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## KEY PROVISIONS OF THE NEW REGULATIONS FOR THE GAME INDUSTRY

### I. New provisions for damages resulting from non-compliance with the probability-based item disclosure

#### A. Overview of Amendments to the Game Industry Promotion Act

The proposed partial amendments to the Game Industry Promotion Act (the "Game Act") were passed at the plenary session of the National Assembly on December 31, 2024.

The amendments introduce the special provisions aimed at protecting the rights of game users, as well as for the operation of a center to remedy damages suffered by game users.

The new provisions, effective since March 22, 2024, require entities engaged in the production, distribution, or provision of games (the "game-related businesses") to disclose information about the types of probability-based items used in the games and the probabilities for each item in-game, on the official websites, and relevant advertisements and promotional materials. In the event of any failure to comply with the provisions, the Minister of Culture, Sports and Tourism may issue recommendations or orders for correction, and any person failing to comply with such orders may face imprisonment or fines.

There have been concerns that, in addition to criminal and administrative sanctions for failing to disclose the probability information or for disclosing false information (the "probability disclosure violations"), supplementary measures are necessary to prevent harm to game users and provide for compensation for damages resulting from such violations. In response to this, legislative efforts to amend the Game Act were initiated to reinforce the protection of game users against probability disclosure violations.

#### B. Key provisions of the proposed amendments

##### 1. Special rules for lawsuits

###### (1) Liability for damages arising from probability disclosure violations

The provisions stipulate that where game-related businesses have violated the probability disclosure obligations and caused harm to game users, they shall be held liable for such damages, unless they can prove they have not caused the damages intentionally or negligently (Article 33-2 (1) of the proposed amendments to the Game Act).

In cases where damages have occurred due to violations of the probability disclosure obligations, and it is exceptionally difficult to prove the factual matters necessary to determine the amount of damages, the court is permitted to estimate and recognize the amount of damages based on all circumstances

identified through the overall pleadings and the findings from evidence (Article 33-2 (2) of the Game Act).

(2) Punitive damages

The court may determine compensation amount up to three times the actual damages, if, and to the extent that, game-related businesses are found to have intentionally violated the probability disclosure obligations (Article 33-2 (3) of the Game Act). In determining the compensation amount, the court is required to consider the following: (i) the extent to which violations are intentional or the potential for harm is foreseeable, (ii) the amount of damages suffered by game users as a result of the violations, (iii) the economic benefits gained by game-related businesses as a result of the violations, (iv) duration, frequency, etc. of the violations, (v) fines and penalty surcharges for the violations, and (vi) the extent of game-related businesses' efforts to remedy damages (Article 33-2 (4) of the proposed amendments to the Game Act).

2. Operation of a damage remedy center

The Minister of Culture, Sports and Tourism is permitted to operate a center for reporting and remedying damages resulting from violations of the probability disclosure obligations, as prescribed by Presidential Decree (Article 33-2 (5) of the Game Act).

3. Effective date

The Game Act, as amended, becomes effective six (6) months after its promulgation. However, the amended provisions concerning liability for damages will apply only to violations that occur after the amended Game Act takes effect.

## II. Reinforcing the functions of the Content Dispute Resolution Committee

### A. Passage of the proposed amendments to the Content Industry Promotion Act

The proposed partial amendments to the Content Industry Promotion Act (the "CIPA") were passed at the plenary session of the National Assembly on December 31, 2024.

The proposed partial amendments to the CIPA require the Content Dispute Resolution Committee (the "Resolution Committee") to take exclusive responsibility for administering collective dispute resolutions and making ex officio resolution decisions, and expand the scope of "content" to include "content utilizing new technologies".

With the increasing consumption of contents such as games, videos, and webtoons, disputes involving each type of content continue to grow at a rapid pace. In 2019, a total of 6,638 requests were filed with the Resolution Committee for dispute resolution. This figure surged to 17,202 in 2020, and to 15,177 in 2024, which is nearly a threefold increase over the years. Further, with the rapid growth of the metaverse industry, driven by new technologies in the era of the Fourth Industrial Revolution, there is a need for the government to provide systematic and proactive support in furtherance of the development, discovery, and production of creative content leveraging these

technologies.

Against this backdrop, efforts to legislate the proposed partial amendments to the CIPA were initiated.

## **B. Key details of the proposed amendments**

The scope of “content,” for which the government is responsible for fostering creation, distribution, and utilization environments, as well as formulating policies, will include “content utilizing new technologies” (Article 9 (1) of the proposed amendments).

Additionally, the size of the Resolution Committee, which currently consists of 10 to 30 members, including one chairperson, will be expanded to 10 to 50 members (Article 29-2 of the proposed amendments).

A new provision enables the Resolution Committee to recommend settlements to the parties involved (Article 33-2 (1) of the proposed amendments). Agreements reached following such settlement recommendations will have the same legal effect as in-court settlements (Article 33 (3) of the proposed amendments).

A new provision also allows the Resolution Committee to make ex officio decisions in lieu of settlements, taking into account the interests of the parties involved and all other relevant circumstances, provided that the estimated amount for the dispute resolution is less than KRW 10 million, or either party rejects a resolution proposal made by the Resolution Committee without justifiable reasons (Article 33-3 of the proposed amendments). Any objections to such ex officio decisions may be filed with the Resolution Committee in writing within fourteen (14) days.

In cases where multiple users suffer damages in the same or similar manner, as prescribed by the Presidential Decree, collective dispute resolution (the “collective dispute resolution”) may be referred or requested to the Resolution Committee (Article 33-4 (1) of the proposed amendments). If a content provider agrees to the terms of the collective dispute resolution proposed by the Resolution Committee, the provider is advised to prepare and submit to the Resolution Committee a compensation plan for the users who have suffered damages but are not the parties to the collective dispute resolution (Article 33-4 (5) of the proposed amendments).

The amended CIPA will come into effect one (1) year after its promulgation, except for the amendments regarding the scope of contents under Article 9(1), which will take effect six (6) months after its promulgation. Further, the amended provisions concerning settlement recommendations will apply to the cases pending before the Resolution Committee when the amended CIPA is in effect; however, those for ex officio resolution decisions will apply only to resolution requests filed with the Resolution Committee after the amended CIPA’s effective date. Similarly, the amendments concerning collective dispute resolution will apply to the collective dispute resolution referred or requested after the amended CIPA takes effect.

### III. Implications

On May 1, 2024, the government, in cooperation with the relevant ministries, announced the Comprehensive Plan for the Promotion of the Game Industry (2024~2028) (the "Comprehensive Plan"). The proposed amendments to the Game Act designed to remedy damages caused to game users in connection with probability-based items, and those to the CIPA which establishes a collective dispute resolution system within the Resolution Committee, were part of the plans outlined in the Comprehensive Plan.

In addition to the proposals related to probability-based items announced in the Comprehensive Plan as part of the efforts to establish fair game rules, which have led to amendments to both the Game Act and CIPA, the domestic agent designation system has also been introduced to encourage foreign game companies to comply more fully with domestic laws.

The proposed amendments to the CIPA and the Game Act are intended to effectively enforce the obligations to disclose information for probability-based items, which has been in effect since March 22, 2024, and to strengthen the protection of domestic users' rights. The special rules concerning lawsuits related to probability-based items, such as requiring game-related businesses to compensate for damages resulting from any failures to disclose probability information, imposing the burden of proof regarding intent or negligence on the businesses, and introducing punitive damages, are expected to have a significant impact on the game industry. Thus, it is advised to closely monitor future legislative developments.

It should be noted, however, that since any specific details regarding a damage remedy center for game users are to be determined in accordance with the Presidential Decree, it is necessary to continuously monitor relevant developments. Moreover, the government stated in the Comprehensive Plan that it plans to introduce an "agreement and resolution system" (a system under which businesses are allowed to propose corrective measures, and the Fair Trade Commission, if it deems the measures appropriate, resolves to approve their implementation to promptly close the case without determining the illegality of their acts) into the Act on the Consumer Protection in Electronic Commerce (the "Consumer Protection Act"). In line with the move, the government proposed an amendment to the Consumer Protection Act, making it necessary to follow legislative developments closely.

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