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Organising Esports Tournaments in Japan: Navigating Legal Challenges and Implementing Practical Solutions – Part 2

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1. Introduction¹

Organizing esports tournaments in Japan requires legal compliance with three key frameworks that shape the regulatory landscape: (A) the Act against Unjustifiable Premiums and Misleading Representations, (B) gambling offenses under the Penal Code, and (C) the Act on Control and Improvement of Amusement Business. Each of these laws plays a critical role in ensuring that esports events are conducted legally.

In Part 2 of our series, we delve into the specific challenges and requirements of (C) the Act on Control and Improvement of Amusement Business, providing a detailed exploration of how to navigate these complex areas. For a comprehensive understanding of (A) the Act against Unjustifiable Premiums and Misleading Representations and (B) the gambling regulations under the Penal Code, please refer to our previous article in Part 1.

2. Legal Challenges in Organising Esports Tournaments in Japan (Cont.)

2.3 The Act on Control and Improvement of Amusement Business

The Act on Control and Improvement of Amusement Business (“**Amusement Business Act**”) is designed to promote good morals, a clean amusement environment, and the

¹ This communication is provided as a service to our clients and friends and is for informational purposes only. It is not intended to create an attorney-client relationship or constitute an advertisement, a solicitation, or professional advice as to any particular situation. Specifically, laws and regulations concerning esports tournaments are subject to frequent amendments; therefore, the information contained in this article may not always remain up-to-date. It is advisable to consult a legal advisor to confirm the legality of any specific esports tournament on a case-by-case basis.

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healthy upbringing of minors.² It does so by regulating business hours, locations, and admission policies for amusement businesses and similar enterprises.

When it comes to esports tournaments, charging players an entry fee to participate in games may be regulated under this Act, especially if the tournament is considered to operate like a game arcade business. Esports tournaments subject to the Amusement Business Act require a license from the Prefectural Public Safety Commission.³ They are also subject to various regulations, including restrictions on late-night operations⁴ and, generally, a prohibition on offering prizes.⁵

Operating such a business without the required license can lead to penalties, including imprisonment for up to two years or a fine of up to 2,000,000 yen.⁶

2.3.1 Do Esports Tournaments Fall Within “Amusement Businesses”?

The Amusement Business Act categorizes “amusement businesses” into five types.⁷ The five types are: (1) Cafes, restaurants, etc.; (2) Coffee shops, bars, etc., with an illuminance of 10 lux or less; (3) Establishments difficult to see from other places and having an area of 5 square meters or less; (4) Mahjong parlors, pachinko parlors, etc; and (5) Game arcades. When organizing an esports tournament, the key question is whether it falls under the category defined in Item 5, game arcades.

To be classified as the fifth category, game arcades, three main criteria must be met: (1) Is it an amusement facility?; (2) Is the venue a store or similar zoned facility?; and (3) Does hosting an esports tournament constitute “business”?⁸

First, the term “amusement facility” refers to video game machines that allow players to play games with the objective of competing to win or lose, or video game machines that display game results on a monitor or similar device using numbers, letters, or other means.⁹ In this context, some esports tournaments aim to have participants compete against each other using video game consoles. Therefore, the game consoles used in

² Article 1 of the Amusement Business Act.

³ Article 3, Paragraph 1 of the Amusement Business Act.

⁴ Article 13, Paragraph 1 of the Amusement Business Act.

⁵ Article 23, Paragraph 2 of the Amusement Business Act.

⁶ Article 49 of the Amusement Business Act.

⁷ Each item of Article 2, paragraph 1 of the Amusement Business Act.

⁸ “The Act on Control and Improvement of Amusement Business and Other Standards of Interpretation and Operation (Notice)” by the Director-General of the Community Safety Bureau, National Police Agency (January 30, 2018)

⁹ Article 3 of Ordinance for Enforcement of the Amusement Business Act.

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such esports tournaments can be considered video game machines with the function of allowing players to compete, thus qualifying as amusement facility.¹⁰

Second, a “store” is an independently external facility to the extent that it can be considered a single business unit.¹¹ The phrase “Similar zoned facilities” refers to facilities not considered stores but are sectioned off, like corners in shopping malls or exhibition booths at event venues. If an esports tournament is held indoors in a zoned space, it is likely to be considered “zoned facilities.”

Third, “business” means performing similar acts repeatedly and continuously for profit.¹² Whether an esports tournament qualifies as “business” is determined by considering factors such as the number of games played and the fees charged. For instance, if a participation fee is collected from participants and a profit is made in running the tournament, it may be considered a “business” even if the event itself is held only for a few days, potentially falling under the category of a game center business.

In light of the foregoing, esports tournaments may, depending on the tournament settings, be categorized as a No. 5 business (game arcade) in accordance with the Amusement Business Act.

2.3.2 Solutions for Esports Tournaments and the Amusement Business Act

First, if tournaments are conducted exclusively online without utilizing physical facilities, the Amusement Business Act does not apply. Therefore, organizing an online-only event is a viable way to avoid these regulations.

Second, if tournaments are held at physical venues, general-purpose devices like PCs and smartphones, as long as they retain their non-gaming functions, are not considered “game machines” under the Act.¹³ This means their use in tournaments does not classify

¹⁰ “Legal Issues in eSports Q&A”, edited by the eSports Issues Study Group, p.43,44 (*Minjiho Kenkyukai*, 2021). See also, Article 3, Paragraph 2 of the Regulations for Enforcement of the Act on Control and Improvement of Amusement Businesses, etc., and Interpretation and Operational Standards for the Act on Control and Improvement of Amusement Businesses, etc., Section 3-2(2).

¹¹ “The Act on Control and Improvement of Amusement Business and Other Standards of Interpretation and Operation (Notice)” by the Director-General of the Community Safety Bureau, National Police Agency (January 30, 2018)

¹² “Legal Issues in eSports Q&A”, edited by the eSports Issues Study Group, p.45 (*Minjiho Kenkyukai*, 2021)

¹³ See, Japan Esports Union, “JeSU Guidelines for Tournaments Collecting Participation Fees” (2020) <https://jesu.or.jp/contents/news/news-200924-03/>

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as game arcade operations. However, the installation of home video game consoles or arcade game machines at a venue could lead to classification as a game arcade business. Caution is advised in these scenarios.

Nonetheless, if tournaments are organized in such a manner that no profit is made from them, they do not constitute a “business” under the Act. Therefore, one possible strategy to mitigate risk is to set the participation fee lower than “the total cost of setting up the tournament divided by the maximum number of participants,” thus ensuring it does not fall into the category of “business.”¹⁴

3. Conclusion

The Parts 1 and 2 of this article have provided an overview of the legal challenges faced when organizing esports tournaments in Japan and has proposed practical solutions under specific national laws: (1) The Act against Unjustifiable Premiums and Misleading Representations (*‘Keihin-hyoji hō’*); (2) Gambling Offences under Penal Code (*‘Tobaku-zai’*); and (3) The Act on Control and Improvement of Amusement Business (*‘Fūei-hō’*). This final section will summarize such practical solutions.

First, concerning the Act against Unjustifiable Premiums and Misleading Representations, if a game maker does not operate an esports tournament, or if participants can join without buying products sold by the organizer, such prize money does not qualify as a “premium” and does not violate the Act. Further, if the game is a free-to-download app, and in-game purchases do not influence gameplay strength at all, then this arrangement does not violate the Act. For paid download game titles, if the prize money is offered as “remuneration for work” to enhance the competitiveness and entertainment value of esports tournaments by professional esports players, celebrities, etc., it does not violate the Act.

Second, as to the Gambling Offences under Penal Code, if no entry fee is collected from the players, it does not constitute “gambling.” Even if entry fees are collected, if they are solely used to cover operational costs and prize money is funded by sponsorship fees from third parties (e.g., sponsors), separate from participants and organizers, it does not constitute “gambling.”

¹⁴ Japan Esports Union, “JeSU Guidelines for Tournaments Collecting Participation Fees” (2020) <https://jesu.or.jp/contents/news/news-200924-03/>

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Third, regarding the Amusement Business Act, if tournaments are conducted exclusively online without utilizing physical facilities, the Amusement Business Act does not apply. If tournaments are held at physical venues, general-purpose devices like PCs and smartphones, as long as they retain their non-gaming functions, are not considered “game machines” under the Act. However, the installation of home video game consoles or arcade game machines at a venue could lead to classification as a game arcade business.

In conclusion, esports tournament organizers in Japan must consider these solutions when planning their events to ensure compliance with Japanese law. It is also critical to recognize that, as of now, there is no case law specifically concerning Japanese esports. The future development of the legal framework will be crucial for the industry’s growth in Japan.

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