. If you go to them and you get an ESRB privacy certified privacy policy you are effectively going to check off

the boxes that the regulator is looking for. And, you have, like, this safe harbor for any alleged violations just by using that approved privacy notice. So, it's like working with the German regulator, the regulatory body, and the government regulator won't necessarily go after you. So, anyway just reminded me of that and wanted to mention that.

Nick Brown: Yeah, that's good stuff. There was one thing, though, that I wanted to mention about this German system, which is remarkable to me, which is that as game distribution and digital has grown ubiquitous around the world, a loophole in the German system has grown and it has grown so big that it risks swallowing the entire rule. And, what is that loophole? That's that the youth protection laws apply only to games that are sold on physical media.

Steve Blickensderfer: Wow.

Nick Brown: So, I don't know about you but I don't buy a lot of physical games nowadays. I struggle to come up with five that I've bought in the last ten years.

Steve Blickensderfer: They just don't make them anymore. I mean, there are a few outliers but that's just not the norm anymore. It's all digital.

Nick Brown: Yeah, game buyers are usually not throwing away packaging because nowadays or at least PC games, they're almost all digital, or at least have a digital offering and most people find that more convenient. But, what does that mean for Germany? It means that online media does not require rating and so a lot of the products that would be outlawed if they were in physical get around it by being digital.

Nonetheless, a lot of these companies are still having their games rated voluntarily even though they don't have to just because they want to play it safe and they want to be seen as doing the right thing and complying. And that way even if they're kind of afraid that, I don't know, they've gotten an edge case that might or might not make it over the hump, if they make the changes that are going to be, you know, considered acceptable by regulatory body then they can save themselves a lot of trouble. And, so we've seen that happening.

Steve Blickensderfer: I think we've covered Germany pretty well. So, I think it's time to move on.

Nick Brown: Yeah I think so.

Steve Blickensderfer: And then there's China. Right? I think that everyone was kind of waiting for when we talk about China.

Nick Brown: That's the big one on the list.

Steve Blickensderfer: It's a big one right? It's the home of Tencent. If you, most of you have probably heard of Tencent. If you haven't they own 100% Riot.

Nick Brown: You've heard of Tencent whether you know it or not.

Steve Blickensderfer: Right, inevitably one of these companies you've heard of. They own Riot, the League Legends maker. They are an investor in Activision Blizzard, in Ubisoft, in Epic. They also are an investor in the Chinese streaming platforms Huya and Douyu. I don't know, I have not been on those platforms. It's the equivalent of Twitch and Mixer or, you know, the other bigger streaming platforms in the U.S. Also, in China is NetEase. May not be as well known as Tencent but that's in the on demand music streaming service space. So, suffice it to say that a lot of companies there. It's a big industry.

Chinese, China's game market was the largest in the world in 2019. It had a market of 36.5 billion, and that's compared to the U.S., which was 35.5 billion per Newzoo reports. And that's not much of a difference actually. I did think it might be a bigger gap but it just goes to show you China is a big market and game companies want to be there. Right? So, as of 2019 the industry reportedly was 36 billion, 600 million players, and 200 public game companies for a total of 6,000 total game companies, that are in China...

Nick Brown: Wow.

Steve Blickensderfer: ...which just goes to show you how big that industry is in China.

Nick Brown: It's also famous for its internet censors...

Steve Blickensderfer: That's right. The great firewall of China, which blocks individuals like PewDiePie and companies such as Facebook and Google.

Nick Brown: Yeah, and the reputation of China's game censorship regime has actually, possibly gotten even bigger than the regime itself. I know from being in online communities over the years and talking to people that it's commonly believed that China actually prohibits certain things in their games. For example, like skeletons in games. People will routinely point to famous examples like World of Warcraft or Dota 2 where the version of the game that exist everywhere else in the world has a skeleton, and you then you show up on the Chinese version and the skeletons have been replaced with something else, either some other ghoulish looking guy or something else that's not a skeleton. People have attributed this to a ban in the censorship rules on skeletons in particular.

Steve Blickensderfer: You can say. It was Reddit. If it's on Reddit, it must be true.

Nick Brown: *[laughs]* Definitely, the rumor exists on Reddit but it's not confined to Reddit. But, the truth is, there is no ban on skeletons in China. Plenty of games in China include skeletons. But what we are going to see is the censorship regime there is very complicated and it's very much left up to interpretation. And, on top of that you're seeing additional confusion because, like we mentioned a minute ago, we're seeing a lot of self-censorship by gaming companies that are trying to play it safe.

So, it leads to a lot of misunderstandings. So, China has a game approval process and a game censorship process. And I'm just going to go through the list of things that can run a game afoul of what China's regime thinks is OK.

Steve Blickensderfer: I'm envisioning very clear lines, unambiguous terms so you clearly know what you can and cannot do. Go ahead.

Nick Brown: Oh, yeah.

Steve Blickensderfer: Go ahead. Go for it.

Nick Brown: It's all black and white. So one of them is actually kind of black and white, although anyone who listened to our loot box inaugural episode knows that even this is up for debate: gambling related content or game features.

Steve Blickensderfer: Not clear.

Nick Brown: Not clear.

Steve Blickensderfer: No. Definitely not clear. This particular issue is getting much fuzzier as we go along. But go ahead. I get it. Maybe out of the whole list this was the clearest, which means we're off to a bad start. Go ahead. *[laughs]*

Nick Brown: Yeah, I was going to say, in a few items this is going to look pretty clear to you, I'm thinking.

Steve Blickensderfer: OK.

Nick Brown: The next one's also relatively clear: anything that violates China's constitution. That kind of makes sense. Right?

Steve Blickensderfer: Right. Anti-constitutional behavior. OK.

Nick Brown: And then we're getting a little farther away: anything that threatens China's national unity, sovereignty or territorial integrity.

Steve Blickensderfer: OK.

Nick Brown: The next one: anything that harms the nation's reputation, security, or interests.

Steve Blickensderfer: Alright.

Nick Brown: We're only at four out of, like, ten. So you can also get your game banned or censored for anything that instigates racial or ethnic hatred or harms ethnic traditions and cultures.

Steve Blickensderfer: OK.

Nick Brown: Some of that makes sense but I don't know what harming an ethnic tradition would be in a video game. Nonetheless, it goes further: anything that violates China's policy on religion by promoting cults or superstitions.

Steve Blickensderfer: Borderlands is out. [*laughs*]

Nick Brown: Yeah, right! [*laughs*] Anything that promotes or incites obscenity, drug use, violence or gambling, violence being the catch-all because a lot of games contain violence. Regulators can say that they're promoting it. It goes farther: anything that harms public ethics or China's culture and traditions. That's the one, by the way, that a lot of people think that the skeleton ban, purported skeleton ban falls under.

Steve Blickensderfer: Yeah.

Nick Brown: Culture and traditions. There's a couple more: anything that insults, slanders, or violates the rights of other. OK. Violates the rights, yeah. Insults, I don't know. That's a little harder case. And finally, the catch-all: other content that violates the law.

Steve Blickensderfer: OK. That's very clear. [*laughs*]

Nick Brown: Yeah, what is the point of going all through these - not that you need to memorize them - but as you can see, this is a long list that is wide open to interpretation.

Steve Blickensderfer: Right.

Nick Brown: Depending on what angle you look at it, I bet you can get almost anything onto this list.

Steve Blickensderfer: So let's add to the complexity a bit and talk about the regulatory process by which games get approved. Right? There's actually a limited number...

Nick Brown: I like to give Steve the boring topics.

Steve Blickensderfer: Yeah. Of course.

Nick Brown: So, yeah. Go ahead.

Steve Blickensderfer: I'm going to put you asleep for a second.

Nick Brown: *[laughs]*

Steve Blickensderfer: I'm going to try not to, actually. So there is a limit on the number of games that can be approved each year. And the regulations have tightened the restrictions on games with gambling and the stuff that you mentioned above. Right? So China is actually famous in 2018 for actually stopping entirely the games approval process. This actually began in around April, 2018 and reportedly stopped around December. So you can imagine pretty...

Nick Brown: It was a complete market disruption.

Steve Blickensderfer: Right. So the entire year pretty much of 2018, no games were getting approved, no games were going through. So even AAA titles like Monster Hunter World, which was developed by Tencent, who is a very large game company, had to abort its launch of that title due to the violence in the game and just the fact that none of these games were getting approved for release in 2018.

Nick Brown: Violence that is pretty much generally directed at mythical creatures.

Steve Blickensderfer: Yeah. So the key regulator for this that's looking at all these factors, including violence against mythical creatures, is the State Administration of Press and Publications or SAPP for short. And SAPP was formed as part of a government restructuring of a larger organization, the State Administration of Radio, Film, and Television and is now in charge of these game approvals. So in 2019 new regulations were announced and, among other things, Chinese publishers were encouraged to self-regulate and promote titles with China's core values in mind while avoiding misrepresentation of history and politics and law. So.

Nick Brown: Easy!

Steve Blickensderfer: Yeah. Totally. So let me give you an example. PUBG that we've referred to previously in this episode, they were rebranded as the Game of Peace as a result of this. And Game of Peace has the...

Nick Brown: That is brilliant, by the way. My hat's off to them. A game called Battlegrounds where all you do is literally run around and shoot people renamed Game of Peace. I give that two thumbs up.

Steve Blickensderfer: Right. It even has the official support of the People's Liberation Army Air Force. Right? You fly PLAAF planes and they have their military hardware in there. And the most interesting thing - you'll love this, Nick - when a bullet hits another player, sparks are seen instead of the green blood from the Chinese PUBG mobile version.

Nick Brown: Peaceful sparks.

Steve Blickensderfer: Peaceful sparks. And when players...

Nick Brown: Yeah. Good. Okay.

Steve Blickensderfer: ...are shot they no longer die, but they wave their hand goodbye and disappear. And that's the peace of it all.

Nick Brown: Thank you for shooting me! *[laughs]*

Steve Blickensderfer: *[laughs]* These new regulations, they also require a business plan with a revenue approximation, which actually is probably pretty helpful. But this particular country requires it. Others won't. But that's just some of what these new regulations in China require. But there are more, Nick. And I think you're going to tell us about them.

Nick Brown: Yeah, so the Chinese government doesn't just wait for a game to get approved and be released and then it never looks at it again. They're also watching and are still censoring games that have previously been approved based on subsequent changes either in the world or to the game. And we've recently seen a very conspicuous example of this. Everyone knows that the world is undergoing this coronavirus outbreak that's leading to this COVID-19 illness. Well, after the illness started spreading in China, where I understand it spread the most first, the Chinese government actually...

Steve Blickensderfer: Some would say originated, Nick.

Nick Brown: Yeah, some would. The Chinese government actually pulled a game that had been out for eight years. It's called Plague Inc. It's a very clever little game. You actually play as the virus and

your job is to infect the entire world. That's the whole point of the game. It's a clever little mechanic. But the Chinese government yanked the game after it had been out for eight years because they said it included illegal content. It just happened to occur right after the actual virus started spreading and getting big and people started downloading this game and playing it. It incurred a giant swell in interest even though it had been out for a long time. It topped the charts in China and then the Chinese government yanked it for being, apparently now, illegal. So keep in mind, it's not set it and forget it. Once it's out they still retain the ability to yank it.

Steve Blickensderfer: Right. There are illegal games out there. What will be the next one? Who knows.

Nick Brown: Yeah. Chinese law also places restrictions on players. It does things like limit the amount of time or times of day or types of games that can be played by minors. One big example we've seen is that in 2017 Tencent began implementing restrictions for its hit mobile title Honor of Kings that I'm sure you've all heard of. It limited players under the age of 12 to only 1 hour per day and 2 hours for people between 12-18. Reminds me a little bit of the restrictions I had to deal with in my domestic household growing up that I found creative ways around.

Steve Blickensderfer: You said you weren't going to make it personal, Nick, and you made it personal.

Nick Brown: Yeah. *[laughs]*

Steve Blickensderfer: *[laughs]*

Nick Brown: China also has a real-name registration system and has had it since 2007. And basically the way it works is users are required to verify their age by registering in-game with their real name, which will check it against a government database and determine if the player is a minor. I don't know about you but I don't play any games under my real name and it would be scary to do that. I think it might end up actually in some improved online behavior if people couldn't be so anonymous. But nonetheless, that's the rule in China and has been for some time.

Steve Blickensderfer: Right.

Nick Brown: They also even have regulations on the back-end that ensure the database is updated and make it more difficult for minors to bypass it by just giving their buddy's ID.

Steve Blickensderfer: It's interesting that this has been out since 2007 and yet China is famously known for having, or that region is famous for having the most malicious type of gaming behavior, people who are trying to hack games...

Nick Brown: Right.

Steve Blickensderfer: ...trying to cheat at games. And that typically happens in that part of the world. So, to the extent one has to do with the other, I don't know if it's helping. But, that's the reality over there and the privacy lawyer in me kind of shudders to think about stuff like that.

Nick Brown: Yeah. The given reasons for these types of regulations range from health reasons like preventing myopia, because apparently they're very concerned about the students' eyes, to quelling parents' concerns with children playing mobile games without limits, and, of course, the ever-popular preventing further violence.

Steve Blickensderfer: And not all of this is bad, right? There's actually a publisher-driven push to create an age rating system with more than two categories. Actually four for ages 6 and up, 12 and up, 16 and up, and 18 and up. And players determined to be younger than the age rating on a particular game would be restricted from playing entirely. These types of age regulations are not limited to China. There are other countries that have considered or have them. Thailand, Vietnam, and South Korea also have or had laws that restrict minors of various ages from playing online games between certain hours. And Japan...

Nick Brown: Yeah, we saw some places in Japan proposing them too as recently as I believe January, 2020, although to my knowledge none of those have passed yet and they would be more locally oriented than nationally.

Steve Blickensderfer: Right. There are other elements to China's - we're not done with China just yet - there are actually other elements to their regulatory system as it relates to games. There are actually restrictions on streaming games for all you streamers out there. This effort is publisher-driven and establishes rules for streaming game content in response to the government's internet governance requirements. So in effect the game companies are trying to help the government to an extent regulate the content that's being put there, created when their games are being played. And as you can imagine, the game companies have more of an ability in some ways to regulate that than the government itself because they can maybe withdraw the game from being played and otherwise place limits on streamers.

So what do these rules actually look like? Well, there's actually a ban of content with negative social influences, which would knock out a number of streams that I've seen.

Nick Brown: Well, that's because you watch some weird stuff, Steve.

Steve Blickensderfer: Yeah, well. There you go. To each his own.

Nick Brown: *[laughs]*

Steve Blickensderfer: There's also a rule not to violate the spirit of contract, which was very interesting to read up about. This effectively means you can't unilaterally terminate the contract or sign other unexcused agreements with third parties during the term of a contract with a streaming platform. And you can imagine, this kind of gets violated these days more frequently than others when...

Nick Brown: Yeah.

Steve Blickensderfer: ...folks are switching...

Nick Brown: Switching platforms.

Steve Blickensderfer: ...platforms, right, from Twitch to Mixer to YouTube if they have an ongoing contract with another platform.

Nick Brown: And back sometimes.

Steve Blickensderfer: And back, right. But interesting in this case, there's actually an example of a Chinese streamer who once signed a contract with a rival streaming service in China while signed with a competitor resulted in a significant fine, over \$7 million US dollar fine to this streamer...

Nick Brown: Oh, boy.

Steve Blickensderfer: ...which is just crazy. And also...

Nick Brown: Why are they fining him in American dollars?

Steve Blickensderfer: I don't know. I don't know. But I think we've...

Nick Brown: *[laughs]*

Steve Blickensderfer: *[laughs]* I don't know. I think I looked up the equivalent of US dollars. Maybe he had no US dollars. I don't know.

Nick Brown: I assumed it was in equivalence. *[laughs]*

Steve Blickensderfer: No, it was equivalent. I'm joking. Let's close the chapter on China and let's move on. I think we've got time for one more country, Nick. Let's move on to South Korea.

Nick Brown: Yeah, love talking about South Korea where I understand StarCraft is the national sport and I can get behind that. So even in South Korea, of course, where gaming is absolutely part of the culture and they lead a lot of the world in terms of developing esports and gaming and cultural norms in this area. They are also introducing very interesting laws that regulate gaming in new ways that we haven't seen elsewhere. So for example, they have something called the Game Industry Promotion Act, which - and this blew my mind; I had to look it up to make sure I wasn't getting trolled - it criminalizes boosting. So what is boosting if you don't play games? Boosting is something where some games take a long time to progress and you've got to grind them and there's a whole big long progression system. And people with jobs who are not quarantined at home may take a lot of time to actually get up to the point of the game where they get competitive and get exciting. And so to skip and save time, they will pay other people to play on their account and rank them up, get through the beginner stuff, get through the tutorials, get through the grinding part so they can at the end just skip to the fun part where you pound on people who don't know what they're doing. Well that is...

Steve Blickensderfer: I wouldn't say pound on. I would say something else.

Nick Brown: *[laughs]*

Steve Blickensderfer: *[laughs]*

Nick Brown: So whatever streams you watch, Steve, geez, let's keep that offline. OK?

Steve Blickensderfer: OK.

Nick Brown: And so it blew my mind that that's actually illegal in South Korea. Over here it's, you know, a clever way to make money. Over there, it is illegal. The punishment is a fine of up to \$20 million Won, which is roughly \$18,000. See, there they fine them in Won and then they...

Steve Blickensderfer: I figured you were just going to...

Nick Brown: ...convert it over here.

Steve Blickensderfer: I figured you were just going to say just a punishment of \$18,000.

Nick Brown: *[laughs]*

Steve Blickensderfer: *[laughs]*.

Nick Brown: American.

Steve Blickensderfer: American dollars. If you don't have it, no fine.

Nick Brown: *[laughs]* And it also can come with a prison sentence, believe it or not...

Steve Blickensderfer: Geez. That's crazy.

Nick Brown: ...which is astonishing. It just blew my mind. I didn't believe that at first but it is true. In addition...

Steve Blickensderfer: You're going to have to stop boosting accounts, Nick. You're going to get caught.

Nick Brown: Well, it's not illegal over here.

Steve Blickensderfer: *[laughs]*

Nick Brown: So also the South Korean government created the Korean Esports Association in 2000. I think we've mentioned it briefly previously when we were talking about some esports issues, but it's referred to as KESPA and it is, as we understand, the first in the world state-sponsored promotion of esports.

Steve Blickensderfer: Hand clap. From 2000, by the way. This was over 20 years ago.

Nick Brown: I'm telling you, they're ahead of their time.

Steve Blickensderfer: Yeah.

Nick Brown: They have been for a long time. And, you know, I don't think that's going to stop. So what happened recently, in November of 2019, KESPA made the news because it had an investigation it conducted along with Riot, who makes League of Legends, into alleged misconduct by the director and coach of a Korea League of Legends champions team. And because KESPA is a government-sponsored entity, Korean lawmakers chimed in and got involved themselves. And so that became a big deal. We're probably a few years out, but can you imagine the United States government getting involved in investigating PUBG tournaments?

Steve Blickensderfer: No. But it's...

Nick Brown: It's hard to imagine over here.

Steve Blickensderfer: But it's happening over there, which is kind of the point. It's crazy.

Nick Brown: Which means, yeah, you can expect it here in a few years. You heard it here first, folks. In addition, KESPA does not tolerate match fixing. It's a big deal over there. One particularly big match fixing event that we all remember involved StarCraft II. There was a player routinely regarded as one of the greatest players in the world, easily the best Zerg player, a 15-year-old named Life. And he was actually involved along with another player called Bbyong who actually got prosecuted for match fixing StarCraft. I don't remember if it was StarCraft or StarCraft II.

Steve Blickensderfer: I think it was StarCraft II.

Nick Brown: I think it was II.

Steve Blickensderfer: Yeah.

Nick Brown: But they were prosecuted for receiving money for the match fixing along with everyone else that was involved. Life got prison time, a three-year suspension, and a big fine.

Steve Blickensderfer: It's a big deal, man.

Nick Brown: They take it very, very seriously.

Steve Blickensderfer: Right. The integrity of esports is a big deal and we may talk about that in the future. But they have laws in place in South Korea to protect against that, right, and send a message. If anything, that was really about sending a message. So why don't we shift gears and talk about some trends that we see through all this. Right? There's inevitably a law we skipped, a jurisdiction we didn't cover. Please forgive us. We're just trying to give you the highlights.

Nick Brown: You mean there are more than four countries in the world?

Steve Blickensderfer: There are more than four. Only a few more. But we see some patterns between all this and I was just going to highlight a few of those. There's a growing concern over violence in games in particular parts of the world. And I don't suspect we're going to see a slowing down of regulations.

Nick Brown: It's never going to go away.

Steve Blickensderfer: Right. That's kind of been a consistent theme.

Nick Brown: Despite the lack of any evidence to support it.

Steve Blickensderfer: Right. Well, you know. I feel like that's not going to go away. If it's increased - I feel like it's increased. 2019 was almost a watershed in terms of countries just banning games. So I suspect more will get on the bandwagon in some way, shape, or form.

And also expansion in the regulation of digital offerings. We're seeing that increased frequency of discussion of loot box regulations. We haven't really touched upon that in this episode because we've talked about it in others. But I suspect we're going to see more about regulating the micro-transactions and different ways you sell and monetize games. I feel like that's going to be another, increasingly resulting in new laws in new places.

Nick Brown: Right. And not just the existence of micro-transactions, which everyone already knows about, but in particular the regulation of data and transactions that are aimed at or involve children. We've seen a lot about this, we've talked about it in some other podcasts where this has come up recently in the UK, it's come up recently in Australia. And it's also come up recently in the United States where the United States has proposed but not passed federal legislation that would heavily regulate loot boxes and micro-transactions throughout the country, which would be the first of its kind if it ever passes. To our knowledge, there's no other federal law in the United States that directly affects video games and loot boxes like this one would. But it shows you that there's a trend that lawmakers are taking note. As people who grew up playing games are now themselves growing up and having children, as they're growing up and becoming business leaders, they're community leaders, they're legislators. These issues are on their mind because they've grown up with them whereas maybe a generation ago there was more of a divide and less of a common understanding.

Steve Blickensderfer: Right. So it's little surprise then, Nick, that game companies have a lot, a lot to consider when releasing their games both at home and in foreign jurisdictions.

Nick Brown: Absolutely.

Steve Blickensderfer: You know, there are teams and lawyers familiar with laws in various parts of the world that help game companies get the required approvals and ratings for games. We've actually had experience helping game companies do business in China, for example, which is a highly, as we've discussed, complex...

Nick Brown: The crown jewel market.

Steve Blickensderfer: Yeah. Complex system over there. But boiling it down, it comes down to understanding the landscape, working with the regulators to get deals done, which in turn often requires having relationships with boots on the ground in those particular jurisdictions and then a general awareness of the differing regulatory schemes because knowing what you can and cannot do in a certain area if that's your target, you might not be able to design an entire game.

Nick Brown: Not to mention how these things change over time. Right? Like we mentioned earlier, what South Korea does in year X, America often does in year X+10 or 15. So as these things are, a lot of this legislation is leading overseas, don't think for a minute we're safe from it over here in the United States so that it'll never make its way over here. It may be in a different form due to certain regulatory or legislative or cultural differences, but we've already seen this legislation proposed in the United States and it hasn't passed yet, but it's not going to be the only one. Ten or fifteen years from now you may see things like we're seeing in South Korea where the government's involved in the national esports tournaments.

Steve Blickensderfer: Right.

Nick Brown: Stay tuned and keep a watch on how this stuff changes over time and hopefully we here in the US as we move up and try to regulate in this area, we can learn from some of the lessons that the early adopters had to deal with.

Steve Blickensderfer: Right. You know, if anything just having a global awareness of this whole thing helps. Right? When we do hear about proposed legislation or regulation, we can say oh, well, you know, it didn't work in X jurisdiction so that's one thing. Right? And another, just to be clear, this entire episode was all about countries regulating games not necessarily bodies that were setting standards and regulations. Like, we're seeing increased activity when it comes to regulating esports from an industry standpoint, not necessarily a government standpoint. That's what makes South Korea so special in that regard. But, I digress.

In any event I think that covers today's episode, Nick. Be sure to check out our other episodes from seasons one and two of the podcast. You can connect with us on Instagram, Twitter, and our website lanparylaws.com. We love to hear your thoughts and comments and opinions about the topics we cover, so if you have any please reach out.

Nick Brown: Yes, please keep sharing them.

Steve Blickensderfer: Good. Nick, unless you have anything else to add...

Nick Brown: That's all I've got. Everybody, please be safe, be careful, and play some video games.

Steve Blickensderfer: Game on.

Nick Brown: Game on.

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