

# Key regulatory issues for video games businesses

The EU and UK are rightly regarded as among the most highly regulated markets for video games around the world. The highest risk areas for video game publishers are currently data privacy matters, consumer and advertising laws (including laws on loot boxes) and, most recently, online safety for multiplayer games. Set out below a summary of some of the key regulatory risks.

TIGA is grateful to Lewis Silkin LLP for working with TIGA to produce this short guide to the key regulatory issues for video games businesses.

## About TIGA

TIGA is the not-for-profit trade association representing the UK video games industry. Our membership includes game developers, digital publishers, universities and service providers.

TIGA's vision is to make the UK the best place in the world to develop video games. TIGA strives to achieve this in three principal ways.

1. Engaging with Government and Parliament to create a favourable environment for the games industry.
2. Enhancing excellence in games education and skills through our accreditation programme, the TIGA Games Education Awards and our education conference.
3. Driving excellence across our industry via the provision of best practice reports and participation in the TIGA Salary and Benefits Survey, the TIGA STAR Employer Awards and the TIGA Games Industry Awards.

## About Lewis Silkin

Lewis Silkin is a leading law firm with offices in London, Oxford, Manchester, Leeds, Cardiff, Belfast, Dublin and Hong Kong. We have a passion for helping the creative industry protect and enhance what really matters – your ideas, your people, your future – we call it: Ideas. People. Possibilities.

Creativity, technology and innovation are at the heart of everything we do. It is reflected in the way we work, as well as in the types of businesses we work with. We help bring ideas to life by working alongside you as a trusted partner.

We have been advising studios, publishers and professionals in the video games industry for decades and we are ranked Tier 1 by Legal 500 in relation to Media and Entertainment.

Lewis Silkin's Interactive Entertainment team has developed into one of the largest and most respected UK practices, across all legal practice areas.

**Key regulatory risks include:**

- a) **Data protection:** game publishers operating in the EU/UK must have a lawful basis for collecting, processing and storing data, for example, consent or legitimate interest. Personal data must be stored securely, no more data than necessary may be collected and privacy must be 'by design'. Significant internal and external documentation is required, including privacy policies, data processing agreements and data privacy impact assessments. Enforcement is commonplace with large fines from regulators of up to 4% of worldwide turnover and individual action from data subjects possible. Data of children (meaning under 18s rather than under 13s) is subject to additional strict protections and measures.
- b) **Consumer law:** consumer laws in the EU/UK are strict and publishers generally cannot opt out of providing mandatory consumer protections by agreement with consumers in their terms of business. Consumer protection online is a current area of EU and UK government focus with new laws being passed and regulators' powers being increased (for example, the UK's new Digital Markets, Competition and Consumers Act). Fines are being increased to high, GDPR-style levels (4% of turnover in the EU and 10% of turnover in the UK). Particular areas of focus and risk include subscriptions and cancellation rights, misleading or aggressive practices relating to monetisation via in-game purchases and misleading advertising practices.
- c) **Loot boxes:** there are currently no specific EU-wide or UK laws on loot boxes, as such, although general consumer laws will apply to loot boxes in respect of refund rights, misleading advertising, etc. Certain EU Member States have chosen to ban loot boxes under their local laws, considering them adjacent to gambling. In the UK, loot boxes are currently legal, provided that the prizes remain in-game and cannot be sold or exchanged for real money (or money's worth); however, in 2023 there was published a voluntary code of practice for game publishers. The UK government has indicated it will legislate within the next year or two to regulate loot boxes specifically if the industry does not adhere to the voluntary code, so use of loot boxes remains a relatively high-risk monetisation technique.
- d) **Online safety:** online safety laws are a new and emerging area of regulation in the EU and the UK, coming into force later in 2024. There is some similarity, but also considerable divergence between EU and UK laws on online safety. Online safety laws only affect multiplayer and social video games, with the highest risk games being ones that include friends' functions, text chat and voice chat. The basic premise is that the governments of the UK and EU are making game publishers directly responsible for protecting their players from illegal and harmful behaviour carried out by other players, such as child grooming, abuse and harassment, terrorism recruitment, encouraging suicide ideation or drug offences. The EU laws are less strict in respect of online safety, focussing on requiring game operators to provide transparency to players and enforce their terms of service. The UK laws are far more comprehensive on online safety and require companies to carry out formal risk assessments and implement mitigation measures, with fewer carve-outs for small businesses. Fines are also high at up to 6% (EU) or 10% (UK) of worldwide turnover.
- e) **Age ratings:** there is no EU-wide regulation of video game age ratings and, like loot boxes, this falls to the laws of individual countries to determine. Most EU Member States have adopted the Pan-European Game Information age rating system ("PEGI"). PEGI is a voluntary form of industry self-regulation, although it has been endorsed and incorporated into local age rating systems by many countries inside and outside the EU, with the notable exception of Germany (which has its own "USK" system). As a general principle, games that are only digitally distributed are lower risk than games that are also physically distributed from an age rating compliance perspective. In the UK, games that are only digitally distributed are relatively low risk from a legal perspective.

**Further information from government and relevant regulators:****Data protection:**

<https://ico.org.uk/>

<https://ico.org.uk/for-organisations/uk-gdpr-guidance-and-resources/childrens-information/childrens-code-guidance-and-resources/>

<https://ico.org.uk/for-organisations/uk-gdpr-guidance-and-resources/childrens-information/childrens-code-guidance-and-resources/top-tips-for-games-designers-how-to-comply-with-the-children-s-code/>

**Consumer law:**

<https://www.legislation.gov.uk/ukpga/2024/13/enacted>

<https://www.gov.uk/government/organisations/competition-and-markets-authority>

[https://assets.publishing.service.gov.uk/media/5a7f8b58ed915d74e33f716e/Unfair\\_Terms\\_Main\\_Guidance.pdf](https://assets.publishing.service.gov.uk/media/5a7f8b58ed915d74e33f716e/Unfair_Terms_Main_Guidance.pdf)

<https://assets.publishing.service.gov.uk/media/5a7c6a29e5274a5590059b52/oft1519.pdf>

[https://www.drcf.org.uk/\\_data/assets/pdf\\_file/0024/266226/Harmful-Design-in-Digital-Markets-ICO-CMA-joint-position-paper.pdf](https://www.drcf.org.uk/_data/assets/pdf_file/0024/266226/Harmful-Design-in-Digital-Markets-ICO-CMA-joint-position-paper.pdf)

[https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13413-Digital-fairness-fitness-check-on-EU-consumer-law/public-consultation\\_en](https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13413-Digital-fairness-fitness-check-on-EU-consumer-law/public-consultation_en)

<https://www.asa.org.uk/advice-online/entertainment-video-games-and-mobile-games.html#:~:text=Video%20and%20mobile%20game%20ads,the%20content%20away%20from%20children.>

<https://www.asa.org.uk/resource/video-games-and-films.html>

<https://www.asa.org.uk/resource/guidance-on-advertising-in-game-purchases.html>

**Online safety:**

<https://www.ofcom.org.uk/>

<https://www.legislation.gov.uk/ukpga/2023/50/contents>

<https://www.gov.uk/government/publications/online-safety-act-explainer/online-safety-act-explainer>

<https://www.ofcom.org.uk/online-safety/illegal-and-harmful-content/quick-guide-to-childrens-safety-codes/>

<https://www.ofcom.org.uk/online-safety/illegal-and-harmful-content/protecting-people-from-illegal-content-online/>

<https://eur-lex.europa.eu/eli/reg/2022/2065/oj>

[https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/europe-fit-digital-age/digital-services-act\\_en](https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/europe-fit-digital-age/digital-services-act_en)

<https://digital-strategy.ec.europa.eu/en/policies/digital-services-act-package>

**Age ratings:**

<https://pegi.info/pegi-code-of-conduct>

<https://pegi.info/page/pegi-online>

<https://pegi.info/pegi-code-of-conduct>

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