

Software rating management regulations expanded

Amendments to the ratings of gaming software in Taiwan came into force in May and could have consequences for offshore software providers serving the Taiwanese market. The amended Regulations require games to be rated and categorised in regards to content and given appropriate age restrictions set out in the amended Regulations. Marcus Clinch and Indy Liu, of Eiger Law in Taiwan, discuss the changes, the penalties and the grace period before full compliance is mandatory.

Taiwan brought amendments to the Regulations for Computer Software Rating into force at the end of May 2012. These changed the name to the Regulations for Game Software Rating Management and redid and extended the existing ratings system to cover all game software regardless of platform. A registration requirement for games has also been established under the regulations - the rating and plot of each game must be registered on a central database. The ratings system has potential consequences for companies not directly releasing gaming software in Taiwan, but those making gaming software available to Taiwanese consumers either online or as a download offshore. The authorities have the power under the Regulations to take action and prevent access to offshore non-compliant gaming software.

The original Regulations came into force in January 2007, but only applied to games playable on a computer, console, or handheld software. The legal basis for the regulations is the Children and Youth Welfare and Rights Protection Act. The original

Regulations came about under Article 27 which required that the competent authorities establish a classification system for publications, computer software, and the internet. The continued expansion of gaming delivered through an online platform or via mobile applications brought about the impetus to broaden the Regulations. Amendments to the Children and Youth Welfare and Rights Protection Act came about in 2011, and Article 44 on the amended Act extended the classification requirement to include game software. The amendments to the original Regulations then followed.

Amended regulations

Game software under the amended Regulations 'refers to software that integrates digital text, sound and light, music, pictures, video or animation, allowing the user to achieve a certain goal by playing games through the operation of electronic equipment.' (It does not include software used in electronic game machines as mentioned in the Electronic Game Arcade Business Regulation Act). This extends to games delivered through an online platform or via a mobile application. There is also a further category of game software referenced for minimum classification that has been defined as, 'Board, puzzle, and entertainment game software: refers to the simulation of mahjong, poker, dice, steel balls, horse racing and roulette, or online games containing Xiao Ma Li, slot machines, or fruit plate image content.' These games at a minimum must be rated 'Protected'.

Game software must be rated on the basis of its content - five categories have been established: i. Restricted category: only people over the age of 18 may play; ii.

Parental Guidance over the age of 15 category: only people over the age of 15 may play; iii. Parental Guidance over the age of 12 category: only people over the age of 12 may play; iv. Protected category: only people over the age of six may play; v. General audiences category: Anyone of any age may play. Each category finds definition within the regulations.

'Restricted' and 'PG15' involve varying degrees of the following content: i. sex; ii. violence/horror; iii. drugs, alcohol, and/or tobacco; iv. strong language; v. deviant behaviour; and vi. other adverse content. 'PG12' involves a lesser degree of the following content: i. sex; ii. violence/terror; iii. language; iv. match making and virtual relationships; and v. other adverse content. The presence of any one item of content to the degree specified in the Regulations triggers the rating. 'Protected' includes the following content: i. mild violence; ii. the aforementioned board, puzzle, and entertainment game where the game uses a virtual game currency for game play; and iii. other adverse content. The classification of board, puzzle, and entertainment games within 'Protected' is a minimum rating and the presence of other classified content would trigger the higher classification. Content outside of the aforementioned four categories shall be rated as 'General'. It should also be noted that the product packaging of the game software, and the instructions, downloads, or content of the homepage cannot contain content in excess of its rating.

The obligation to rate a game falls on the individual or entity that releases, acts as an agent, rents and sells, distributes, displays and exhibits, or provides downloads of the game software. The initial obligation falls on the individual or

entity that releases the game or the party that acts as their agent in Taiwan. If those parties are absent then the obligation falls on the actual party that supplies the game. A game must not just be rated, but it must also have its rating and plots (triggering content) registered in a database maintained by the competent authorities. The system involves online self-registration at a dedicated site.

Categories

Actual ratings symbols have been provided for each of the five categories and must be marked or otherwise included in some form per specifications in the Regulations. This obligation to mark the rating also includes advertising - where the game has not yet been rated then this must be indicated in the advertisement. The plots or triggering content must also be marked on the game's product packaging or game software instructions, download, or homepage. The Regulations specify how the plots must be marked and when multiple plots appear in the game. If more than three plots appear then at least three plots should be marked proportionally. The main plots identified for listing include: i. plots which involve sex, violence, terror, tobacco and alcohol, drugs, strong language or deviant behavior; ii. the board games, puzzles, and entertainment where the game uses a virtual game currency for game play; and iii. plots encouraging users to have virtual romances or marriages. Warnings, plots, and ratings must obviously be in Chinese.

Warnings

The following warnings must also be clearly marked on product packaging of the game software, and game software instructions, download, or homepage: i. note the

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length of usage time; avoid hazards of excessive gameplay, or other similar warnings; ii. the purchase of game points (card), the virtual game currency, or virtual treasure as payment methods, the content of its payment and amount, or that a part of the content of the game or service would be subject to payment of other fees, or other similar warnings; and iii. restricted game software shall be further marked with warnings that only people over 18 years old may purchase or use it. Restricted game software must also be displayed to the consumer in a specific area and separated from games of lower ratings. Measures must also be in place to prevent children and youths from coming into contact with Restricted game software when being placed on the market. The Regulations also state that parents, guardians, or any other persons who are, in practice, taking care of children and young people should assist children and young people in complying with the rating regulations.

Parties with an obligation to rate and register a game under the Regulations, but do not, face fines of between TWD50,000 (approximately USD1,666) and TWD250,000 (approximately USD8,300). Parties who rate and register a game under the Regulations but do so incorrectly face fines of between TWD30,000 (approximately USD1,000) and TWD150,000 (approximately USD5,000). Parties who fail to prevent children and youths from accessing inappropriate games face fines of between TWD20,000 (approximately USD666) and TWD100,000 (approximately USD3,333). Authorities also have the power to order the removal and rectification of game software not in compliance with the Regulations.

Where games have not been specifically released in Taiwan, but where users in Taiwan may access or download the game online and where the game has not been registered or rated then the authorities may: i. notify the internet platform provider and request that it take measures to restrict access to the game by children and youths or to remove access to the game software; or ii. notify the relevant service provider in Taiwan and request that it terminate the relevant service.

The amended Regulations came into force at the end of May 2012 but parties have been provided a grace period in which to comply. Games entering the market after 29 May 2012 must be in compliance before 1 January 2013. Games that entered the market before 29 May 2012 must comply before 31 December 2013.

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