

The Evolution of E-Sports in Indonesia: Between Opportunities and the Need for Regulation

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ABSTRAK

Dinamika E-Sports dengan cepat memberikan implikasi pada sistem regulasi yang mungkin dapat mengatur bagaimana cara dan bentuk Industri E-Sport yang seharusnya berjalan. Singkatnya, kondisi seperti itu akan secara otomatis mendorong adanya disrupsi (penyesuaian) dalam pengaturannya. Fokus pembahasan mengenai E-Sports dalam artikel ini, berkenaan dengan masalah hukum mendasar sebagai bagian integral dari ekosistem E-Sports yang kajiannya lebih menarik dan menantang berkenaan dengan dampak strategis tidak hanya pada aspek ekonomi tetapi juga aspek multidimensional lainnya. Industri yang berkembang pesat ini tidak hanya sebagai penanda era baru industri ekonomi digital, melainkan juga sebagai pengingat berbagai tantangan masalah hukum yang mengikutinya.

Kata Kunci: E-Sports, Isu Hukum, Disrupsi

ABSTRACT

The dynamics of E-Sports rapidly has shown the implication to system of regulation that could possibly arrange the way and the shape E-Sport Industry should be running. Shortly, such as condition will automatically disrupt the legal system. E-Sports in this article, concern on a fundamental set of legal issues as an integral to E-Sports ecosystem which has been more attractive and challenging regarding the strategic impact not only in the field of economical aspect but also the other multidimensional aspect. This expanding industry seems poised to bring in new era of digital economic industry, but it also needs to be aware of the myriad legal concerns.

Keywords: E-Sports, Legal Issues, Disruption

A. Introduction

One of the most remarkable yet often overlooked developments accompanying the widespread distribution of mass-market computer technology in recent years is the growing popularity of video games.¹ The transformation of the video game industry has been significantly influenced by the advent of the internet, which has facilitated the transition from solitary gaming experiences to dynamic multiplayer online environments. This shift has not only altered how games are played but has also created new avenues for social interaction and engagement among players. The rise of multiplayer online games (MOGs) has established video games as platforms

¹ Gualeni S, Fassone R. *Fictional Games: A Philosophy of Worldbuilding and Imaginary Play*. London: Bloomsbury Academic; 2023. p. 16

for social engagement, allowing players to connect and collaborate in ways that transcend traditional gaming experiences.²

The emergence of eSports represents a significant development in the realm of computer gaming, where a growing group of professional gamers is transforming gaming from a recreational activity into a professional career. This shift has been facilitated by the increasing popularity of competitive gaming, characterized by organized tournaments and professional leagues that attract substantial audiences and sponsorships.³ The establishment of competitive leagues has also played a crucial role in professionalizing eSports. Leagues such as the Overwatch League and the Call of Duty League operate on franchise models similar to those seen in traditional sports, where teams are owned by investors and compete for league titles. This model not only provides financial stability for teams but also fosters a sense of community and rivalry among fans, enhancing engagement and loyalty. The presence of team ownership and player contracts further mirrors traditional sports, as players sign contracts with teams, often including stipulations related to performance, sponsorship obligations, and revenue sharing.⁴ However, the supporting institutions within the E-Sports ecosystem still face many gaps and uncertainties. In particular, there is significant legal ambiguity that needs to be addressed in order to establish clear and formal relationships among the various stakeholders and entities, as well as to ensure adequate security and protection within the E-Sports framework.

According to most sources, the first officially recorded video game competition took place at Stanford University on October 19, 1972. The event invited players to compete in a game called Spacewar, a space combat game originally developed in 1962. Students gathered to compete against one another in this revolutionary game, with the grand prize being a one-year subscription to Rolling Stone magazine, awarded to the winner, Bruce Baumgart. In 1980, video game competitions began to enter the mainstream when Atari hosted the Space Invaders Championship. The event attracted over 10,000 players and helped bring video games out of the shadows as a niche product, firmly introducing them to the public eye.⁵

² Barr, Matthew, et al. "Playing video games during the covid-19 pandemic and effects on players' well-being". *Games and Culture*, vol. 17, no. 1, 2021, p. 122-139. <https://doi.org/10.1177/15554120211017036>

³ Bihari, Isha, et al. "Professional gaming and pro-gamers: what do we know so far? a systematic review". *Games and Culture*, vol. 19, no. 1, 2023, p. 116-135. <https://doi.org/10.1177/15554120231154058>.

⁴ Satitsamitpong, Manit, et al. "Enhancing spectator engagement in e-sports events". *Abac Journal*, vol. 44, no. 2, 2024. <https://doi.org/10.59865/abacj.2024.13>

⁵ Dave Consolazio, *The History of E-Sports*, Available at <https://www.hotspawn.com/guides/the-history-of-esports/> Had been access in March 10th 2020

In Indonesia, the history of E-Sports emerged alongside the development of the internet, which began in 1995. At that time, people could enjoy various types of online games that had previously gained popularity abroad. Online games utilizing networks allowed many individuals from different countries to access and play together simultaneously. This marked the beginning of E-Sports as a new branch in the world of sports. The rise of internet cafes (warnet) further familiarized the Indonesian public with online gaming. Officially, E-Sports made its debut in Indonesia in 1999, when the first online gaming competition was held. Quake II and Starcraft were the two games that were first competed in Indonesia.⁶ Since then, E-Sports competitions have become pioneers, serving as a gathering place for gamers in Indonesia.

A few years ago, the Indonesian government successfully hosted the 18th Asian Games, promoting the first E-Sports competition as an official sport within the event. Naturally, this presented a significant opportunity to give greater attention to the E-Sports industry, particularly in terms of its legal aspects and other related industries.

The number of E-Sports viewers is expected to continue growing, with an estimated reach of approximately 640.8 million by 2025. This growth can be attributed to several factors, including the rising popularity of competitive gaming, the emergence of digital platforms that facilitate E-Sports broadcasts, and the ongoing engagement of younger demographics with gaming culture.⁷ The COVID-19 pandemic has accelerated this trend, as traditional sporting events were disrupted, prompting both fans and organizations to turn to E-Sports as an alternative form of entertainment.⁸

By 2025, the global E-Sports market is expected to reach a value of approximately \$1.87 billion.⁹ This growth reflects the increasing popularity of E-Sports as a legitimate form of entertainment and competition, driven by several key factors. The emergence of digital platforms for streaming and watching E-Sports events has significantly contributed to viewer engagement and revenue generation. As more fans turn to E-Sports for entertainment, the market is expected to benefit from enhanced sponsorship opportunities, advertising revenue, and media rights deals.¹⁰

⁶ Arya Baginda Pangestu, Sejarah E-Sports di Indonesia, available at <https://www.phiradio.net/sejarah-esports-di-indonesia/> Had been access in March 10th 2020

⁷ Mariano L..Evaluating musculoskeletal discomfort in esports: a focus on competitive and recreational players from the Philippines and Japan. Journal of Electronic Gaming and Esports 2024;2(1). <https://doi.org/10.1123/jege.2023-0035>

⁸ Bihari I. and Pattanaik D.. Professional gaming and pro-gamers: what do we know so far? a systematic review. Games and Culture 2023;19(1):116-135. <https://doi.org/10.1177/15554120231154058>

⁹ Mahlangu N. and Naudé-Potgieter R.. E-Sports events: a sports parent's perspective. International Conference on Tourism Research 2024;7(1):466-472. <https://doi.org/10.34190/ict.7.1.2234>

¹⁰ *Op Cit.* Mahlangu N. and Naudé-Potgieter R.

This substantial revenue growth can also be attributed to the diversification of the E-Sports ecosystem. Brands from various sectors are increasingly recognizing the value of engaging with the E-Sports audience, leading to a surge in sponsorship and advertising investments. In 2021, it was reported that both endemic and non-endemic brand investments contributed a significant portion of E-Sports revenue, further solidifying the economic potential of the industry. This trend is expected to continue, with brands leveraging the unique characteristics of E-Sports to reach young demographics that are often difficult to target through traditional marketing channels.¹¹

Furthermore, the COVID-19 pandemic has accelerated the growth of E-Sports, as many traditional sports events were canceled or postponed, prompting fans to seek alternative forms of entertainment. This shift has led to broader acceptance of E-Sports as a primary entertainment option, which is likely to sustain audience growth and revenue generation in the coming years.¹²

Technological advancements also play a crucial role in the projected growth of E-Sports revenue. Innovations in streaming technology and the proliferation of mobile gaming have made E-Sports more accessible to a broader audience. As the infrastructure for E-Sports continues to develop, it is expected that more viewers will engage with E-Sports content, which will further drive revenue growth.¹³

Renowned brands such as BMW, Mercedes-Benz, Jack in the Box, Intel, Snickers, and Coca-Cola have sponsored numerous E-Sports tournaments to reach specific target audiences. The development of franchise-based leagues, similar to professional sports leagues like the NFL, is still in its early stages, but this evolution is crucial for the future growth of E-Sport.¹⁴

The growth of E-Sports in Indonesia has been rapid, as evidenced by Indonesia's position as the 16th largest market in the global gaming industry in 2017. The country had 43.7 million gamers, with total gaming revenue reaching USD 879.7 million. The gaming industry in Indonesia has the potential to generate monthly gross revenue of approximately USD 1-2 million from 300,000 players. In 2017, Indonesia's gaming revenue contribution to Southeast Asia reached 21%, making it the largest market for the gaming industry in the region.¹⁵

¹¹ *Id*

¹² Kim Y. , Nauright J. , & Suveatwatanakul C.. The rise of E-Sports and potential for post-covid continued growth. *Sport in Society* 2020;23(11):1861-1871. <https://doi.org/10.1080/17430437.2020.1819695>

¹³ *Op Cit.* Mahlangu N. and Naudé-Potgieter R.

¹⁴ James Fong and Brian Trench, *The Rise of a New Entertainment Category: E-Sports*, UPCEA Center for Research and Strategy, Washington D.C., USA, 2019. Page 2.

¹⁵ Badan Kebijakan Penanaman Modal Republik Indonesia (BKPM RI), *Indonesian E-Sports*, available at https://www.bkpm.go.id/images/uploads/whyinvest_file/Indonesian_E-Sport.pdf had been access in March 10th 2020

The latest data on the growth of the E-Sports industry in Indonesia in 2024 shows that the industry continues to expand rapidly, in line with global trends that recognize E-Sports as a legitimate and popular form of entertainment. In 2024, Indonesia is expected to remain one of the largest markets for E-Sports in Southeast Asia, with a significant contribution to the country's digital economy.¹⁶

One of the main factors driving this growth is the increase in the number of gamers in Indonesia. With more than 43 million active gamers, the gaming industry in Indonesia is projected to generate substantial revenue, estimated to reach USD 1.87 billion by 2025. This growth is fueled by the high interest in E-Sports competitions, which are becoming increasingly popular among young people, especially students and university students.¹⁷

In addition, support from the government and sports organizations has played a crucial role in legitimizing E-Sports in Indonesia. In 2020, the Ministry of Youth and Sports and the Indonesian National Sports Committee (KONI) officially recognized E-Sports as a competitive sport, further strengthening the industry's position in the public eye. This recognition not only boosted public interest in E-Sports but also attracted investments from various parties, including sponsors and advertisers aiming to reach a broader audience.¹⁸

The dynamics of E-Sports are rapidly showing implications for the regulatory system that may govern how and in what form the E-Sports industry should operate. In the near future, such conditions will inevitably disrupt the existing legal system. As we know, the extraordinary digital development and industrial revolution are pushing the legal system to adapt to these changes. E-Sports, as a new variable, is no exception, especially in Indonesia, a country that is still developing in this industry.

Over time, the evolution of E-Sports has attracted growing attention to a range of legal issues that are integral to its ecosystem. This article exclusively focuses on these issues, which have become increasingly interesting and complex due to their strategic implications. These implications go beyond the economic dimension to encompass various multidimensional aspects. The unique nature of E-Sports competitions introduces a new and complex legal framework, presenting both challenges and opportunities for the field.

¹⁶ Mulachela A. Analisis perkembangan industri game di indonesia melalui pendekatan rantai nilai global (global value chain). Indonesian Journal of Global Discourse 2020;2(2):32-51. <https://doi.org/10.29303/ijgd.v2i2.17>

¹⁷ *Id.*

¹⁸ *Id.*

Unlike traditional physical sports, where player actions are directly observed and recorded for broadcasting or other forms of dissemination, E-Sports competitions are inherently mediated through computer game software. This reliance on software presents unique legal challenges and implications, including issues such as:

- a. Characterization and Categorization of E-Sports within the Indonesian Legal System;
- b. Player Organizations;
- c. Legal Structure of E-Sports Teams;
- d. Contracts between Players and Teams.

The scope of the legal issues discussed in this article will be limited to the subjects mentioned above. While there are many other legal issues related to E-Sports, the author considers these issues and challenges to be urgent matters that need regulation.

B. Research Methods

This writing employs a legislative approach, a conceptual approach, and a literature review. Several legal materials are analyzed using interpretation methods and content analysis.

This work analyzes existing regulations related to the management of E-Sports, applies a conceptual approach to examine the concepts within the E-Sports industry and its regulatory challenges, and conducts a literature review to explore academic references and relevant industry reports. The interpretation method is used to interpret existing legal provisions, while content analysis is applied to evaluate legal materials related to the development and regulatory needs of E-Sports in Indonesia. The combination of these methods aims to provide a comprehensive overview of the evolution of E-Sports and the urgency for effective regulation.

C. Discussion And Result

E-Sports and Its Issues: Do We Need to Pay Attention to It in Indonesia?

Along with the rapid development of E-Sports worldwide, there are significant opportunities arising from the growth of digital-based creative economies and social changes in line with the concepts of Industry 4.0. However, there are also various challenges, particularly in the legal field. Indonesia is relatively new to experiencing the wave of E-Sports development, and the regulations governing E-Sports in the country are still inadequate, as the industry's growth has outpaced the anticipated regulatory framework. Issues arise from the lack of legal instruments that can clarify the concepts of justice, certainty, and applicability in relation to E-Sports in Indonesia.

This situation leads us to reconsider whether we need to give more focused attention to E-Sports with all its developments and challenges, or if we should simply regard it as a seasonal phenomenon that will fade due to disruptions in other fields. To analyze this, the author will outline several key issues that will drive legal disruptions and the urgency surrounding E-Sports in Indonesia as follows:

a. Characterization and Categorization of E-Sports within the Indonesian Legal System

The classification of E-Sports as a branch of sport remains a subject of debate, as it has not yet received official recognition as a sport.¹⁹ The definition of eSports can be comprehensively understood through the systematic analysis provided by Tang et al., which highlights the rapid growth and evolving nature of eSports research since 2020. The authors emphasize that eSports encompasses organized, competitive video gaming, where players or teams engage in various games under structured rules and often in front of live audiences.²⁰

However, E-Sports differs significantly from traditional sports in two main aspects. The first difference lies in the physicality of the athletes. As noted by Jenny and others, E-Sports generally involves movements that engage smaller muscle groups, relying on fine motor skills. In contrast, traditional sports typically require the use of larger muscle groups, involving gross motor skills.²¹ They state that E-Sports does not require the same level of physical effort typically associated with the definition of conventional sports.

Sports are understood as a domain that is structured and regulated by various institutions. According to one of the five criteria established by the Global Association of International Sports Federations (GAISF), "sports should not depend solely on equipment provided by a single supplier." Karhulahti argues that E-Sports relies on commercial products owned and controlled by private entities. Furthermore, the existence of many competing organizations striving for dominant

¹⁹ The Indonesian government has begun to recognize the importance of E-Sports within the context of national sports. Normatively, Law No. 11 of 2022 on Sports has granted recognition to E-Sports as a technology-based sport. This law provides a strong legal foundation for the development of E-Sports in Indonesia, with a definition that encompasses interactive competitive activities using technological devices. As a result, it creates a conducive environment for the growth of various types of E-Sports competitions. Furthermore, regulations established by the Indonesian E-Sports Federation (PBESI) through PBESI Regulation No. 034 of 2021 further elaborate on the definition of E-Sports. PBESI offers a more specific definition, emphasizing the recognition of nationally recognized games. This is crucial to ensure that only games meeting certain standards qualify for competition, thereby enhancing the credibility and professionalism of the E-Sports industry.

²⁰ Di Tang, Et al. "What is esports? a systematic scoping review and concept analysis of esports". *heliyon*, vol. 9, no. 12, 2023, p. e23248. <https://doi.org/10.1016/j.heliyon.2023.e23248>.

²¹ Jenny, S. E., Manning, R. D., Keiper, M. C. and Olrich, T. W, Virtual(ly) Athletes: Where eSports Fit Within the Definition of "Sport". *Quest*, Volume 69, 2017. p. 1-2.

positions presents significant challenges for E-Sports in establishing the institutional framework necessary for official recognition as a sport.²²

In addition to the criticism surrounding the classification of E-Sports as a legitimate sport, Hewitt notes that video games (E-Sports) have significantly evolved, integrating higher levels of skill that allow exceptional players to stand out from the average participants.²³ Although some video games have traditionally attracted skilled players, there has recently been a trend where certain titles are explicitly designed for competitive play.²⁴

Although both traditional sports and E-Sports showcase extraordinary skill, attending an E-Sports event in person involves watching through a monitor or screen that displays recorded gameplay, rather than observing the human participants directly.²⁵ Similar to traditional athletes, professional video game players (E-Sports athletes) are part of teams that manage their training, sponsorships, travel, and accommodations when competing at the international level. Some teams even provide dedicated housing, known as gaming houses, for their members when they are not traveling. Carvalho emphasizes the importance of recognizing each game as a unique sport, as every game that hosts competitive events has its own distinct characteristics, similar to how basketball and baseball are recognized as separate sports.²⁶

In Indonesia, sports are regulated under Law Number 3 of 2005 on the National Sports System (Law No. 3/2005). Sports are defined as all systematic activities aimed at encouraging, nurturing, and developing physical, spiritual, and social potential. The scope of sports includes the following activities:²⁷

1. **Sports Education:** Physical education and sports are carried out as part of an organized and continuous educational process aimed at acquiring knowledge, personality, skills, health, and physical fitness.²⁸

²² Karhulathi V, Reconsidering Esport: Economics and Executive Ownership, *Journal of Physical Culture Sport Studies and Research*, Volume 74(1), 2017. P. 49. Available at <https://doi.org/10.1515/pcssr-2017-0010> access in March 10th 2020

²³ Elliot Hewitt, Will eSports Ever Become Widely Accepted as Official Sports and How Will They Affect the Way We Entertain Ourselves If They Do?, In Jamie Sharpe & Richard Self eds., *Computers for Everyone* (1st Ed. 2014), available at: <http://computing.derby.ac.uk/ojs/index.php/c4e/article/view/90/67> had been access in March 10th 2020

²⁴ *Id.* p. 81.

²⁵ *Id.*

²⁶ Joao Pedro Brito Cicio de Carvalho, *Business Models in Professional Electronic Sports Teams*, (Dissertation 2015). Hlm. 139.

²⁷ Lihat Pasal 17 UU 3/2005

²⁸ See Article 1 Number 11 Law 3/2005

2. **Recreational Sports:** Sports practiced by individuals with the enthusiasm and ability to grow and develop according to the conditions and cultural values of the local community, for health, fitness, and enjoyment.²⁹
3. **Achievement Sports:** Sports that systematically nurture and develop athletes in a planned, tiered, and sustainable manner through competition, with the support of sports science and technology, to achieve performance excellence.³⁰

From the perspective of players/athletes, practically, we must draw a comparison with what is regulated in the National Sports System Law, which states that an athlete is someone who engages in sports with the aim of developing their physical, spiritual, and social potential.³¹ An athlete is a sportsperson who regularly participates in training and competitions with full dedication to achieving performance excellence.³²

More specifically, Law Number 11 of 2022 on Sports in Indonesia has accommodated the existence of E-Sports as part of the national sports system. This law includes recognition of various forms of sports, including electronic-based sports, which encompasses E-Sports. This demonstrates that the Indonesian government is beginning to acknowledge the importance of E-Sports within the context of both sports and entertainment, as well as its significant economic potential.³³

One of the key point in Law No. 11 of 2022 is the emphasis on the comprehensive development and nurturing of sports, which includes aspects of education, achievement, and the sports industry. E-Sports, as a rapidly growing branch of sports, is expected to contribute to the development of young athletes' potential and create new job opportunities within the creative industry.³⁴ With this regulation in place, it is hoped that there will be greater support from the government for organizing tournaments, training programs, and the development of the infrastructure needed to support E-Sports in Indonesia.

However, despite Law No. 11 of 2022 accommodating E-Sports, there are still several obstacles and challenges that need to be addressed. One of the main challenges is the lack of

²⁹ See Article 1 Number 12 Law 3/2005

³⁰ See Article 1 Number 13 Law 3/2005

³¹ See Article 1 Number 6 Law 3/2005

³² See Article 1 Number 7 Law 3/2005

³³ Ramadhan, M., Ma'mun, A., & Mahendra, A. Implementasi kebijakan olahraga pendidikan sebagai upaya pembangunan melalui olahraga berdasarkan undang-undang sistem keolahragaan nasional. *Jurnal Terapan Ilmu Keolahragaan*, 2020. 5(1), 69-80. <https://doi.org/10.17509/jtikor.v5i1.23824>

³⁴ *Id.*

understanding and knowledge about E-Sports among the public and stakeholders. Many people still view E-Sports as an unserious activity, not comparable to traditional sports, which can hinder the support and investment needed for the industry's growth.

In addition, more specific regulations regarding the organization of E-Sports tournaments, player protection, and standardization in competitions still need to be developed. Without clear regulations, the potential for abuse and unfairness in competitions could increase, which in turn may harm the reputation of the E-Sports industry in Indonesia.

b. Legally-Based Player Organizations

Professional sports typically have national governing bodies and player or athlete associations that protect the interests of teams, players, and sponsors. In contrast, there is a notable absence of such organizations to protect E-Sports participants in nearly all jurisdictions. An exception to this is the Korea E-Sports Association (KeSPA), which was established in 2012 to act as the regulatory body for twenty-five competitive E-Sports disciplines.³⁵

KeSPA has implemented various regulations, including a ranking system, minimum salary requirements for players, and the promotion of a league format as opposed to traditional tournament-style competitions. While KeSPA is a unique entity, the need for a regulatory body in E-Sports is widespread. There have been numerous calls from players, team owners, and tournament organizers to explore the benefits of centralized oversight for the industry. In response to this need, the World E-Sports Association (WESA) was established in May 2016. WESA aims to unite E-Sports professionals globally and enhance the professionalism of the industry by introducing elements such as player representation, standardized regulations, and revenue sharing for teams.³⁶ This organization has established a board and league commissioners, and is working to form a players' council.³⁷

Currently, WESA operates as a voluntary organization with aspirational goals but lacks the authority to enforce its regulations. One of the primary reasons for advocating the creation of a regulatory body is to address concerns about substance abuse among players. It is widely known that many competitors use prescription drugs, such as Adderall, to enhance focus and attention

³⁵ See Korea E-Sports Association, available at <http://www.E-Sports.or.kr/> had been access in March 10th 2020

³⁶ World E-Sports Association, available at <http://www.wesa.gg/> had been access in March 10th 2020

³⁷ WESA Structure, World E-Sports Association, available at <http://www.wesa.gg/structure/> had been access in March 10th 2020

during competitions.³⁸ In casual gaming, the use of such substances might be seen as an unfair advantage; however, in professional gaming, it can violate contract terms and be classified as doping. This raises significant ethical and regulatory concerns within the E-Sports community.

Without a regulatory body to enforce regulations and conduct drug testing, the use of performance-enhancing substances may continue in the E-Sports arena. This lack of oversight could lead to ongoing issues related to fairness and integrity in competitive gaming. There is a significant gap and bias in the assessment of fair competition principles in cases where drugs are legally permitted for public use but remain a major question in the context of competitive E-Sports.

Recently, Indonesia established its own E-Sports organizations. There are three main organizations overseeing E-Sports activities in the country: the Indonesian E-Sports Association (IESPA), the Indonesian Video Game Sports Association (AVGI), and the Indonesian E-Sports Executive Board (PBESI).³⁹ These three organizations are relatively new in Indonesia (IESPA was established in 2014, AVGI in 2019, and PBESI in 2020), so they still need to make adjustments in reaching the E-Sports environment in the country. Additionally, all three are still determining their roles and responsibilities in addressing the needs of the E-Sports industry in Indonesia. Problems arise when there is more than one organization overseeing E-Sports in the country, leading to potential conflicts of authority and a lack of cohesive regulation and guidance.

Ironically, in addition to the still underdeveloped E-Sports regulations in Indonesia, the coordination patterns of rules and institutional collaboration between the government and E-Sports organizations remain unclear. Furthermore, the potential for overlapping regulations and poor coordination creates an uncertain climate for the E-Sports industry in Indonesia, which could lead to disputes on a larger scale and ultimately leave the interests of players, teams, and sponsors inadequately protected.

For example, what regulatory certainty (game rules) would exist if a competition involves various teams, each a member of different organizations or only following the provisions established by one of the three existing E-Sports organizations? Organizers would also face challenges in setting game standards that could accommodate all the provisions set by these three organizations.

³⁸ World E-Sports Association, available at <http://www.wesa.gg/> had been access in March 10th 2020

³⁹ Martini, Mengenal 3 Organisasi E-Sports di Indonesia beserta Tanggung Jawabnya, available at <https://www.indosport.com/esports/20200122/mengenal-3-organisasi-esports-di-indonesia-beserta-tanggung-jawabnya> had been access in March 10th 2020

Fundamentally, the organizations overseeing E-Sports have the primary responsibility to establish official regulations governing E-Sports in Indonesia, making the rules clearer and more directed, including protections for players, teams, and sponsors. To address potential future issues, the government needs to take decisive action by placing E-Sports activities in Indonesia under the umbrella of an official organization established by the government. This step is necessary to restore the essence that E-Sports organizations function as platforms to protect and develop the interests of players, teams, and sponsors.

c. Form of E-Sports Teams: Should They Be Legal Entities?

One of the main business considerations for a team or organization is the establishment of a business entity for the team. This may involve creating a legal structure, such as a corporation or limited liability company (PT), which can be initiated by the team owners. Forming a business entity offers several advantages, including protection from liability, tax benefits, and a formal framework for managing operations and finances. By doing so, the team gains legal recognition and structure, which can help ensure its long-term sustainability and growth, attract investors, and facilitate better management of both its financial and operational activities.⁴⁰

The initial costs associated with forming a business entity can influence a team's decision regarding which structure is most suitable for their organization. Additionally, in the United States, each state offers different tax treatments for various business entities, along with different legal restrictions regarding ownership. These factors must be carefully considered to ensure that the chosen entity aligns with the team's financial goals and operational needs. Proper consideration of these elements can help avoid unnecessary expenses, legal complications, and ensure the team's structure supports its long-term success.⁴¹

Another significant advantage of forming a business entity is the protection it provides against personal asset claims, such as cars, homes, stocks, bonds, securities, and bank accounts, arising from contracts or other agreements. Essentially, if a sponsor, league organizer, or other third-party creditor has a claim against a team that has entered into an agreement properly on behalf of the organization, their recourse for compensation will be limited to the team's entity itself. This

⁴⁰ Justin M. Jacobson, Bizniz 101 Part 1: Business and Legal Considerations professional E-Sports Organization, available at <https://esportsinsider.com/2018/01/esports-biz-101-part-1-business-legal-considerations-professional-esports-orgs/> had been access in March 10th 2020

⁴¹ *Id.*

means the personal assets of the individual owners will not be at risk, providing an additional layer of financial and liability protection.⁴²

Although protecting individual owners from personal liability is a significant benefit of forming an entity with limited liability, there are several other important advantages provided by such an entity for the smooth operation of an E-Sports team, as follows:⁴³

1. **Separate Corporate Identity:** Establishing a separate corporate identity allows the team to open a business bank account in the name of the entity, which is crucial for managing finances.
2. **Tax Identification Number (Tax-ID):** This is required for tax purposes and employee recruitment, ensuring the team complies with tax regulations and can hire staff legally.
3. **Expense Tracking:** Having a dedicated business bank account makes it easier to track the organization's expenses and allows for deductions or "write-offs" of relevant and well-documented business expenses, which can improve financial management.
4. **Business Licenses and Insurance:** A legitimate business entity allows the team to acquire necessary business licenses and insurance, ensuring they can operate legally and are protected from potential liabilities.
5. **Attracting Investment:** A formal business entity structure can make it easier for the team to accept potential investment offers, as investors often prefer to work with established entities rather than individuals

These advantages collectively contribute to the operational efficiency and financial stability of the E-Sports team. By establishing a formal business entity, the team can better manage its resources, attract investment, and ensure legal and financial protections, all of which are essential for long-term success and growth in the competitive E-Sports industry.

At the national level, Indonesia has not yet specifically regulated the form of business entities or E-Sports team business entities. The author assumes that E-Sports teams in Indonesia use the mechanism of forming business entities based on the types of business entities commonly used in Indonesia, such as Limited Liability Companies (PT), Partnerships (CV), and Firms, as regulated in the Indonesian Commercial Code (KUHD) and Law No. 40 of 2007 on Limited Liability Companies.

⁴² *Id.*

⁴³ *Id.*

The choice of business entity form for E-Sports teams is entirely considered the domain of each team, according to their specific needs. Each type of business entity has its own advantages and disadvantages in terms of capacity and scope.

Both the government and relevant stakeholders need to collaboratively think about the type of business entity that is suitable for the characteristics of the E-Sports industry in Indonesia. This is necessary because standardization is a condition or prerequisite for an industry to develop systematically and purposefully. If objective standardization, including the conditions and needs of players, teams, and sponsors, requires that E-Sports teams do not need to be formed as legal entities, this should be tested over time to measure its effectiveness in the development of E-Sports in Indonesia.

In the author's opinion, a Limited Liability Company (PT) is the most suitable form of entity compared to other types of business entities. Several factors are considered, including liability limitations, investment potential, and significant tax revenue sources in Indonesia.

d. Contracts with Players and Teams

Professional E-Sports players, or those aspiring to become professionals, are often required to sign contracts with various entities, including sponsors, teams, leagues, or broadcasting channels, as they gain popularity within the industry. These contracts typically include several key provisions, such as:⁴⁴

- a. **Non-Compete Clause:** This clause may restrict the player from competing with rival teams or working with competing sponsors for a certain period after leaving the team or organization.
- b. **Revenue Sharing Provisions:** Contracts often outline how the revenue generated from sponsors, merchandise, or tournament winnings will be divided between the player and the team or organization.
- c. **Employment Status Specifications:** The contract may define the player's employment status, clarifying whether they are considered an employee, independent contractor, or part of another classification, which can affect their benefits, taxes, and rights.

⁴⁴ Bryce Blum & Stephen Fisher, Player Contracts: Defining Expectations to Avoid Conflict, eSports Law Article Series, Foster Pepper PLLC, Aug. 2014, available at http://www.foster.com/documents/foster-pepper-white-paper/playercontracts_definingexpectationstoavoidconflict.aspx, access in March 10th 2024

These contractual obligations are crucial for protecting the interests of both the players and the organizations they represent, ensuring clarity and fairness in their professional relationships.

Currently, there is no standardized set of provisions or contracts to govern these agreements in the E-Sports industry. Instead, contracts are negotiated and created privately and individually, leading to significant variability in terms and conditions between players and different organizations. The lack of standardization can create confusion and potential disputes, as players may face different obligations and rights depending on the specific agreements they sign. Additionally, the absence of legal sophistication and regulation in the E-Sports market means that parties involved in contracts may not adequately protect themselves. This can lead to misunderstandings, disputes, and potential exploitation, as players and organizations may not fully understand the implications of the terms they agree to. As the E-Sports market continues to evolve, the likelihood of litigation related to these agreements will increase, highlighting the need for clearer regulations and standardized contracts to protect all parties involved.

The nature of the relationship between E-Sports teams and their players is typically characterized as an employer-employee relationship. However, this will certainly depend on the specific circumstances of the agreement, including the terms outlined in the contract, the player's role, and the classification of their employment status.⁴⁵

- a. Level of Control Exercised by the Team over the Player:** This refers to how much authority the team has in directing the player's actions, such as training schedules, participation in tournaments, and other professional activities. A high level of control may suggest an employer-employee relationship.
- b. Who Owns the "Factors of Production" (e.g., E-Sports Equipment):** This consideration pertains to whether the team or the player owns key resources like gaming equipment, software, and other tools necessary for competition. If the team provides and controls these resources, it may reinforce the employer-employee relationship.
- c. Economic Considerations:** This includes how and when payments are made to the player, as well as whether the player shares in any losses incurred by the team. Profit-

⁴⁵ Yuk Lun Chan, Guide to E-Sports Player Contracts, available at <https://singaporelegaladvice.com/guide-to-esports-player-contracts/> had been access in March 10th 2020

sharing or loss-sharing arrangements could further define the nature of the relationship, particularly if players are treated as independent contractors or employees.

Contracts between players and teams in the E-Sports industry can and should address various issues. While some of the most important aspects are outlined below, it is essential to note that there is no one-size-fits-all solution. Each contract should be negotiated independently, as the goals and needs of individual players vary, as do the teams they join. Furthermore, several key factors require careful consideration to ensure a comprehensive and fair agreement in the context of E-Sports player contracts, as outlined in the following points:⁴⁶

a. Player Mobility

As noted by Jas Purewal and Pete Lewin in their article on E-Sports Observer on November 15, 2015, non-compete clauses typically restrict players from joining other teams after their contract with the current team ends or is terminated, usually for a specific period. In the dynamic world of E-Sports, where players frequently switch teams, such clauses can hinder the growth and innovation of the industry by limiting player mobility. On the other hand, these clauses serve a strategic purpose, as teams aim to prevent their key players from sharing exclusive strategies or "secrets" with competitors.⁴⁷

Including player mobility clauses is a common practice in professional sports, particularly for management staff who have access to the team's long-term commercial and strategic plans. Unauthorized sharing of such confidential strategies can seriously disrupt the operations of the organization and undermine months of planning and efforts. This is especially true in E-Sports, where competitive advantage is often built on strategic innovation and preparation, and the leakage of this information can significantly affect a team's ability to maintain its edge.⁴⁸

⁴⁶ Bryce Blum and Stephen Fisher, Player Contracts: Defining Expectations to Avoid Conflict, Foster Pepper Attorney at Law, also available at https://static1.squarespace.com/static/5ae7817b9772ae61dd36e43b/t/5dab4fa1a413de3554ea8dc7/1571508133230/FP_Players.pdf had been access in March 10th 2020

⁴⁷ Adam Whyte, How to Level-Up Your E-Sports Contracts, and Avoid Getting Ganked in a Dispute, available at <https://esportsobserver.com/esports-contract-guide-how-to-avoid-getting-ganked-in-a-dispute-and-protecting-your-sponsors/> had been access in March 10th 2020

⁴⁸ *Id.*

b. Revenue Sharing

In traditional professional sports, players and teams generally generate revenue from different sources. Players earn salaries and may also engage in independent promotional agreements with brands that are interested in their image. Meanwhile, teams generate income from ticket sales, stadium concessions, broadcasting deals, and merchandising. Although some player contracts provide athletes with a share of the revenue generated by the team, the primary sources of income for players and teams remain distinct.⁴⁹

c. Employment Status

The classification of players as independent contractors or employees of their teams is a significant legal distinction. If a player is considered an employee, this designation imposes various legal obligations on the team. These obligations include responsibilities such as paying income taxes, complying with minimum wage and overtime regulations (including during the off-season), ensuring adequate meal and rest breaks, and maintaining proper Workers' Compensation Insurance.⁵⁰

d. Intellectual Property Right

It is crucial in E-Sports contracts to regulate the products of services (Intellectual Property or IP generated). Key aspects include determining who owns the rights to the IP, whether there are restrictions on how the IP can be used, where it can be used, and when it can be used. For example, what rights does the organization/team have to use the player's image, in-game name, or recordings of the player while performing team duties? These provisions ensure that both players and teams understand their respective rights and obligations related to the use and commercialization of such intellectual property. Clear guidelines on IP ownership and usage help prevent disputes and protect the interests of both parties.⁵¹

⁴⁹ *Op Cit.*. Bryce Blum and Stephen Fisher

⁵⁰ *Id.*

⁵¹ Chris Paget, Contract Advice for Teams Organizations Players, available at [org/news /contract-advice-for-teams-organisations-players-an-interview-with-an-esports-lawyer/](https://www.contractadvice.org/news/contract-advice-for-teams-organisations-players-an-interview-with-an-esports-lawyer/) had been access in March 10th 2020

e. Job Responsibilities

Player contracts should clearly outline the player's responsibilities in relation to the obligations imposed on them. Several important questions arise regarding the obligations and expectations placed on players in their contracts. For example, is there a required amount of daily or weekly practice time that players must meet? If revenue from streaming is crucial for the team's sustainability, does the contract require players to stream for a certain number of hours per month? What are the consequences if players fail to meet these minimum requirements? Additionally, what obligations do players have to participate in promotional activities, and do these obligations differ between the league season and the off-season?

Instead of relying on informal conversations or assumptions, these expectations should be explicitly outlined in the player's contract. A well-defined agreement ensures clarity and mutual understanding between the player and the team. By clearly detailing these provisions, the team can avoid imposing excessive demands, and the player cannot argue that the expectations are unreasonable. This approach helps foster a professional and transparent relationship, ensuring both parties are aligned in their goals and responsibilities.⁵²

f. Termination or Loss of Player

In the world of E-Sports, situations often arise where star players are poached by rival teams, abruptly resign, or are dismissed due to violations. These often controversial unilateral contract terminations can lead to significant setbacks for the team. This includes the loss of valuable players as assets, decreased revenue streams, damage to reputation, the revocation of sponsorship agreements, or even the cancellation of tournament invitations that were hard-earned. Therefore, to prevent unplanned player departures or to minimize the financial consequences and losses resulting from such departures, E-Sports team owners must ensure that their player contracts address issues such as:⁵³

- i. Player Transfer (to prevent poaching or provide compensation for poaching).

⁵² *Op. Cit.*. Bryce Blum and Stephen Fisher

⁵³ *Id.* Yuk Lun Chan

- ii. Compensation After Contract Termination (to reduce losses).
- iii. Exclusivity of Activities.
- iv. Dispute Resolution Mechanism.
- v. Contract Extension or Renewal.
- vi. Other Key Provisions.

In general, Indonesia has relatively similar needs related to the points mentioned above, while there are unique conditions in Indonesia where E-Sports players/athletes are typically underage according to the prevailing laws. A considerable number of professional E-Sports player contracts do not comply with the regulations, such as players under the age of 18, where the contracts are not signed by parents or guardians. There are even some contracts that do not include the necessary stamp duty.⁵⁴

This raises questions and issues regarding the validity of contracts within the scope of such collaborations. The Indonesian Civil Code (Kitab Undang-Undang Hukum Perdata, KUHPer) contains regulations on the requirements for the validity of agreements in Article 1320, which includes four points, one of which is the requirement of legal capacity (maturity). If this point is not fulfilled, the contract will not be automatically annulled by law, but it may be voidable.

Although Article 330 of the Civil Code (KUHPerdata) establishes that the age of adulthood is 21 years, in the author's opinion, this provision more specifically refers to Article 1, number 26 of the Employment Law as a *lex specialis*, which sets the legal age at 18 years. Meanwhile, Article 68 of the Employment Law explicitly prohibits employers from employing children under the legal age. This can certainly be detrimental to both parties, given that the E-Sports industry demands professionalism and maximum performance.

Therefore, the government and relevant stakeholders need to consider regulations regarding the contract standards used by players and teams. Of course, these contract standards must be objective in meeting the required criteria and take into account the actual conditions of the E-Sports industry in Indonesia. This is particularly important given that the rules and regulations governing E-Sports and the industry have not yet fully developed or been universalized, especially when compared to more established professional sports. The lack of standardized regulations can lead to inconsistencies in the enforcement of contracts and player rights, making it increasingly

⁵⁴Anonymous, *Seperti Apa Kondisi Bursa Transfer dan Kontrak Pemain E-Sports*, available at <https://hybrid.co.id/post/seperti-apa-kondisi-bursa-transfer-dan-kontrak-pemain-esports> access in March 10th 2024

important for teams to proactively address potential issues in their contracts. By doing so, teams can better navigate the complexities of the evolving E-Sports landscape, protect their interests, and ensure a more stable and professional environment for both players and organizations.

D. Closing

The E-Sports industry is experiencing rapid growth, with an increasing number of players, teams, sponsors, and fans becoming involved, while tournaments and leagues are expanding in size and value. This emerging industry is poised to usher in a new era in the digital economy. However, it must also face a variety of legal issues that accompany its growth. As the sport matures, it is expected that the understanding and legal sophistication among players, teams, sponsors, and fans will also develop to ensure a sustainable and secure future for E-Sports. Various legal issues arise as a logical implication of E-Sports development, such as:

- a. Characterization and Categorization of E-Sports within the Indonesian Legal System** indicates that there is no specific regulation governing the position of E-Sports in Indonesia. Law No. 11/2022 has not fully met the needs of E-Sports due to the lack of a clear definition: E-Sports is not explicitly defined within the Indonesian legal framework, which leads to ambiguity and confusion; the absence of clear infrastructure: existing laws fail to provide adequate infrastructural support for the development of E-Sports; and finally, the lack of specific regulations: the absence of tailored regulations hampers the growth of E-Sports in Indonesia.
- b. Player Organizations** indicates that E-Sports organizations have the primary responsibility to create official regulations governing E-Sports in Indonesia to make it clearer and more directed, including protection for players, teams, and sponsors.
- c. Legal Form of E-Sports Teams** shows that both the government and relevant stakeholders need to collaboratively consider the appropriate business entity form that aligns with the characteristics of the E-Sports industry in Indonesia. This is necessary, as standardization is a condition or prerequisite for an industry to develop systematically and purposefully.
- d. Player and Team Contracts** indicates that the government and relevant stakeholders need to consider regulations regarding the contract standards used by players and teams. Of course, these contract standards must be objective in meeting the required criteria and taking into account the actual conditions of the E-Sports industry in Indonesia.

The rapid dynamics of E-Sports have shown implications for the regulatory system that could govern how and in what form the E-Sports industry should operate. In short, such conditions will inevitably disrupt the existing legal system.

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