

Ethical Musings of a Gaming Lawyer

By Cristina Romero de Alba

Once read that “*ethics is what you do when no one’s looking*”. I do not agree; to the contrary, I firmly believe that ethics should be as public, open and visible as possible.

The consideration of ethics in the legal profession is of key and growing importance. Yet, too few of us consciously consider ethics whilst weighing out our options in the day-to-day of our job. In particular, the gaming industry is somehow naturally prone to give rise to conflicts, doubts and difficult situations where we are, to say the least, a little bit in the dark.

I am still learning a whole lot about ethical standards through my involvement and increasing exposure to the gaming industry, precisely due to its (apparent) unethical halo. The gaming sector is not only overregulated and largely dominated by surprisingly strict standards and regulations related to compliance and responsible conduct of business but is also widely infused with moral considerations that provide more than enough room for daily reflection.

It is of common belief that justice relies on a deep grounding of respect for individual capacity to develop a free, moral and rational existence that needs to be protected from its very core. This becomes the rule of law upon which a democratic society can be recognized and survive and on which a coherent system of individual and collective rights and obligations is created and remains.

We, the lawyers, are the ultimate guardians of the law and the key supporters of the pillars of justice. This is no easy task that puts us in a critical function for the preservation of social order. And it becomes more important when it comes to a part of economic life, a way of entertaining ourselves that is not entirely innocuous.

Again, the idea that we may not be as mindful of this as we should comes to mind.

The fulfillment of our professional duties in an ever changing and technologically driven environment like the gaming sector generates the need for us to revisit

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our ethical code, trying to achieve the highest standard in what we do whilst playing this role. Of course, it is impossible to anticipate every single situation in which we may eventually get involved, but the roots and fundamentals that structure our ethical vision are a tangible guidance that points the way and inspires us to shape how we develop and protect the legal system and underlying social relationships. At the same time, it is the bar against which we will measure wrongdoers and transgressors and the touchstone to test how we approach clients and manage everyday conflicts and events.

My father, who had set up the first gaming law boutique in Spain just several years ago spoke in a low voice about “*advising my clients on legal strategy and operations in a very regulated sector*” to whoever asked what he was currently up to. Clearly, he was proud of his chosen noble profession, but still, there was something to his hidden tone. Ever since, I have lived and

trained myself in the values that he, various books, close friends and some others, taught me, distilling them through my own experiences.

With a degree in law and a degree in economics, years of experience at an investment bank as financial analyst and at an international law firm as a financing and securities lawyer later, I fully landed in the gaming industry. My idea was to develop the so-called international practice, the investment and financial angles of that very same boutique, now a little bigger.

A few years on, I am still going down that route reflecting along the way on the many ethical aspects that come up whilst we work in this very absorbing sector. And I firmly believe that we work in a profession that should, more than any other, stand for the highest ethical canons and discipline. Thus, we should strive to embody this series of principles as we interact with the public, our clients and the legal system, albeit the discouragement of seeing how others get rich and applauded without making an effort and without even considering the ethical implications of their doings. Not to mention the twisted judicial and enforcement system that is constantly threatening to make us collapse.

We have to ask ourselves a series of vital questions: What does the public expect from us? How do we face a client who is willing to pay ridiculous amounts for a legal opinion that is not entirely clear? How do we deal with a company that does not comply with our policy and is not abiding by the law? What price are we willing to pay and, even more importantly, can we live without it? You can’t be ethical if your clients or your suppliers are not. One thing is to interpret regulations and the other is to stretch them far beyond what is permitted in our statutes.

After my experience in a few jurisdictions, revisiting my knowledge about the fundamental institutions of civil law and logic, I rapidly came to the conclusion and will still defend to the end that there is no such thing as “de-regulation” or “un-regulation”. It just cannot be; a certain activity is either legal or illegal, regardless of whether it is carried out in physical premises or via the internet. Consider drug dealing, for example. Of course, many criminal codes do not expressly contemplate that drug dealing *over the internet* is prohibited, it is just generally banned. No distinction. What would be the grounds for it anyway?

Regardless, some lawyers seem to have fallen into the trap of economic interests and have been acting as supporters of, not so much real legal doubts (a grey line transformed into a softer grey and almost white one), but of a forced interpretation of what has always been prohibited (a dark black line that they pretend is as white as freshly fallen snow).

Ridiculous amounts of money, “glamorous” clients and inactive public institutions, sadly including justice, are plainly overwhelmed by a phenomenon that trespasses the ultimate barriers of sovereignty, urging this interpretation, openly contrary to what ethics and the legal system dictate.

Politicians with little or very rudimentary knowledge and a great amount of selfishness are inevitably poisoned to follow this very same interpretation as they will hold on to general concepts such as “*technology is always good, it means progress*”, “*the internet is a different not just a distribution and communication channel*”, “*we cannot face or enforce any actions against cross border phenomena, we don’t have the resources or the legal instruments*”. And we end up with a legal system that is not applied and justice that is not supported or even activated.

The essence of our professional duties should be closely attached to moral, ethical and equity parameters, to be able to free ourselves from our own interests and favor the client whilst preserving our independence and dignity. Self-respect and pride should not be derived from nor found in material gain.

Gambling is widely done for amusement, entertainment and social-

ization, but it still has this bizarre and obscure angle, and we are all responsible and liable for it. The many errors of the past, the stretching of the “thin grey line” between legal and illegal and the fraudulent use of gaming operations for other purposes have, undoubtedly, harmed the industry. Luckily enough, this is not a general feature. The example of online gaming is just one of many. What about the interpretation of what a certain game is or where it can be offered? Is it just the most recent?

The gaming lawyers, as an international body, should research, interpret, deliberate and look around, tackle these issues and purge the profession to free it from greed.

Coincidentally, those very same people who say that gambling is equal to the mob and to money laundering are the ones that have not had enough exposure and are probably just unable to grasp the dimension and the escalating levels of compliance, high standards and technological developments in this industry. As gaming attorneys, let us strive to keep it that way.

We should all take not just a moment, but a moment every single day to assess how we contribute to the image of the industry. I have little doubts on the fact that the future will bring us economic improvement, cross border investment, development of gaming offering, technology, marketing and generally changes to “the way we see things”. Online and mobile gaming is just the beginning of the latest wave of changes. Think of social gambling, think of international liquidity, think of expansion of the integrated resort model to Europe. How are we going to confront those? Retreat to ethics; they are an unchanging reference. ♣



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Cristina has acted as speaker at several gaming conferences like IAGA, G2E and Igamingsummit 2011 and regularly writes contributions for Gambling Compliance, the WOGLR, Diario Jurídico, Actualidad Jurídica Aranzadi and SNL Financial. She has also written the chapter on “Infringements and Sanctions in the New Gaming Law” published by La Ley (Wolters Kluwer) in Spain as part of the book “The New Gaming Law 13/2011” and is the Academic Director of the Masters Programme on the Gaming Sector for the Instituto de Empresa, ranked among the top Business Schools in Europe and worldwide by the WSJ, the FT, Forbes and The Economist.

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