



eSports Momentum in Nevada

By Scott Scherer

The emergence of eSports as a world-wide phenomenon is undeniable. According to [espn.com](http://www.espn.com/esports/), which now has a dedicated eSports page (<http://www.espn.com/esports/>), 205 million people watched or played eSports in 2014.¹ According to Darren Heitner, writing for [Forbes.com](http://www.forbes.com), in 2015, 36 million individuals streamed the League of Legends World Finals online.²

The potential for making Nevada in general, and Las Vegas in particular, a world capital for eSports became

a primary topic for Nevada's Gaming Policy Committee during its meetings in 2016. Craig Levine, CEO of ESL North America, testified that over 113,000 people watched a world championship event live in Poland.³

The Mandalay Bay Events Center hosted the North American League of Legends Championship Series Spring Finals in April of 2016. Nearly 10,000 people attended live and approximately 500,000 viewed the event online.⁴

During the Gaming Policy Committee meeting, Seth Schorr, Chairman of Downtown Grand and CEO of Fifth Street Gaming, discussed the fact that the Downtown Grand has been positioning itself as an eSports destination.⁵ He explained that in addition to creating an eSports lounge in the establishment, the Downtown Grand has hosted a competitive eSports team.

More recently, the Luxor announced its intention to convert its former LAX nightclub space into a multi-level eSports arena, which is scheduled to open in early 2018. The Luxor's new eSports arena will feature a competition stage, LED video wall, daily gaming stations, and a production studio for broadcasting or live streaming eSports events.⁶

Wagering on eSports

In the fall of 2016, William Hill, the sports book operator at the Downtown Grand, petitioned for approval to accept wagers on eSports events pursuant to Nevada Gaming Commission Regulation 22.120. The Chairman of the Nevada Gaming Control Board has subsequently administratively approved wagering on at least two eSports events--the 2016 League of Legends Intel Extreme Masters Season XI eSports Event on November 18, 2016, and the DreamHack Masters 2017 Las Vegas eSports Competition on February 10, 2017. While wagering on eSports is in its infancy in Nevada, such wagering occurs in various forms and jurisdictions around the world.⁷

One of the issues with wagering on eSports is whether integrity of the games can be ensured. During the meetings of the Gaming Policy Committee, Nevada Gaming Control Board Chairman A.G. Burnett discussed the fact that there is a "laundry list of items the Board Chairman can consider in terms of getting comfortable" when deciding whether to approve wagering on a particular eSports event.⁸

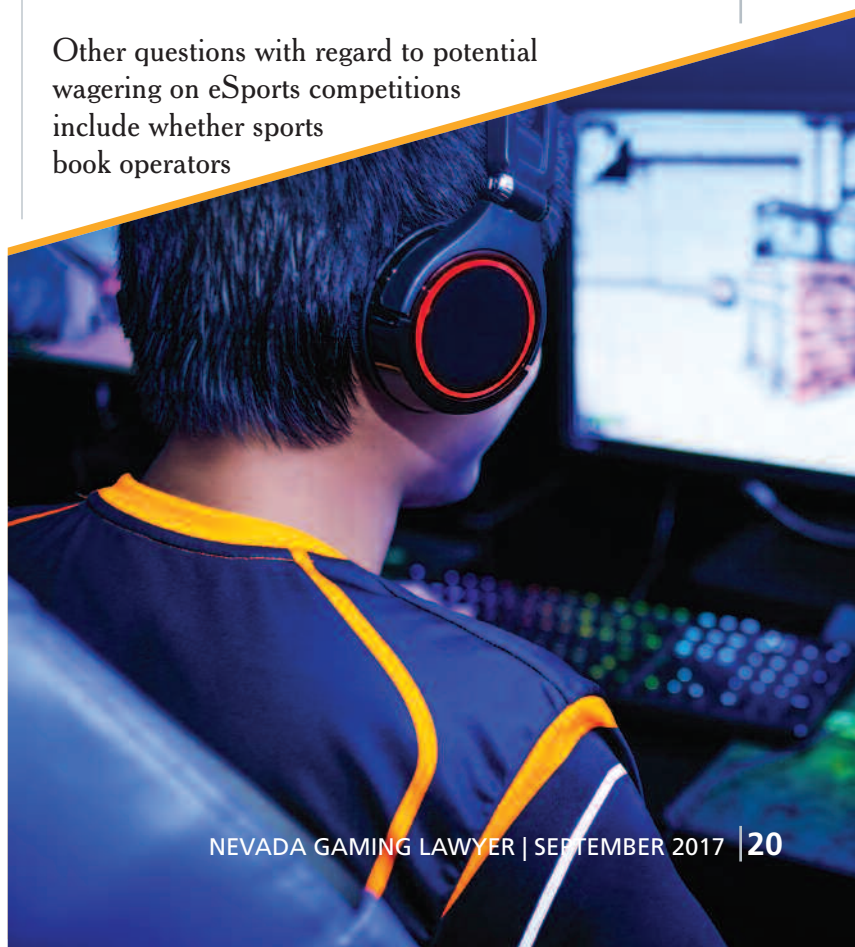
NGC Regulation 22.120 sets forth that "laundry list of items," which includes, in part, information demonstrating that (i) the event could be effectively supervised; (ii) the outcome of the event would be verifiable; and (iii) the event could be conducted in compliance with any applicable laws.⁹ During the Gaming Policy Committee's discussions, Nevada Gaming Commission Chairman Tony Alamo mentioned the lack of a governing body for eSports to

enforce rules and ensure game integrity. Some of the potential cheating methods discussed include (i) software cheats and hacks; (ii) denial of service attacks; (iii) doping; and (iv) match fixing.¹⁰

In response, witnesses agreed that there was not one governing body such as the National Football League for American professional football, but they provided information about the self-policing that eSports leagues are doing, as well as the work of the eSports Integrity Coalition to identify, police, and prevent cheating. Generally, there was agreement that the larger eSports events would have more oversight and less incentive for participants to cheat.¹¹

The Gaming Policy Committee also discussed whether testing of the video gaming platforms and hardware used in eSports competitions by the Nevada Gaming Control Board's Technology Division or independent testing laboratories might help to ensure the integrity of eSports. The consensus of the witnesses and the Gaming Policy Committee members seemed to be that there may be some benefit, but that trying to apply current technical standards and testing methods applicable to slot machines would stifle innovation and might eliminate some of the more popular events, because major video game manufacturers may not want to submit their software for testing.¹²

Other questions with regard to potential wagering on eSports competitions include whether sports book operators



have sufficient information about the events to set accurate lines. Some of the witnesses believed that there was sufficient information from companies like Sportradar, Oddschecker, and others, but all agreed that allowing pari-mutuel wagering on eSports would give operators flexibility in deciding whether to accept wagers on eSports and whether those wagers are booked or pari-mutuel.¹³

Senate Bill 240

During the 2017 Session of the Nevada Legislature, the legislature enacted, and Governor Sandoval approved, Senate Bill 240 (“SB240”). SB240 was introduced by Senator Becky Harris at the request of the Gaming Law Policy class at UNLV’s Boyd School of Law, with the assistance of Professor Greg Gemignani.¹⁴ SB240 specifically expands Chapter 464 of the Nevada Revised Statutes to allow pari-mutuel wagering on “other events,” which would include eSports. Shortly after the enactment of SB240, the Nevada Gaming Commission amended its Regulation 26B to make it consistent with these changes to Chapter 464.¹⁵

The enactment of SB240 may give some of the sports book operators who are concerned about their ability to set accurate lines on eSports events the comfort they need to begin accepting wagers on such events. To effectively offer pari-mutuel wagering, however, there will have to be sufficient volume, meaning that such wagering is likely only on the larger events, especially locally-hosted larger events, where many of those potentially interested in wagering on the event are already at the venue as spectators.

Conclusion

The worldwide growth of eSports is substantial and Nevada has an opportunity to make itself a significant hub of eSports activity, both through offering venues for major eSports competitions and by leading the way in North American eSports wagering. By positioning themselves as primary venues for eSports activity, Nevada casinos have the opportunity to appeal to younger adults who are rejecting traditional slot machines.

Despite some challenges, eSports appears destined to become a major part of the future of Nevada gaming. Operators, regulators, and attorneys will all need to be prepared to deal with the challenges and opportunities

that eSports will provide. These challenges and opportunities will include determining the proper level of regulation to ensure fairness to participants while not discouraging innovators, encouraging more and larger eSports events to come to Nevada, setting realistic betting lines, and driving wagering volume. Nevada has the resources to overcome these challenges and take advantage of these opportunities, including regulatory expertise, world-class venues, knowledgeable bookmakers, and marketing expertise.



Scott Scherer is a partner in the law firm of Holland & Hart, practicing primarily in the area of regulatory and administrative law with special emphasis on gaming regulatory matters and legislative affairs. Scott’s career highlights include serving as a Supervising Deputy Attorney General in the Gaming Division of the Nevada Attorney General’s Office, General Counsel and Chief of Staff to the Governor, two-term Nevada Assemblyman, and member of the Nevada Commission on Ethics. At the request of the Mississippi Attorney General, Scott assisted the Mississippi Legislature in drafting the Mississippi Gaming Control Act. He also served four years as a member of the Nevada Gaming Control Board. Scott’s corporate experience includes serving as Associate General Counsel and Executive Director of Corporate Development for International Game Technology (IGT) and Acting Managing Director of IGT Africa.

¹ http://www.espn.com/espn/story/_/id/13059210/esports-massive-industry-growing (May 22, 2015) (citing a study by market research firm Newzoo).

² <https://www.forbes.com/sites/darrenheitner/2015/12/31/why-2016-should-be-a-year-of-tremendous-growth-for-esports/#394c66344767> (December 31, 2015).

³ Gaming Policy Committee Meeting Minutes, May 13, 2016, at 6.

⁴ <https://www.reviewjournal.com/local/local-las-vegas/video-game-championship-packs-the-mandalay-bay-events-center/> (April 17, 2016).

⁵ Gaming Policy Committee Meeting Minutes, May 13, 2016, at 3.

⁶ <https://www.reviewjournal.com/local/the-strip/las-vegas-strip-to-get-esports-arena-with-luxor-club-overhaul/>.

⁷ See, e.g., <https://www.esports-betting.pro/>.

⁸ Gaming Policy Committee Meeting Minutes, May 13, 2016, at 5.

⁹ See Nev. Gaming Comm’n Reg. 22.120(2)(c).

¹⁰ Gaming Policy Committee Meeting Minutes, May 13, 2016, at 7-8.

¹¹ *Id.*, at 7-9.

¹² In addition, some expressed the opinion that “glitches” are part of most video games and dealing with those glitches is part of the skill in playing the game, as long as every player faces the same risk from glitches.

¹³ Gaming Policy Committee Meeting Minutes, at 4-5 and 9-10.

¹⁴ For a more detailed discussion of SB240, please see Professor Gemignani’s article on SB240 in this issue of the *Nevada Gaming Lawyer* at 16.

¹⁵ See Nev. Gaming Comm’n Reg. 26B.010 - .040, 26B.070, 26B.120 and 26B.140 (adopted June 22, 2017 and effective July 1, 2017).