

PRIVACY
RULES

GAMES IN BRAZIL: AN OVERVIEW OF THE CURRENT REGULATION

**Tozzini
Freire.**
ADVOGADOS

Games and sports, in general, have always drawn particular attention from the public globally. Such a reality could not be different in Brazil.

Contemporarily it is challenging to differentiate gaming and gambling. The classic definition of gaming and gambling would say that the former is all about skill - and some luck - and no wagering, while the former would require more luck, a reduced level of skill (in comparison to the "classic" game)[1], and always money line bet. But as technology evolved, the frontier between one world and another started to fade to the point where games and gambling became interchangeable words.

The interrelation between games and sports is even more pressing in Brazil as the country's relevance in the sports wagering industry is continuously increasing. While the Federal Government was reluctant to regulate sports wagering activities, sports betting sites became abundant[2] and omnipresent[3] in Brazil.

When it comes to electronic games – as a synonym of the "classic" game – Brazil's market is also gigantic. According to the research published in 2023 by Pesquisa Game Brasil[4] – a national annual survey on the consumption of electronic games in Brazil –, 70,1% of Brazilian individuals who claim to play electronic games, being one of the most important sources of entertainment of the population. In other words, almost 3 out of 4 people in Brazil use their cell phones, video game consoles or computers to play games.

Under the survey published by Newzoo[5] – the global leader in video games and gamer data –, Brazil is the world's 5th largest market by number of players in 2022 and ranks at number 10 in the world.

[1] Gambling modalities that the general public believes are purely based on chance, such as roulette, may become a game of skill under certain circumstances.

[2] due to lack of regulation and official data, it is not possible to accurately indicate the number of sports betting sites operating in Brazil; market observers report that it may range from more than 500 to more than 1,000 and that the market size already surpassed USD20billion.

[3] 39 out of 40 football clubs playing Brazil's Series A and B national championship are sponsored by sports betting sites, that also dominate the advertising in major sports events.

[4] The research was finalized in February 2023 and obtained data from 14,825 individuals selected with basis on the distribution of the Brazilian population according to the Brazilian Institute of Geography and Statistics - IBGE. Available at <https://www.pesquisagamebrasil.com.br/pt/>. Access on May 23rd, 2023.

[5] Available at <https://newzoo.com/resources/trend-reports/key-insights-into-brazilian-gamers-newzoo-gamer-insights-report>. Access on May 23rd, 2023.

Data Protection

On the one hand, the way electronic games are played has changed radically since the days of cartridge and disc (CD) based games. Currently, most of them can be downloaded, completely virtual and without the need to purchase separate media. Also, it is now possible to regularly play with people from all over the world, on multiple devices, all connected at the same time, and even incorporate gambling elements, becoming “less harmless” to the eyes of the public.

On the other, advancement in technology resulted in faster internet connection, easy access to internet banking and payment methods, portabilization of devices, and, ultimately, facilitation of access to sports wagering services to all types of consumers.

To enable and oftentimes fund these experiences and still manage a network of contacts and interactions, companies – whether from the electronic gaming sector or the sports wagering sector - need (and want) to collect personal data from individuals. In addition, it is also common to find gaming user profiles that are linked to online social networking sites.

There is an increasing number of questions that follows both the popularization of games that process personal data and the development of data protection laws and regulations around the world. Just to list a few of those questions: what are the types of personal data processed by the games market? What are the purposes of such data processing? Should there be special attention to processing personal data from children and adolescents, who represent a significant portion of gamers? In this globalized and hyper-connected world, how should the shared use of data and international transfers be addressed?

In Brazil, Federal Law No. 13,709/2018 (General Data Protection Law or just “LGPD”) has been effective since 2020, aiming at creating a new legal framework for processing personal data.

As the LGPD sets rules for the processing of personal data, its application in the context of games is undeniable, given the vast amount of data processed,

which takes place in different ways, from simple registration to be able to play or bet, and also covering purchases within the application/platform, referring friends to play, conducting qualitative research, hosting discussions in specific forums and even using personal data to teach the application itself how it should be updated and improved (machine learning).

The LGPD will apply whenever the personal data processing operation occurs in the Brazilian territory; the goal of the personal data processing operation is the offering or provision of goods or services or the data processing of individuals located in the Brazilian territory; or the personal data object of processing have been collected in the Brazilian territory.

The personal data processing conducted subject to the LGPD must follow several rules. For instance, the privacy policy will have to cover specific content required by law; the company must appoint a data protection officer (although not necessarily exclusive to the Brazilian jurisdiction, the DPO must comprehend the data subjects' request made under the LGPD); the processing of minors' personal can be developed provided that their best interest is observed and prevails at all times; and cross-border data transfers must be made under specific mechanisms.

It is extremely recommended that a previous assessment be made to make any amendments to the offering of a specific game, to make it compliant with the Brazilian applicable laws and regulations while maintaining a great level of playability.

Conclusion

Compliance is not only mandatory to avoid the imposition of sanctions by competent bodies but also to ensure positive visibility in the current market, which has counted a lot in the face of the numerous actors involved and an increasing awareness on the part of the population. A business naturally becomes more attractive to investors and customers when it is proven that it complies with all the applicable laws.



LUIZA SATO PARTNER AT TOZZINIFREIRE



SATO@TOZZINIFREIRE.COM.BR



(5511) 5086-5124



JUN MAKUTA PARTNER AT TOZZINIFREIRE



JMAKUTA@TOZZINIFREIRE.COM.BR



(55 11) 5086-5567



**IGOR BADEN POWELL LAWYER AT
TOZZINIFREIRE**



IPOWELL@TOZZINIFREIRE.COM.BR

CONTACT US

PrivacyRules

American Headquarters:

PrivacyRules, Ltd.
151 West 4th Street
Suite 200
Cincinnati, OH 45202, USA

European Office:

Via dei Della Robbia 112,
50132, Firenze
Italy (IT)

Email

info@privacyrules.com

www.privacyrules.com

