Clifford Chance

Thought leadership

Level up – key trends shaping the future of gaming and esports

August 2026

Level up – key trends shaping the future of gaming and esports

The video gaming sector has seen an unprecedented boom of activity in recent years, with record-breaking deals being struck against a backdrop of promising growth forecasts and a revolution in user-generated content. However, with this comes increasing scrutiny from regulators around the world, who are casting their eyes over everything from mergers and monetisation strategies to the use of AI in the sector. In this briefing, we look at investment prospects, antitrust considerations and what digital markets regulation means for the sector.

Investment opportunities

Private equity and other institutional investors have been drawn to the video gaming industry by the promise of attractive returns. "Despite global economic uncertainty, consumers are still spending on leisure activities, including gaming, in sharp contrast to other industries," says Neil Barlow, a Private Equity Partner at Clifford Chance. Consumer spending on video games reached US$60.7 billion in 2025, of which US$52.3 billion related to video game content, as opposed to expenditure on consoles, hardware and accessories. Globally, gaming revenues are projected to grow by some 7% in 2026.

One trend guiding investment in the sector is the need for some video game companies to restructure due to mounting debts and operating costs. This has given rise to M&A opportunities as businesses look to divest divisions and titles in line with evolving capital strategy and conditions. The Stockholm-listed Embracer Group is one example, having sold off studios in recent years, with Electronic Arts (EA) another that could pursue a similar strategy following its US$55 billion buyout. "When you look at the balance sheet of such a huge conglomerate, the studio itself may be fairly immaterial to its bottom line but either that studio or a catalogue or specific game may be potentially very attractive to pull out and invest in for private equity or sovereign wealth funds," adds Barlow.

Another key development is an industry-wide shift towards user-generated content platforms, which is driving growth in both reach and revenues. According to BCG, 40% of gamers are consuming more user-generated content this year than they did last. Payouts to creators on the Fortnite and Roblox platforms for 2025 look set to exceed US$1.5 billion, leading investors to focus on developers creating content on these and other UGC-focused platforms.

"There's a premium on the creators that are developing those games," says Barlow. "From a private equity and investment perspective, our clients are very focused not only on ensuring a title that hasn't abused copyright through AI but also bringing across the creator and having them be part of the platform going forward. Fan bases are often based on belief in those creators themselves, and so we're seeing more partnerships between studios, creators and financial institutions rather than a model where financial institutions just take the title."

"Fan bases are often based on belief in creators themselves, and so we're seeing more partnerships between studios, creators and financial institutions."

Neil Barlow
Partner, New York

Investors are also looking for opportunities to tap new revenue streams by monetising intellectual property though film and television in the hope of emulating, for example, Sega's success with the 'Sonic the Hedgehog' film series. Taken together, these considerations offer a glimpse at the contours of a playbook for investing in the video game industry. "If you're an investor or a strategic corporate, you might say: here's a studio producing certain titles that we can take as a stand-alone operation, bring along the creators and developers, invest in it, broaden user-generated content and then develop it into film or television or animation," adds Barlow.

Spotlight on Saudi Arabia

Saudi Arabia launched its National Gaming and Esports Strategy in 2022 as part of its Vision 2030 initiative to diversify its economy and reduce its reliance on oil. The strategy aims to establish Saudi Arabia as a global hub for esports and gaming and reposition the sector as a core pillar of the Saudi economy that will provide 40,000 jobs and a US$13 billion GDP contribution across 250 companies based in the kingdom by 2030.

The strategy calls for a comprehensive buildout of Saudi Arabia's esports and gaming ecosystem, including developing local talent, supporting the establishment of local studios, hosting events and building infrastructure. This is a strong area of focus for the Saudi Public Investment Fund, with examples including Savvy Games Group (which leads much of this as the PIF's national gaming champion), Qiddiya (an entertainment city gigaproject which includes plans for a gaming and esports district) and the Esports World Cup.

The country's demographics should also aid its ambitions: almost 70% of the population are under the age of 35, with more than 60% younger than 30. "It's got an incredibly young and digitally native population and strong gamer base," says Aysh Chaudhry, a Clifford Chance Counsel based in Riyadh. The Saudi Government is looking to build on this, and earlier this year moved to include game development and esports on the national school curriculum.

Following plentiful outbound investments over recent years, the PIF is now shifting focus. "What we are seeing is an increasing shift from passive capital deployment to operational control, establishing a global gaming hub, led by the PIF. We're now seeing a lot of focus on localisation, making sure gaming companies are established locally," adds Chaudhry.

> "We're now seeing a lot of focus on localisation, making sure gaming companies are established locally."

Aysh Chaudhry
Counsel, Riyadh

The 2023 acquisition of mobile games developer and publisher Scopely by Savvy Games Group – another PIF subsidiary – was followed by Scopely opening Mirai, a Riyadh-based studio in late 2024. Earlier this year, Savvy struck a deal with Roblox which will also establish a presence in the region.

Competition and antitrust

The video gaming sector is now firmly on the radar of competition regulators, with the combination of intense M&A, distinctive structural features, popular intellectual property and potential for vertical integration making it difficult to ignore. While some developments mean now is a good time to get transactions in the sector across the line, antitrust needs to be approached not as a reactive compliance consideration, but proactively, with consistency across different jurisdictions.

Mobile games distribution

Regulatory interventions on both sides of the Atlantic mean Apple and Google's dominance of app store distribution on iOS and Android operating systems, respectively, is being eroded, opening opportunities for revenue generation in mobile gaming. In addition to charging commission, Apple and Google have long imposed anti-steering rules which prevented developers from directing consumers to alternative means of paying.

"If you're a mobile game developer and a player wants to buy an in-game item, for a long time that transaction was only possible through Apple or Google's in-app payment systems at their commission rates and on their terms," says Stavroula Vryna, a Clifford Chance Partner based in London.

In the US, litigation brought by Epic Games against both Apple and Google has resulted in injunctions and, on the Apple front, developers are now permitted to steer users towards alternative purchasing mechanisms.

Meanwhile, in the EU, Apple was fined €500 million by the European Commission last year after its anti-steering rules were found to breach the Digital Markets Act. Apple had previously also been fined €1.8 billion for abusing its dominant position in the distribution of music streaming apps.

"Things are still in flux. Apple has been ordered to change its behaviour, eliminate anti-steering rules, and allow new app stores without restricting their freedom in other ways. Apple has proposed a series of revised terms to try to deal with this compliance requirement," says Vryna. "My understanding is that it may change again. But the direction of travel is towards more freedom for both developers and users."

In the UK, the Competition and Markets Authority (CMA) has designated both Apple and Google as companies with strategic market status under its Digital Markets, Competition and Consumers Act regime. The designation means both companies will face conduct requirements, with the CMA currently taking the views of all market participants on what these should be.

Merger control after Microsoft/Activision

As M&A activity in the sector has accelerated in recent years, competition agencies have focused on how deals might affect access to popular IP, interoperability and consumer choice. Core questions relate to whether a merged entity's control over a popular gaming franchise could be used to disadvantage competitors elsewhere in the value chain, such as subscription or cloud gaming services, or result in consumers being locked into one platform.

Microsoft's acquisition of Activision Blizzard, initiated in January 2022 and completed in October 2024, is emblematic. The UK CMA initially blocked the merger but relented after commitments from Microsoft to release games in the popular Call of Duty franchise on multiple platforms, and to divest certain of its cloud streaming rights.

"The question there was: can you use your ownership of a franchise to shut others out of the value chain?" says Vryna. "It's not just will you withhold, for instance, Call of Duty from PlayStation, which was an issue in Microsoft-Activision Blizzard; it's rather if you own the studio, the platform, the subscription service and the payment infrastructure, what does that kind of stacking do for your place in the market and for competition more broadly?"

However, it is important to note that, while Microsoft-Activision Blizzard remains a useful reference point for the theories of harm regulators will look at, the antitrust landscape has since changed significantly. This has been for multiple reasons, many of them geopolitical, be it the Trump administration in the US, a less interventionist CMA under a new UK government prioritising growth and investor friendliness, or an EU increasingly prioritising European competitiveness and revising its merger control guidelines to match its ambitions.

"In practice, what we're going to see is a lot more emphasis on not just the harm of a transaction, but also the benefits, which now stand in equal stead and are being compared against each other. Regulators are not just looking at the very short-term price effects of a transaction, but also the longer term – at factors such as innovation, for instance," adds Vryna.

> "Regulators are not just looking at the very short-term price effects of a transaction, but also the longer term – at factors such as innovation."

Stavroula Vryna
Partner, London

"The landscape remains complex and intricate, but it has become much more pragmatic since the Microsoft-Activision Blizzard days. In fact, in the past year and a half we've seen a significantly reduced number of interventions on deals where we have remedies or blocks, so it's a very good time to do transactions."

Geo-blocking

An important antitrust consideration when it comes to structuring distribution deals for video games is geo-blocking and perceived market partitioning in the EU. In 2023, the EU's General Court upheld a more than €1.6 million fine on Valve, the owner of the Steam platform, initially handed out in 2021.

The European Commission had found that Valve (along with five PC video game publishers that were collectively fined more than €6 million) had restricted cross-border sales of certain games on the basis of the geographical location of users within the European Economic Area, which it said deprived consumers of the benefits of the EU Digital Single Market.

Private claimants

Private litigation, in particular large collective actions, is increasingly an avenue for antitrust concerns to be adjudicated in the EU, the US and the UK. Consumer campaigner Alex Neill is leading a £2 billion UK class action against Sony, alleging that PlayStation users faced unfair download charges, and the UK Competition Appeals Tribunal last year ruled against Apple in a £1.5 billion class action led by digital economy lecturer Dr Rachel Kent, alleging unfair fees on app and in-app purchases.

"These collective proceedings can often be far more dangerous in terms of fines and other monetary exposure than any fine an agency might impose for exactly the same conduct," Vryna says.

Regulatory horizon

The regulation of the video game sector is shaped by concerns arising in other sectors, such as social media, financial services and gambling. While the impetus might originate elsewhere, studios do need to be mindful of how the patchwork of rules affect on how they interact with players and how players interact among themselves.

"Video games are increasingly a specific target of incoming regulations," says James Wong, a Senior Associate at Clifford Chance in London. "There's a real tension between some of these digital regulations on the one side and wanting to create an immersive product on the other side. It takes a lot of strategic thought to navigate these rules and protect the player experience."

The rising popularity of UGC has reaffirmed **online safety** as a regulatory priority. The EU's Digital Services Act (DSA) introduced obligations to detect and manage illegal content, while the UK's Online Safety Act went further and created a statutory duty to proactively mitigate these risks in relation not only to illegal content but also content that is harmful or age-inappropriate for children. "We're seeing emerging regulations cover a broader spectrum of harms, not just on content that is unlawful," says Wong.

A related issue is the **protection of children online**. Earlier this year, the European Commission published preliminary findings that online platforms had minimum ages in their terms and conditions that were not backed up by effective age assurance, robust risk assessment or practical enforcement measures. Last year, Australia banned under-16s from social media platforms including the video gaming-adjacent streaming platform Twitch. The UK Government also plans to ban under-16s from social media, following its recent consultation, which considered issues such as design choices, addictive mechanics, age-based access gating, AI chatbots and the digital age of consent – the age at which a child can consent to the way their data is processed by a platform.

Regulators are also increasingly alive to harms caused by so-called **'dark patterns'**: interface design features that manipulate user behaviour and choices, including false urgency or scarcity, subscription traps, manipulative consent practices and drip pricing. Dark patterns are already addressed in legislation in the US (under the FTC Act, which prohibits unfair or deceptive acts), the EU (under the DSA, which prohibits interface design that materially distorts or impairs users' ability to make free and informed decisions), and the UK (under the Digital Markets, Competition and Consumers Act, which addresses harmful online choice architecture).

Something to look out for on this front is the European Commission's forthcoming Digital Fairness Act proposals. "We don't know exactly what the DFA will look like, but it may directly target many of the practices that are commonly found in video games," says Wong.

Privacy continues to be a big issue, in particular in relation to games that require players to connect to the internet without an obvious reason other than because player data is valuable to collect. NOYB, a European digital privacy non-profit, last year filed a complaint against a market-leading games publisher. More broadly, there has been an increase in data privacy litigation, including in respect of online services that track and profile users.

Questions remain as to what monetisation techniques may be considered reasonable, which involves a balancing exercise. "Players' expectations are a big part of that conversation," says Wong. "Generally, for free-to-play games, they may expect some trade-offs in the form of data collection, but it becomes a bit murkier when you pay for a game, and as a user you might be a little less accepting."

"Generally, for free-to-play games, players may expect some trade-offs in the form of data collection, but it becomes a bit murkier when you pay for a game."

James Wong
Senior Associate (Country Qualified: Australia), London

Another area of incipient regulation where players' expectations are a key consideration is the **use of AI** in video games. Beyond the fraught intellectual property disputes that accompany the use of AI and open-source liabilities that might come with using AI coding tools, there are also important reputational risks to weigh for studios. "They're being very careful about making sure not to use it for creative work and the graphics, largely because there's a huge reputational fallout risk, particularly with the gaming community who stand behind the artists who put so much work and effort into creating these wonderful digital worlds, avatars and characters," says Alex Walker, a Clifford Chance Partner based in London.

That isn't to say that generative AI isn't being used in video games, one use case being interactions with non-playable characters (NPCs). Interactions with NPCs raise another AI-related issue – that of transparency. While recent draft guidelines on the EU's AI Act's transparency obligations said this use of AI was obvious enough to not require special labelling, transparency around AI remains a key concern for the sector and further developments are expected.

Finally, there is some concern from developers that the EU's **Cyber Resilience Act** doesn't reflect the modular way in which video games are developed in practice and may be counterproductive to its aims of bolstering security in software development, making this another area to watch.

Contacts

Neil Barlow
Partner, New York

neil.barlow@cliffordchance.com
+1 212 878 4912

Aysh Chaudhry
Counsel, Riyadh

aysh.chaudhry@ashcliffordchance.com
+966 55 033 4700

Stavroula Vryna
Partner, London

stavroula.vryna@cliffordchance.com
+44 20 7006 4106

Alex Walker
Partner, London

alex.walker@cliffordchance.com
+44 20 7006 1188

James Wong
Senior Associate
(Country Qualified: Australia), London

james.wong@cliffordchance.com
+44 20 7006 3750

Clifford Chance

cliffordchance.com

Clifford Chance, 10 Upper Bank Street, London, E14 5JJ