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Esports and the Law

News, case summaries, articles, and strategies concerning esports and the law

Unpacking Employment Classifications: Insights for Esports Players from the Beast Games Lawsuit

By Chris Klein

When an esports player signs a contract with a professional team, is that player classified as an “employee” or an “independent contractor”? The distinction is significant; if the player is an employee, then the player is entitled to protections of state labor laws, including minimum wage, rest and meal breaks, and safeguards against discrimination and harassment. Conversely, independent contractors do not receive those benefits.

Unsurprisingly, the answer is com-

plex and fact-specific. In California, one of the hubs of the U.S. esports industry, courts apply a three-part test to assess employment classification. This test, known as the “ABC” test, requires a contextual review of the relationship between the worker and employer. As workers in various industries seek to challenge and reclassify their employment status under the “ABC” test, litigants must reference other “ABC” cases to inform their arguments.

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Esports Joins the Olympic Movement: Analyzing the Decision and Exploring Potential Opportunities and Challenges

By Jeffrey Levine, JD, PhD, Associate Clinical Professor and Esport Business Program Lead, Drexel University

Introduction

This past summer, the International Olympic Committee (IOC) made a landmark decision to establish the Olympic Esports Games, with the inaugural 2025 event scheduled to take place in Saudi Arabia. The new event marks the IOC’s most significant step yet in embracing esports after years of experimental ventures,

including the Olympic Virtual Series launched in 2021 (Burelli et al., 2024). The move to formalize an esports-specific event reflects the IOC’s strategic push to capture younger audiences, particularly those immersed in digital and virtual competition (IOC, 2023). Another potential decision to embrace esports may be influenced by the fact that newer generations are less interested in traditional Olympic games (Bradish & Burton, 2021). With its increasing viewership, revenue, and cultural impact, esports presents a potential opportunity for the IOC to

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counteract the stagnation facing the Olympic Movement among younger audiences. As the IOC integrates esports into the Olympic framework, it faces both new opportunities and complex challenges that will shape the future of digital and traditional sports.

Background and Past Challenges

The IOC’s involvement in esports began tentatively in 2018, as the organization explored ways to bridge

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Esports and the Law

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Editor's Note: Where Is Esports Headed In 2025?

At a recent esports conference I attended, a speaker said: 'If you want to know the future of esports in the United States, look at Asia right now, that is where we will be in 5 years, and look at Europe right now, that is where we will be in 3 years.' That statement rang very true for me, as it always seems like Asia has been leading the pack when it comes to public acceptance of competitive gaming.

Less than one month ago, the League of Legends 2024 World Championship became the most watched esports event of all time, with a recorded 6.9 million peak viewers, and over 14,000 live spectators at London's O2 Arena. Lee "Faker" Sang-hyeok earned his fifth World Championship and his second Most Valuable Player trophy. Faker is a bona fide esports superstar, but I would guarantee that most video game fans in the United States don't know him. The team that he plays for, T1, is based in South Korea and has been sponsored by SK Telecom since 2004. In 2019, Comcast Spectacor, a division of cable and telecommunications powerhouse Comcast, partnered with T1 to form a new entity called "T1 Entertainment & Sports" and Faker was named an owner of that entity. That investment alone shows that U.S. companies are taking keen notice of esports.

The rise of Faker and T1 is not that different from the rise of star players and teams in the NBA, MLB, NFL and NHL. There is little question that Faker is the LeBron James of esports. The 'Big 4' sports still draw the most viewers in the United States, but esports are slowly catch-



Darius C. Gambino

ing up. Once U.S. gamers start to recognize the talent of athletes like Faker and others at his level, that is when things will start to change. I don't think we are that far off from a crowd of 15,000 plus watching a League of Legends or Dota 2 final at an arena in the United States. The open esports competition called "DreamHack" is already drawing at those levels - DreamHack Dallas drew 50,000 plus this past June.

In this issue, we dive in to employment and real estate concerns in the gaming industry, tackle esports betting, examine the prospect of an Esports Olympics, and interview both my amazing colleague Stephen Ma, and Patrick Neff, Gaming director for the Scholastic Esports Federation.

As always, Excelsior!

Darius C. Gambino, Editor-In Chief.

Sports Lawyer Steve Ma Discuss His Practice, Esports

By Holt Hackney

As a litigator with nearly 30 years of experience representing public and private companies and their officers, directors, members and investors, attorney Steve Ma has become known industry wide for his work in those areas.

However, his skills in the sports and entertainment sector, and increasingly esports, may be what led him to join Saul Ewing in 2024.

To learn more about his work, we reached out to him for the following interview.

Question: How did you get your start in sports law?

Answer: I was lucky to have early opportunities as a young lawyer. I remember that one of my first assignments as a first-year associate at a law firm was to ensure that the finance department of an NFL football team was correctly complying with various court orders, including some court orders garnishing player's wages for unpaid taxes or other reasons. Needless to say, some of my phone calls with the athletes and their agents were rather difficult because I needed to explain to them why the athlete's paychecks were being withheld.

Q: In what ways does your current practice intersect with sports law?

A: As a business litigator, I help clients resolve disputes that arise in a wide array of sports and entertainment matters. Many times, I am able to assist clients resolve these matters even before a lawsuit has been filed with a court or an arbitrator. Oftentimes, these litigation matters have nothing to do with the athletes competing or the game itself – instead, these matters focus on the many issues that take place behind-the-scenes, including,



Steve Ma

for example, the sale and operations of a sports arena, the licensing of the music played on platforms and broadcasts, and the broadcast and distribution of sporting events.

Although these matters involve clients that are involved in sports and entertainment, they are still fundamentally rooted in contractual and/or tortious disputes. For example, I work with a client that was approached to invest in a new sports league employing a unique distribution system through web-based programming as opposed to network television broadcasts. The key issues involved in investing in a sports league are similar to issues raised in other investment opportunities – Did the sports league make material misrepresentations or omissions in its disclosure documents? Do officers and directors of the sports league owe fiduciary duties to its investors to disclose potential problems with the business? Does the “business judgment rule” protect the owners and operators from liability for a failed sports league?

Q: What are some examples of your typical clients?

A: As a member of Saul Ewing's Sports & Entertainment Practice

Group, our clients include a wide range of companies involved in the NFL, NBA, WNBA, NHL, NASCAR, and college sports. In the esports industry, our clients include various video game publishers and esports teams.

Q: What trends are you tracking over the next few years in the Esports space?

A: We are currently seeing a good deal of litigation over video game ‘addiction’ – I think it will be interesting to see how some of those cases play out in the courts over the coming years. I also believe there will be an increased focus on gambling and daily fantasy related to the esports industry. Right now, many states are simply not set up to deal with esports wagering.

Q: What do you like most about being a lawyer in the sports and entertainment industry?

A: Constant change is what makes the sports and entertainment industry challenging and rewarding. The notion of “sports” itself is changing right now. Less than 50 years ago, professional sports in the United States was focused primarily on baseball, basketball, football, and hockey. Now new leagues such as the WNBA are getting a stronger foothold in the market. The sports industry is also adding entirely new competitions like the NBA Cup Tournament, and new esports ventures like the recently announced retooling of the NBA 2K League as a global entertainment brand. There are also entirely new competitions such as the Drone Racing League, which had events broadcasted on NBC, ESPN, and Twitter. As new technology and new media platforms continue to develop, the way we play sports, watch sports, and enjoy sports will continue to change.

Esports Betting: State of Play

By David Manjorin

Brief History of Sports Betting in the United States

The legal landscape for gambling on sports in the United States has enjoyed a history full of ebbs and flows. Between a lack of regulation¹, to widespread prohibition throughout most states in the Twentieth Century², to the proliferation of casinos following the enactment of the Indian Gaming Regulatory Act in 1988³, and finally to the growth of internet gambling in the Twenty-First Century.⁴

Sports betting grew as part of a jurisdiction-by-jurisdiction legal regime⁵ until 1989. It was then that Major League Baseball Commissioner A. Bartlett Giamatti released a report that legendary player, Pete Rose, gambled on baseball games as a player and later as manager of the Cincinnati Reds.⁶ For his transgressions, Major League Baseball banned Pete Rose for life, preventing the league's all-time hits leader from joining MLB Hall of Fame.⁷

Following the Pete Rose scandal, National Football League and National Basketball Association Commissioners Paul Tagliabue and David Stern both came out in favor of sports

betting prohibitions, stating that the practice threatened the integrity of professional sports.⁸ In response, Congress passed the Professional and Amateur Sports Protection Act of 1992 (PASPA), making it unlawful for states to operate sports betting schemes.⁹ The law did, however, exempt Oregon, Delaware, and Montana in addition to certain sport pools in Nevada, which had sports betting operations in place prior to passage.¹⁰ Additionally, states with at least ten years of licensed casino gaming could pass laws to permit sports betting, if done within a year of the law's passage.¹¹ New Jersey famously failed to take advantage of this provision, lost its chance to operate legal sports betting pools under the statute, which led to the state's eventual challenge of the law.¹²

After unsuccessfully petitioning the Supreme Court to hear a constitutional challenge of PASPA in 2012, New Jersey successfully brought a case to the Court in 2014 (*Murphy v. NCAA*).¹³ New Jersey's argument was that PASPA was unconstitutional "because it regulates a state's exercise of its lawmaking power by prohibiting it from modifying or repealing its laws prohibiting sports gambling."¹⁴ The

Court agreed, noting that "PASPA's provision prohibiting state authorization of sports gambling schemes violates the anticommandeering rule," because it "unequivocally dictates what a state legislature may and may not do."¹⁵ PASPA, according to the Court, violated the Tenth Amendment, which states that "all legislative power not conferred on Congress by the Constitution is reserved for the States," and no power enumerated in the Constitution gives Congress the right to issue direct orders to state governments.¹⁶

With the *Murphy* decision, the power to legalize or criminalize sports betting returned to the states. And since that decision, many states have decided to permit sports betting, creating a multibillion dollar industry in a few short years.¹⁷

While betting on esports is a relatively new phenomenon, it is projected to rack up \$2.5 billion in worldwide revenue in 2024.¹⁸ Gambling companies continue to examine how to maximize esports betting's potential¹⁹, and the legal landscape continues to develop, often less clearly than for traditional sports betting.

Legal Landscape of Esports Betting Today

Throughout the United States, there

1 See Thomas Barker and Marjie T. Britz, *Jokers Wild: Legalized Gambling in the Twenty-First Century* 19–26 (2000).

2 *Id.* at 31–35, 45–48.

3 *Murphy v. NCAA*, 584 U.S. 453, 459 (2018).

4 Barker and Britz, *supra* note 1, at 52, 57, 59, 100.

5 See James C.W. Goodall, *Bringing Down the House: An Examination of the Law and Policy Underpinning the Professional and Amateur Sports Protection Act of 1992*, 67 Rutgers U.L. Rev. 1097, 1104 (2015).

6 See David Purdum, *Sports Betting Legalization: How We Got Here*, ESPN (May 22, 2018), https://www.espn.com/chalk/story/_/id/23561576/chalk-line-how-got-legalized-sports-betting.

7 See Goodall, *supra* note 5, at 1102.

8 See *id.* at 1103; Paul David Walley, *Officially Gambling: Tim Donaghy and the NBA's Need for an Absolute Ban on Referee Gambling*, 21 Gaming Law Review and Economics 1, 36 (2017).

9 Professional Sports and Amateur Sports Protection Act (PASPA), 28 U.S.C. §3702 (1992).

10 See Goodall, *supra* note 5, at 1108.

11 *Id.*

12 Stephen A. Miller and Leigh Ann Benson, *NJ's Supreme Court Gamble Takes on PASPA*, The Legal Intelligencer (Nov. 9, 2017), <https://www.law.com/thelegalintelligencer/2017/11/09/njs-supreme-court-gamble-garden-state-takes-on-paspa/?slretu rn=20241018170129>.

13 *Id.*

14 *Murphy*, 584 U.S. at 463.

15 *Id.* at 455.

16 *Id.*

17 Doug Greenberg, *Sports Betting Industry Posts Record \$11B in 2023 Revenue*, ESPN (Feb. 20, 2024), https://www.espn.com/espn/betting/story/_/id/39563784/sports-betting-industry-posts-record-11b-2023-revenue.

18 Esports Betting – Worldwide, Statista (2024), <https://www.statista.com/outlook/amo/esports/esports-betting/worldwide>.

19 Wayne Perry, *Esports Video Games Hold Vast Betting Potential*, Experts Say, AP (Oct. 18, 2022), <https://apnews.com/article/technology-sports-games-video-games-6561ed220e00ca3b9a-01bae73cc1c0e0>.

are essentially three legal statuses for esports betting: 1) the state has a sports betting statute legalizing sports betting and it includes esports explicitly in its definition of a legal sports bet; 2) the state has a sports betting statute, but it does not include nor exclude esports betting as a permissible sports bet; or 3) the state explicitly disallows sports betting and/or esports betting or has not authorized it. While the first and third statuses are clear, the

second status makes it unclear whether esports betting is permitted in those states. The following chart details each state’s status:

How Esports Betting Works

Esports betting shares many similarities with traditional sports betting, but given the format of the competition and the different types of games available, there are bets unique to video games. The most popular games for

esports betting include *Counter-Strike 2*, *DOTA 2*, *League of Legends*, *Call of Duty*, *Rocket League*, *Rainbow Six Siege*, *Overwatch 2*, and *Valorant*, among several others.

Traditional sports betting includes betting methods such as straight betting, parlays, futures, and proposition bets. In a straight bet, the bettor wagers on the outcome of a game or event such as picking a certain team to win

State	Legal	Illegal	Unclear
Alabama		X	
Alaska		X	
Arizona ²⁰	X		
Arkansas ²¹			X
California		X	
Colorado ²²	X		
Connecticut ²³	X		
Delaware		X	
District of Columbia ²⁴			X
Florida ²⁵			X
Georgia		X	
Hawaii		X	
Idaho		X	

Illinois ²⁶			X
Indiana		X	
Iowa ²⁷			X
Kansas ²⁸			X
Kentucky ²⁹	X		
Louisiana ³⁰	X		
Maine ³¹	X		
Maryland ³²	X		
Massachusetts ³³	X		
Michigan ³⁴			X
Minnesota		X	
Mississippi		X	
Nebraska ³⁶	X		
Nevada ³⁷	X		
New Hampshire ³⁸			X
New Jersey ³⁹	X		
New Mexico		X	

New York ⁴⁰			X
North Carolina ⁴¹	X		
North Dakota		X	
Ohio ⁴²	X		
Oklahoma		X	
Oregon		X	
Pennsylvania ⁴³			X
Rhode Island ⁴⁴			X
South Carolina		X	
South Dakota		X	
Tennessee ⁴⁵	X		
Texas		X	
Utah		X	
Vermont ⁴⁶			X
Virginia ⁴⁷	X		
Washington		X	
West Virginia ⁴⁸	X		
Wisconsin		X	
Wyoming ⁴⁹	X		

a game.²⁰ Parlays are single bets that combine the outcomes of multiple selections, for example, a single bet that both the Giants and Eagles will win their respective games.²¹ Futures take a step back and allow bettors to wager on whether a specific team or person will win an event in the future, for example, a preseason bet that the Giants will win the Superbowl (wishful thinking on my part).²² And proposition bets, or prop bets, are bets that are not necessarily contingent on the outcome of the game or event, but can be a more narrow selection, for example, betting on how many yards passing Daniel Jones will have in a game for the Giants.²³

Esports betting ties to these general sports betting concepts but adds twists unique to video games. Esports include straight bets where you can wager on the outcome of a match or event.²⁴ There are also futures such as betting on which gamer (or game team) will win a specific match.²⁵ There are prop bets where you can bet on which gamer will have the first kill in a game like *DOTA 2*,²⁶ or over/under bets where you can try to predict whether the total points scored will be above or below a set amount.²⁷

To understand how a payout would work in a sports or esports bet, the following is an example bet, using betting

odds provided by Thunderpick, an internationally-based esports betting site. There is an upcoming *DOTA 2* match in the DreamLeague between AVULUS (+650) and PariVision (-122). The minus sign represents that the PariVision are favorites to win while the plus sign indicates that the AVULUS are the underdogs. Positive odds indicate a bettor's potential profit on a \$100 bet, while negative odds represent the bet necessary to win \$100.²⁸ In this case, if you bet \$100 on the AVULUS and they win, the payout will be \$750 (the betting stake of \$100 plus a \$650 profit). The same \$100 bet on the PariVision, assuming they won instead, would yield a payout of \$181.97 (the betting stake of \$100 plus an \$81.97 profit). Knowing how the odds work is important in determining the likelihood of success of your bet and how much you are willing to wager.

Where and How Does One Wager

While esports betting is legal in many states, the most popular legal sportsbooks in the United States have not yet added many options for esports bets. For example, DraftKings offers only daily fantasy sports ("DFS") options when it comes to esports, and DFS is not considered to be gambling in most states.²⁹ Instead, most esports betting is done via internationally-based betting sites.

Examples of popular esports betting websites include Thunderpick, BetOnline, BetUS, Bovada, Pinnacle, and Betway. Generally, these websites allow you to deposit funds via a credit/debit card, wire transfer, and increasingly through cryptocurrency. Some websites, like Thunderpick, deal exclusively in cryptocurrency.

²⁸ THP, *supra* note 56.

²⁹ <https://www.draftkings.com/esports>.

Future Outlook

Like sports betting, esports betting continues to see market growth with the United States projected to hit north of \$700 million in revenue in 2024.³⁰ The worldwide market volume is expected to reach \$3.5 billion by 2029.³¹ This growth is fueled by online tournaments, events, mobile gaming, and accessibility to sports betting.³² Additionally, consumers are increasingly using cryptocurrency to make these esports wagers, primarily on international websites, due to both the convenience digital currency offers and the anonymity it provides.³³

The legal landscape continues to develop in the United States. While many states have legalized esports betting, others are still trying to get legislation passed or clear up their sports betting laws to explicitly include esports. For example, Pennsylvania lawmakers continue to propose specifically legalizing esports betting, while New Jersey and Nevada are working towards solutions to make betting on esports more accessible.³⁴ The continued growth and success of esports betting is contingent on sustained legalization efforts in states that have not yet legalized esports betting, improvements in access to wagering on more familiar sports betting sites like FanDuel, Caesar's, and DraftKings, and increased betting options in brick and mortar casinos.

²⁰ Hard Rock Bet: Sportsbook Betting Guide, <https://www.hardrock.bet/sportsbook/football/>.

²¹ See *id.*

²² See *id.*

²³ See *id.*

²⁴ Staff, *The Rise of Esports Betting: How it Differs from Traditional Sports Betting and Ways to Get Started*, New Jersey Digest (Apr. 24, 2024), <https://thedigestonline.com/news/the-rise-of-esports-betting-how-it-differs-from-traditional-sports-betting-and-ways-to-get-started/>.

²⁵ See *id.*

²⁶ THP, *How to Bet on Esports*, Thunderpick (Oct. 4, 2024), <https://thunderpick.io/blog/how-to-bet-on-esports>.

²⁷ Staff, *supra* note 54.

³⁰ Esports Betting – Worldwide, Statista (2024), <https://www.statista.com/outlook/amo/esports/esports-betting/worldwide>.

³¹ *Id.*

³² *Id.*

³³ *Id.*

³⁴ George Stockburger, *Pennsylvania Lawmaker Proposes Legalizing Esports Betting*, ABC (Feb. 2, 2023), <https://www.abc27.com/pennsylvania-politics/pennsylvania-lawmaker-proposes-legalizing-esports-betting/>.

FaZe Clan's 'Legendary Month' Cut Short: The Legal Fallout of a Content House Eviction

By Ethan Chalet, 2L, Villanova University - Charles Widger School of Law

Overview

In 2010, a group of professional video game players formed the FaZe Clan, a YouTube channel and gaming conglomerate that quickly rose to popularity among the online community.¹ After accruing several Esports championships, along with a significant following due to its distinctive style and approach of melding esports, traditional sports, pop culture, and content creation, the company decided to go public and was listed on the NASDAQ.² FaZe Clan's market value peaked at \$1.86B in 2022, before ultimately suffering a financial collapse that had the stock trading at \$0.50 a share.³ These struggles led to a company reboot and mass layoffs that saw 110 employees terminated and 17 creators dismissed from the organization.⁴

As the dust settled on these organizational changes, FaZe Clan planned what it termed a "legendary month," where they would get back to FaZe Clan's origins and launch fun new streams and a video series.⁵ Instead,

on August 26th, a representative from the company stated that the group had been evicted from their filming location, and given a weekend to pack up and find a new place to shoot.⁶ The eviction was attributed to the company's "prank wars," which involved the content creators throwing a PC and mattress into the pool, among several other instances of property damage.⁷ Members of the organization expressed frustration with the landlord's decision, claiming that they had been "flushing money into the new crib" and working on new content concepts.⁸ Those who support the group argue that the FaZe Clan should have been given a chance to repair the property, while others emphasize that the property owner had every right to remove the content creators.⁹ Regardless, the eviction could be potentially fatal for the channel, as the FaZe Clan struggles to make content that is relatable to a new generation of subscribers.¹⁰

Content Creation

Although FaZe Clan describes itself as "the center of gaming, sports, culture, and entertainment,"¹¹ since the reboot, the company has decided to shift its focus away from gaming in search of more lucrative fields of content cre-

ation.¹² FaZe Clan recently entered into a partnership with Rollbit, a cryptocurrency casino that has collaborated with other large-scale brands such as the Italian football club SSC Napoli and English team Southampton.¹³ The deal represented a concerted effort to strengthen audience connection and transform the brand's perception.¹⁴

Incident

As the FaZe Clan attempted to reboot their channel amidst financial concerns and employment overhauls, the company launched their September "subathon," which streamed live 24/7 for 30 days.¹⁵ Throughout this event, the FaZe Clan members streamed themselves sleeping, eating, getting group haircuts, working out at the gym, and shooting baskets on their backyard court.¹⁶ Much of their content was harmless fun until the group initiated a prank war that turned the content house into a warzone.¹⁷ One of the

¹² *Id.*

¹³ See Tom Daniels, *Faze Clan announces multi-year Rollbit deal*, GSI Esports Insider, (August 29, 2024), <https://esportsinsider.com/2024/08/faze-clan-new-multi-year-rollbit-deal>

¹⁴ See GameSquare Holdings, Inc., *Faze Clan, a GameSquare Company, Announces Huge Community Engagement from September's FaZe Subathon*, (October 9, 2024), <https://finance.yahoo.com/news/faze-clan-gamesquare-company-announces-120000294.html>

¹⁵ See David Matthews, *Faze Clan Twitch-streaming house in Sherman Oaks swatted with False murder report*, The Orange County Register, (September 20, 2024), <https://www.ocregister.com/2024/09/20/faze-clan-esports-team-swatted-during-stream-after-false-murder-report/>

¹⁶ *Id.*

¹⁷ See Shreyan Mukherjee, *Faze Clan prank war: What exactly happened that led to their reported eviction from the Faze House*, Sportskeeda, (August 27, 2024), <https://www.sportskeeda.com/us/streamers/faze-clan-prank-war-what-exactly-happened->

¹ See *Faze Clan Owners Prepare to Jump Ship*, Esports Illustrated, (May 10, 2023), <https://www.si.com/esports/news/faze-clan-owners-prepare-to-jump-ship>

² See Kayla Cobb, *ESPN's 'No Scope: The Story of Faze Clan' First Trailer Dives Into the Esports Team's PR Nightmare*, The Wrap, (June 26, 2024), <https://www.thewrap.com/espn-30-for-30-no-scope-the-story-of-faze-clan-trailer/>

³ See *Faze Clan Owners Prepare to Jump Ship*, Supra Note 1

⁴ See Meera Jacks, *Who's in Faze Clan? Full roster following 2024 reboot*, Dexerto, (July 31, 2024, 10:27 AM), <https://www.dexerto.com/twitch/faze-clan-full-roster-2676401/>

⁵ See Olivia Richman, *Banks Says Fze Clan Has*

Nothing Left After Getting Evicted From Content Creator House, Dexerto, (August 27, 2024), <https://www.si.com/esports/news/faze-clan-evicted>

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*, at para. 7.

⁹ *Id.*

¹⁰ *Id.*

¹¹ See Grant Taylor-Hill, *Faze Clan Moving Away From Gaming Content, It's Claimed*, ESports.net, (March 9, 2024), <https://www.esports.net/news/industry/faze-clan-moving-away-from-gaming/>

members decided to pour flour over another's streaming room, which led to retaliation and escalation.¹⁸ The rooms were significantly soiled by a variety of substances, leaving them dire shape.¹⁹ The prank war concluded with FaZe Kayasn throwing Plaqueboy's PC into the pool.²⁰ Shortly after, the FaZe clan page on X posted that Kaysan had been removed from the organization.²¹ As a result of the damage caused to the property, the group was given a September first deadline to vacate the premises, despite having paid for the entire year-long lease upfront.²² The Landlord explained that FaZe Clan had been given multiple warnings and was told that they were on their "last strike."²³ In response, the group has scrapped all immediate plans; changing its banner and profile picture to a black blank to represent the severity of the situation.²⁴

Landlord-Tenant Law (Dual-Purpose Residences With Personal and Professional Use)

The members of the FaZe Clan were renting a house in Los Angeles which they planned to use for content creation.²⁵ Under Federal Law, a Landlord can break a lease for unruly tenant

behavior.²⁶ Depending on the violation's severity, the Landlord can issue an unconditional quit, which requires the Tenant to vacate the premises without the option to cure the violation or pay rent.²⁷ The California Civil Procedure Code adopts a similar policy, defining several specific forms of unruly tenant behavior such as the commission of a nuisance upon the premises or use of the premises for unlawful purposes.²⁸ The Landlord will then provide three days' notice to the Tenant before filing



an eviction lawsuit, which could legally obligate the Tenant to pay the rent for the full lease.²⁹

However, there are some legal obstacles posed by dual-purpose residences, blending personal and professional use.³⁰ California law treats residential and commercial leases very differently; with commercial tenants receiving less legal protections than residential tenants.³¹ Commercial leases are more

complicated than residential ones, and require a Landlord to specify all the reasons why they want to evict the Tenant from the office space or rental property.³² It is insufficient for a Landlord in the commercial context to state general examples of a nuisance or unlawful activity, rather they must provide particularized facts showcasing damages to the property.³³ Regardless of whether FaZe Clan's lease is viewed under a residential or commercial statutory scheme, the Landlord will likely be able to meet the burden of proof and successfully evict the group.³⁴

Conclusion

The eviction has left FaZe Clan in a state of disarray, potentially threatening the organization's reboot approach.³⁵ FaZe Banks, the co-owner of FaZe Clan, accused content creators Kaysan and PlaqueBoy Max of destroying the home, leaving the entity with "nothing left."³⁶ FaZe Banks tweeted that he was "seriously burnt" as he now attempts to revive the channel with no place to film and a limited budget to acquire a new property.³⁷

It is unclear where the group will film in the future, but they must act fast if they want to maintain their following by authoring compelling content.³⁸

led-reported-eviction-faze-house

18 *Id.*

19 *Id.*

20 See Richik "anarkiddie" Bhattacharya, *FaZe Banks says he is kicking Kaysan out of FaZe Clan after he threw Plaqueboy's PC in pool*, Sportskeeda, (August 15, 2024), <https://www.sportskeeda.com/us/streamers/news-faze-banks-says-kicking-kaysan-faze-clan-threw-plaqueboy-max-s-pc-in-pool>

21 *Id.*

22 Mukherjee, *Supra* note 17.

23 *Id.*

24 *Id.*

25 See Olivia Richman, *Supra* Note 5

26 See *Can a Landlord Terminate a Lease Early?*, American Apartment Owners Association, <https://www.american-apartment-owners-association.org/property-management/can-a-landlord-break-a-lease/>

27 *Id.*

28 "Unlawful Detainer" Defined, Cal. Civ. Proc. Code § 1161 (West)

29 *Id.*

30 See Ezer Williamson, *Residential v. Commercial Leases*, Ezer Williamson Law, <https://ezerwilliamsonlaw.com/residential-vs-commercial-leases/>

31 *Id.*

32 See David Bitton, *California Commercial Lease Agreement for Rental Properties*, DoorLoop, (August 10, 2024), <https://www.doorloop.com/forms/california-commercial-lease-agreement>

33 *Id.*

34 See Shreyan Mukherjee, *Supra* Note 17

35 See Olivia Richman, *Supra* Note 5

36 *Id.*

37 *Id.*

38 See Shreyan Mukherjee, *Supra* Note 17

Gaming Director at Scholastic Esports Federation Discusses Texas' Progressive Approach to Esports

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He has a bachelor's degree in Political Science from Sam Houston State University and a master's degree in Educational Technology from Texas A&M University. His passions revolve around educating students and supporting scholastic esports in Texas and nationwide. He has served as a VP of the Board and Gaming Director for the Texas Scholastic Esports Federation since early 2020. In addition to starting an esports program at Ball High School in Galveston, he presented to the University Interscholastic League Legislative Council on adding esports across Texas, and has presented to a group of ADs at the Texas Athletic Directors' Association's main office on how to incorporate esports into current programs.

What follows is an exclusive interview with him.

Question: What is the Texas Scholastic Esports Federation and what is its mission?

Answer: The Texas Scholastic Esports Federation is, to quote our mission statement, dedicated to making esports an accessible, inclusive, and equitable path to college, career, and military readiness for all Texas students. To put it more simply, we want kids in Texas to have the opportunity to participate in esports in whatever way they want so that they can get



Patrick Neff

the same kind of benefits we see in other team sports and extracurricular activities. The organization itself is made up of, on the operational side, current and former educators who volunteer their time and efforts to make all of our events happen, from seasons of play online to in-person local tournaments to big state-wide championships each year.

Q: What are the biggest challenges to achieving that mission?

A: There are a couple of major challenges that we have faced in getting this off the ground and then expanding it. The first big hurdle was just making the case for the existence of esports programs in schools. There is a general view in education (and society, really) that video games are at best a waste of time, students spend too much time in front of screens, and that video games have a host of bad effects including laziness and violence. Overcoming these views is often a school by school and district by district process that involves showing the benefits, getting buy in from administrators, and finding passionate teachers who are willing to do the job for free.

The second major challenge is that

putting on events and having adults willing to support programs costs time and money, and strongly believe in keeping things as cheap as possible so that kids don't get priced out of participation. We have gotten by on the goodwill and volunteer hours of educators, but our growth has meant that we need to find more sources of income to make things work.

Finally, the esports industry is a complex space with some unique challenges that most of us didn't understand when we started this, and that have continued to pop up from time to time. We have had to manage working across school districts, dealing with state laws in Texas related to certain foreign companies (I'll discuss later in another question in detail), and the ownership and copyright legal landscape that we never even considered when we started this thing.

Q: How do you support the students (just participation, or do you also support them when it comes to being entrepreneurial in terms of new businesses or games)?

A: Our main pathway of support is through providing participation in esports. This looks like everything from putting on our own events to providing support when schools want to put on their own events. In addition, we do a lot of teacher training and provide support for starting new clubs and teams that help the students. Right now, we are piloting curriculum with the state of Texas to have esports courses that cover the industry and provide students with an understanding of the opportunities and careers available to them. Finally, we work to connect our students to collegiate programs, many of whom

offer scholarships that can help pay for college.

Q: Does the Federation interact with the legal community in any way?

A: On a day-to-day basis, we don't have much interaction with the legal community (and hope to keep it that way!). Joking aside, there have been some interactions around setting up our organization as a 501(c)3 non-profit, and we have occasionally asked for guidance and advice as we come across things that we don't know about. Some very kind and supportive parents or friends in the legal profession have done some pro bono work for us in the past.

Q: Are there legal issues that come up at any point, and what would they be?

A: There are a couple of very big legal issues that have come up and that we have done our best to navigate. The first is around ownership and copyright of games and how we interact with them. In 2020, Riot Games changed their community guidelines to limit who could offer scholastic competitions of their game League of Legends. This change specifically barred us from offering the title except under very restrictive limitations. We as an organization determined that we would be better off not offering the title at all, and did not do so until those guidelines were changed a couple of years later. During this time, we had a number of conversations around the idea of fair use in education. It is my belief that there is a case to be made that scholastic esports would meet the criteria for a fair use exception and that we could run it without permission, but we have never made the attempt to break the rules and litigate that claim.

Another major legal issue that arose more recently popped up when the state of Texas passed a law around the

use of software developed and owned by certain companies based in China. The most obvious and well-known example is that TikTok, owned by ByteDance, is banned on pretty much all state networks. That same bill also included a company called Tencent. Tencent Gaming owns, fully or partially, a number of developers who put out esports games, and those games can be restricted on state networks as well. This has been a concern for both public school IT departments and colleges, and it seems to still be somewhat vague, with different groups interpreting things in different ways.

Q: How would you describe your role in the Federation?

A: I am lucky enough to have been one of the founding members of TEXSEF and have served in a number of roles. In our early days, I was the competition director and oversaw our broadcasting. I have served on the board of directors since the creation of the organization as well. Much of the day-to-day has shifted to others who are still active educators, as I left teaching to get my PhD and am now a college professor. I still attend board meetings and some of our bigger events, contributing where I can to the organization.

A: Does betting or wagering ever come into play in esports and the work of the Federation?

In our work, betting and wagering isn't something we address or deal with most of the time. Given our focus on middle and high school competitions, we don't see much in the way of wagering. In the broader professional esports setting, you absolutely can gamble on everything from who will win a competition to stat outcomes, just like any professional sport.

Q: If so, what trends are you seeing?

A: I can't speak to specifics around

gambling in esports, but the growth of the industry and the increase of money in the space is almost guaranteed to see more gambling around the competitions that happen. I suspect we're going to see a "point shaving" type scandal in one of the big games in the next couple of years. An interesting point of uniqueness around esports is that the game developers often own and operate the competitions, and they rarely make money on the pro scene itself. It's effectively a form of marketing for their in-game product, so they don't necessarily offer the same oversight as a traditional sport that is concerned with the integrity of the game. This could open the door to more abuses down the road before anything becomes standardized.

Q: Anything we missed?

A: Probably the most important thing is what I just mentioned around gambling, but on a broader scale. Right now, esports is not self-sustaining yet and is seen mostly as a way to market these games by the developers. This means that there is no consistency around how things are run, no oversight authority beyond the developers themselves. The NCAA decided not to try to do esports because it was too complicated to deal with each developer. More recently, the Saudi Public Investment Fund has begun to partner with groups like the International Olympic Committee and just recently hosted an Esports World Cup that saw games across a number of developers being played by teams from all over the world. Its anyone's guess as to what impact this might have or what comes next, but it might finally signal a shift towards more traditional sport approaches being applied to esports competitions in the next few years.

Q: Is there a national Federation?

A: Not in the sense most people

would likely picture. A number of states have a similar organization to ours, that is educator run and non-profit. Some states have hired an outside organization like PlayVS or Generation Esports to manage their state esports competitions, and many states don't have anything official, so they participate in an online competition run by one of those above-mentioned groups or one of the others that exist. TEXSEF and a number of other state organizations have come together to form the Interstate Scholastic Esports Alliance, or ISEA, that advocates for scholastic esports and provides a

forum for mutual support. There are more than a dozen organizations that are official members, and a few more that participate on some level but haven't joined (yet). In many ways, it's the wild west out there.

Q: Any other states that are as advanced as Texas?

A: There are a number of other states with similar, well-developed organizations doing esports. New Jersey, Ohio, Oklahoma and many more have done amazing things in their own space around esports and education. Wisconsin has one of the

longest running scholastic esports organizations in the nation. No two look exactly the same, from offering different titles to running their organizations in different ways. But we wouldn't be where we are or who we are without their support and advice. One of the best things about the ISEA and scholastic esports in general is that everyone just wants to see it succeed and see kids benefit. Because of this, when we try something that works, we share it. When we make mistakes, we warn each other. This space is growing because it is collaborative.

ESPORTS

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In September 2024, six contestants from the unaired Amazon Studios reality show *Beast Games* filed a lawsuit in Los Angeles Superior Court against the show's producers. The contestants allege that the show misclassified them as independent contractors, in violation of California labor laws. The defendants have not yet responded to the complaint, and the case is currently stayed until mid-November.

The classification issues in the *Beast Games* case parallel challenges faced by esports workers, who often find themselves in ambiguous employment relationships. As this article discusses, the court's interpretation of the *Beast Games* contestants' status could offer important insights for esports players regarding their eligibility for employee protections.

Background: California's "ABC" Test and its Impact on the Esports Industry

California has deep ties to the esports, where major cities like Los Angeles and San Francisco serve as key hubs for teams, tournaments, and game development. Venues such as the Crypto-

com Arena in Los Angeles and the Esports Arena in Santa Ana regularly host high-profile events that attract both professionals and amateurs. Professional esports contracts involving California-based teams or players are subject to the state's employee-friendly labor laws.

In 2019, California enacted AB5 (officially known as Assembly Bill 5) to establish a stricter standard for classifying workers as independent contractors rather than employees. The legislation introduced the "ABC" test, which outlines three criteria that must be met for a worker to be considered an independent contractor. Under this test, a worker is deemed an independent contractor only if:

- the worker is free—both factually and contractually—from the control and direction of the hirer in connection with the performance of the work;
- the worker performs work that is outside the usual course of the hiring entity's business; and
- the worker is customarily engaged in an independently estab-

lished trade, occupation, or business of the same nature as that involved in the work performed.

Dynamex Operations West, Inc. v. Superior Court of Los Angeles, 4 Cal. 5th 903, 955–56 (Cal. 2018).

Importantly, an employer cannot preemptively designate a worker as an independent contractor in an employment contract. AB5 establishes that a worker must satisfy all three components of the "ABC" test to be legally classified as an independent contractor, emphasizing the need for a worker to clearly demonstrate independence and control from their employer.

The classification of esports players as either independent contractors or employees exists in a complex grey area, with compelling arguments supporting both perspectives. On one hand, proponents of employee status emphasize the significant control that organizations exert over players, including setting practice schedules and providing strategic guidance. Additionally, many players sign long-term contracts that offer a level of stability

and regular compensation, aligning more closely with traditional employment relationships than independent contracts. This perspective argues that such structures create a dependency that undermines the independence typically associated with contractor status.

Conversely, advocates for classifying esports players as independent contractors highlight the players' autonomy in managing their own schedules and pursuing multiple competitive opportunities. Players frequently negotiate their contracts and participate in various tournaments, reflecting the flexibility inherent in independent work. Moreover, many players invest in their own branding and operate as individual entities, further underscoring independence from their employer's control.

Due to the inherent variability in contracts, player circumstances, and team structures, each AB5 analysis will produce distinct outcomes based on the specific facts of the case. But given the lack of extensive case law specifically addressing AB5 and esports players, those anticipating legal challenges should look to analyses from other industries navigating similar legal considerations for guidance. One noteworthy case in the entertainment industry is currently pending in the Los Angeles Superior Court.

MrBeast and *Beast Games*

Jimmy Donaldson, a.k.a. MrBeast, is one of the most influential figures on YouTube, renowned for his grand-scale challenges and high-budget productions. Since starting his channel in 2012, he has amassed a massive following by creating videos that often feature eye-catching feats, like giving away large sums of money or orchestrating elaborate events. For example, in 2021, Donaldson produced a real-world recreation of the

Netflix series *Squid Game*, featuring 456 contestants who competed in challenges inspired by the show for a chance to win \$456,000.

In March 2024, Donaldson and Amazon MGM Studios announced a new reality competition series called *Beast Games*. The press release described the show as “the world’s largest live gameshow” with the “the biggest single prize in the history of television and streaming.” Initially marketed

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on Amazon’s Prime Video platform, *Beast Games* was set to showcase 1,000 contestants as they competed for a \$5 million grand prize. As of November 1, 2024, *Beast Games* has yet to be released online or on streaming services.

In September 2024, six *Beast Games* contestants filed a class action lawsuit alleging that they were misclassified as independent contractors rather than employees, in violation of California’s AB5 law. While the contestants were designated as independent contractors in their contracts with *Beast Games*, the plaintiffs claim

that their working conditions reflected those of employees rather than independent contractors. The lawsuit asks the court to reclassify the contestants as employees, thereby entitling them to benefits and protections typically afforded to employees under California labor law. If the plaintiffs are reclassified as employees, the defendants could be liable for multiple labor law violations, including minimum wage violations, failure to pay overtime wages, failure to provide uninterrupted meal breaks, and failure to provide uninterrupted rest breaks.

Connecting Esports Players to the *Beast Games* Lawsuit

While esports players and reality show contestants exist at distinct points within the entertainment landscape, the arguments presented by plaintiffs in the *Beast Games* litigation could serve as a valuable reference for esports players seeking to assert employee status in future cases.

Control and Direction

The complaint states that the contestants “were the essential labor component to the entire production. Their work on the show was the entertainment product that Defendants were marketing and selling for public consumption and profit.” This allegation implies a direct relationship in which the producers dictate the terms of the contestants’ participation. If contestants were subject to the defendants’ control regarding their roles and performance, they may not be independent contractors under AB5. The emphasis on the contestants’ work as central to defendants’ core mission—creating entertainment—would further support reclassification.

Much like the contestants in *Beast Games*, esports players are typically directed by tournament organizers regarding rules, schedules, and roles. However, the extent to which an

esports player promotes their own brand and engages in external sponsorships could complicate claims for employee classification, as courts may consider the degree of independence in their roles.

Availability and Commitment

The complaint further stated that the contestants were told that they “would have to be available for [redacted], and while they were working for Defendants, they would not be able to accept any other employment.” If true, this allegation indicates significant control over the contestants’ schedules and availability, suggesting that the defendants dictated when and how the contestants can engage in their work. Such restrictions imply that the contestants’ roles are central to the production.

For esports players, a similar analysis would apply, as they often face stringent schedules dictated by tournament organizers, limiting their ability to pursue other opportunities. This dependence on event schedules supports claims for employee sta-

tus; however, many esports players participate in multiple tournaments and sponsorships, which could argue against their classification as employees by suggesting a degree of independence.

Oversight and Dedication

Another point from the complaint highlights that the defendants required the contestants “to be physically present on specific dates and times, around-the-clock, at locations dictated, controlled, and supervised by Defendants,” and that the plaintiffs “dedicate all of their time to the Production during the production period, . . . and miss other work if they had other jobs.” If true, this level of oversight would demonstrate that the contestants were not free to determine their own schedules or work conditions, strongly suggesting an employer-employee relationship. Similarly, the requirement for full dedication to the production underscores that the contestants’ work was integral to the entertainment product’s creation.

Similarly, esports players often face rigorous demands to be available for tournaments, requiring substantial time and effort for training and preparation. The expectation of full dedication to competition can suggest that their roles are crucial to the success of the events. However, participation in many events or individual streaming may imply a degree of autonomy, which could challenge their claims for employee classification.

Conclusion

The status challenges faced by contestants in *Beast Games* echo the complexities within the esports industry regarding worker classifications. As courts continue to interpret and apply California’s AB5 law, the implications will likely extend beyond individual cases, influencing how talent is managed and compensated in the entertainment sector. For esports players, the outcome of these legal battles could redefine their status and rights, ultimately shaping the future of their profession and ensuring equitable treatment.

OLYMPIC

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traditional sports with the digital sphere. Initial events, like the Olympic Virtual Series, featured sports simulations such as baseball, cycling, and rowing, which were more accessible to conventional sports audiences (Burelli et al., 2024). However, these early efforts quickly revealed several challenges to fully integrating esports into the Olympic framework. Esports’ decentralized structure, diverse game genres, and governance inconsistencies across regions and game titles complicated the establishment of standardized rules and the selection of games that could qualify as “Olympic-

friendly.” Additionally, the fact that governance authority primarily rests with game developers, rather than a neutral regulatory body, presented a unique challenge for the IOC (Burelli et al., 2024).

Efforts to create global tournaments outside the developers’ direct control, such as the World Cyber Games and EVO, highlighted the difficulties of gaining international traction and sustaining unified esports events. These events require developer licensing and may struggle with inconsistent participation, financial issues, legal discrepancies, and varied

appeal across international audiences (Walker, 2016). Without a global governing body comparable to those in traditional sports, regulating and organizing esports on an Olympic scale has remained complex (Shinohara, 2023). For the IOC to integrate esports effectively, it will need a structured framework that respects esports’ unique dynamics while promoting the Olympic Movement’s values. Furthermore, given the diversity of developer perspectives on esports, obtaining the necessary support and licenses from the various game developers who hold intellectual property rights over

popular titles adds another layer of difficulty.

Saudi Arabia Partnership and Lessons from Esports World Cup

The IOC's 12-year partnership with Saudi Arabia's National Olympic Committee is a critical component of its Olympic Esports Games, providing not just a location for the event but also the stability, resources, and influence necessary to unify stakeholders and establish a structured framework for integrating esports within the Olympic model. This relationship aligns well with Saudi Arabia's Vision 2030, an ambitious economic diversification plan aiming to reduce the Kingdom's reliance on oil by heavily investing in sports and entertainment, with esports at the forefront (Dunbar, 2024). Saudi Arabia has demonstrated its commitment to esports through investments in key stakeholders, including the Electronic Sports League, Modern Times Group, and numerous game developers (Tan, 2024).

Hosting the Olympic Esports Games in Saudi Arabia capitalizes on the Kingdom's rising influence in esports, positioning it as a global center for digital entertainment and granting the IOC access to new markets and revenue streams. This partnership reflects Saudi Arabia's recent success with the inaugural Esports World Cup, which attracted over 500 million viewers and drew substantial sponsorship support (Fudge, 2024; Fragen, 2024). The event provided a vital financial injection into an industry grappling with an "Esports Winter" of slowed investment and stakeholder consolidation (Ciocchetti, 2024). Saudi Arabia's involvement has been crucial in revitalizing the sector and fostering an esports tourism economy, solidifying its role as a strategic partner for the IOC (Tan, 2024). For the

IOC, this alliance not only enhances its presence in the esports economy but also establishes a foundation for sustainable financial and cultural benefits through Saudi Arabia's emerging market of gaming enthusiasts and professionals (Hilani, 2024).

Legal and Governance Considerations

Integrating esports into the Olympic framework presents complex legal and governance challenges, especially since

Hosting the Olympic Esports Games in Saudi Arabia capitalizes on the Kingdom's rising influence in esports, positioning it as a global center for digital entertainment and granting the IOC access to new markets and revenue streams.

esports lacks a centralized governing body. Unlike traditional sports, where entities like FIFA or FIBA establish consistent standards, esports operates within a fragmented ecosystem, with varying rules across games, regions, and publishers. Additionally, due to extensive intellectual property rights, primarily protected by copyright, developers wield significant influence as de facto top stakeholders in the esports space. The IOC will need to carefully navigate these disparities to create a framework that ensures fair play and athlete protection, both of which are

essential to upholding Olympism. Key considerations include player contracts, intellectual property rights for game titles, labor and employment protections, and eligibility criteria (Levine, 2024)—all of which must align with Olympic standards (Reuters, 2024).

Game selection introduces another layer of complexity, as the IOC must weigh Olympic values in determining which esports titles to include. Not all popular esports games align with Olympic ideals, particularly those involving realistic violence (Burelli et al., 2024). Instead, the IOC may prioritize games that emphasize skill, strategy, and non-violent competition, fostering inclusivity while avoiding conflicts with Olympism. This approach, however, could exclude major titles like Counter-Strike, Valorant, and League of Legends, whose depictions of violence may be at odds with the Olympic ethos. Establishing transparent governance guidelines, in collaboration with key stakeholders such as developers, will be essential to shape public perception and determine how seamlessly esports can integrate into the Olympic fold.

Conclusion

The establishment of the Olympic Esports Games reflects the IOC's strategic approach to staying relevant in an evolving sports culture and increasingly digital world. This decision not only brings esports into the Olympic fold but also broadens the Olympic brand's appeal among younger demographics who are more engaged with digital entertainment. Nevertheless, significant challenges remain, especially in establishing effective governance frameworks, aligning esports practices with Olympic values, and creating a financially sustainable model that garners support from stakeholders, including publishers,

teams, and athletes. As the IOC moves forward, addressing these issues will be essential to fostering a positive and inclusive gaming environment within the Olympic Esports Games.

Looking ahead, the Olympic Esports Games have the potential to create new opportunities and renewed enthusiasm within the esports industry. Such an event may also serve as a catalyst for meaningful discussions on establishing governance standards across the esports landscape. With Saudi Arabia positioned as a central esports player, this partnership invites global stakeholders to carefully consider the cultural sensitivities and nuanced dynamics surrounding player rights, governance structures, and broader industry standards that accompany such a collaboration. This strategic alliance with Saudi Arabia offers the IOC a unique opportunity to usher Olympism into a new era, positioning esports as a valuable addition to the Olympic legacy. Whether this ambitious undertaking will succeed, however, remains to be seen.

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