



Guide to **consumer rights, advertising and data protection**



Guide prepared by
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Introduction to the **Guide**

This guide will be of great use to you if you are in the video game industry, whether you are a publisher, a developer or work in marketing.

This guide will teach you the fundamentals of advertising regulation, helping you to avoid legal issues and build trust with your users. Specifically, this guide will help with the following:

- Know your users' rights: *How can I avoid unnecessary risks?*
- Digital Content: *What do I need to consider when exploiting video game assets?*
- Improve your advertising practices: *How can I ensure compliance with advertising regulations?*
- Data protection compliance: *How should I handle personal data in order to comply with the law?*



1. Consumer and user rights

What rights do consumers have regarding digital products, such as video games?

The first thing to bear in mind is that, although video games are digital content, they are subject to the same laws as physical products, because they are aimed at **consumers**. In Spain, the most relevant regulation is the [General Law for the Defence of Consumers and Users](#).

When it comes to their relationships with players, publishers and developers must respect a number of rights. These include:

Right to **information**

Players should be informed of the relevant elements of video games:

- » **Reward boxes** -or loot boxes -which may include random prizes.
- » **In-game purchases**, such as additional items or upgrades.
- » **Virtual currencies**: if used in online video games, always indicate the value of the real-world currency for each purchase.
- » **Age and content rating**: provide clear descriptions of the recommended age and content of the game, following the [PEGI Code](#) (Pan European Game Information).

Right to **protection against unfair terms**

Keys to avoiding unfair terms:

- » **Do not include conditions that depend solely on the company** (e.g. unilaterally modifying the terms without reasonable justification).
- » **Provide all relevant information** (as explained in this section) to the consumer before they sign the contract or purchase the game.

The terms and conditions of a video game are usually the means by which all these obligations are fulfilled, so it is very important that developers and publishers seek advice and draft customised texts for each title.

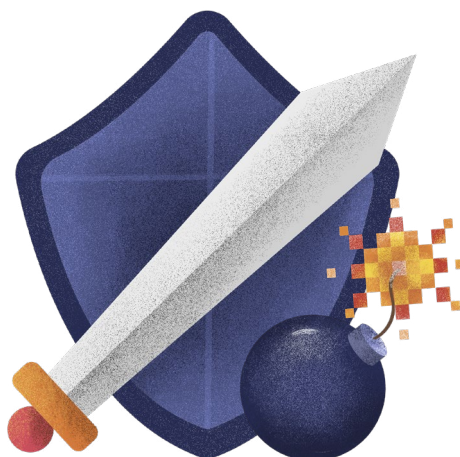
Right of **withdrawal**

Players can withdraw from the contract (the purchase of the video game) within **14 calendar days** of receiving the content. In the case of a video game purchased online, the content is locked or removed from the player's account, rather than returned, as would be the case with a physical item.

However, this right does not apply in two cases:

- » If the video game is in physical format and the player **has already opened the packaging** (unsealed).
- » If **the consumer is informed prior to installation** that they will lose their right of withdrawal, this right may be cancelled once they start using the game.

Free access subscriptions: subscription models can be used that allow users to play for free for a limited time before charging them. During this period, users may withdraw without incurring any costs.



What responsibilities do developers have with regard to updating and maintaining video games?

Developers and publishers should be aware of the following key responsibilities:

- » **Obligation to maintain and update:** video games must be kept up to date to ensure they function as intended (e.g. bug fixes).
- » **Access to updates:** users must be informed of updates and any changes to the game experience they may generate.

2. Digital content in video games

Digital content encompasses a wide variety of elements that enhance the user experience. These include non-fungible tokens (NFTs), which are digital assets representing items such as collectibles, special items associated with a file, or even physical products. The authenticity and ownership of these items is managed through blockchain technology.

NFTs and consumer rights

The main characteristic of NFTs is that they are unique, indivisible and non-fungible by design, raising a number of implications for consumer rights. While NFTs can be used for a variety of purposes in video games, such as acquiring personalities, exclusive items or season passes, they are considered digital content or titles that grant certain rights. Therefore, transparency and protection requirements under consumer law must be observed.

In terms of informational aspects, the offeror or developer of the video game incorporating NFTs must:

A

Legal nature of the NFT

Explain clearly what the NFT is and what rights the user acquires (e.g. whether they are granted a licence to use it or ownership of in-game exploitation rights).

B

Limitations and associated risks

Prominently state any restrictions that may affect the player, such as the need for compatibility with certain platforms or the possible risk of not being able to exercise full exclusivity over the content in the event of unauthorised replicas.

Another key element is ensuring that the NFTs comply with the agreement between the company and the consumer. In the video game field, this content must remain available, functional and up to date for a period that is reasonably expected by the user, as would apply under general consumer protection rules relating to digital content.

Moreover, given that the acquisition may be immediate and definitive (as the blockchain records and makes certain transactions irreversible), the player must be informed if their right of withdrawal is lost by the immediate download or use of the digital asset.

3. Advertising of video games

When a title is launched, it is very common for video game companies to advertise online, in person or through influencers. It is also common for players to see advertising content in the video game itself. The main pieces of legislation on this are [the General Advertising Law](#) and [the Unfair Competition Law](#). Furthermore, if the advertising takes place in an audiovisual environment, the [General Law on Audiovisual Communication](#) may apply, depending on the specific case.

Are there any limitations on the type of products or services that can be shown in video game advertising campaigns, especially if the audience includes minors?

In terms of advertising, publishers and developers must consider certain prohibitions on commercial content presented to the general public, and particularly minors, when exposed to a video game's advertising campaign on **audiovisual media**:

	Prohibition	Example
Aimed at the general public	Covert or subliminal advertising	Using influencers to promote a game without clearly indicating that they are being paid by the company to do so.
	Political advertising outside the election period	Inserting political slogans or banners within a game outside an electoral or regulated context.
	Advertising that encourages behaviour which poses a threat to human health and safety.	Adverts showing characters drinking alcohol or using drugs.
	Advertising that encourages environmentally damaging behaviour	Promotion of a video game which includes themes such as the destruction of natural environments with no consequences.
Aimed at minors	Exploiting the innocence of children	Making false claims that products are <i>easier to use or perfect for children</i> .
	Manipulating to influence others	Advertising that tells children things like <i>Ask your parents to buy you this now!</i>
	Exploiting trust in authority figures	Using characters popular with children to influence their decisions.
	Showing minors in dangerous situations	Scenes showing children taking risks, such as not wearing a seatbelt in the car.
	Encouraging discrimination	Adverts that reinforce gender stereotypes, for example, by showing girls doing domestic chores.
	Promoting violence	Advertising that depicts or normalises physical or verbal violence between minors.
	Promoting body worship and rejection of self-image	Advertising that suggests that a child must change his or her body to be accepted or popular.

Which commercial practices are considered misleading in video game advertising campaigns and in-game advertising?

Misleading advertising includes any act involving false information, or any act involving true information that is presented in a way that is likely to mislead or confuse players. Misleading advertising not only affects the confidence of players, but can also have legal consequences for those who engage in it, so certain misleading practices, such as those set out in the table below, should be avoided.

Misleading advertising

Explain clearly what the NFT is and what rights the user acquires (e.g. whether they are granted a licence to use it or ownership of in-game exploitation rights).

Concealing information

Failing to mention that there are necessary in-game microtransactions.

False urgency

Suggesting there is limited stock when this is not true.

Manipulated reviews

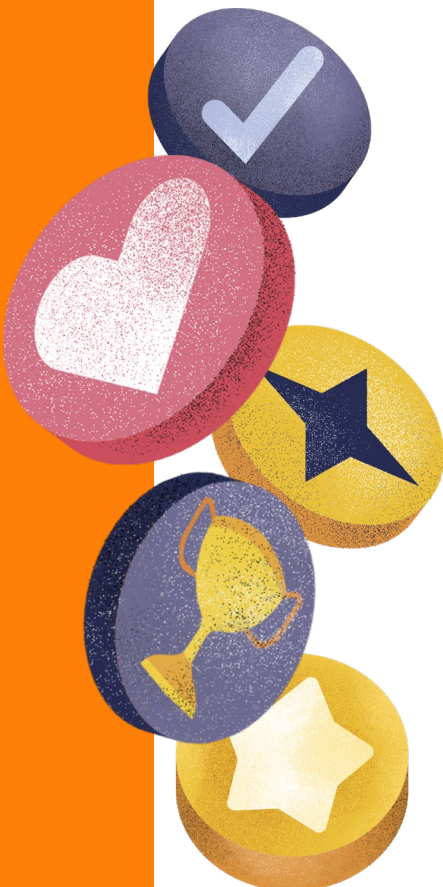
Posting false positive reviews.

If I hire influencers or content creators to promote my video game, how do I ensure that it is clearly stated that their content is sponsored?

Advertising with influencers is subject to the same obligations as traditional advertising, whether face-to-face or digital. One noteworthy aspect of advertising with influencers is the **transparency of sponsorship**. This can be done with **explicit mentions** such as the following:

- » **"Content sponsored** by @publisher/developer"
- » **"Paid partnership** with @publisher/developer".
- » **Hashtags** such as #Sponsored, #Ad, #PaidPartnership, #SponsoredContent.

These mentions must be visible and not hidden in the description.



4. Data protection in video games

The video game sector, which is closely linked to technology, often deals with a lot of personal data, including that of minors. Publishers and developers may process data to manage the video game or improve the players' experience, but they must do so in compliance with applicable laws.

Therefore, it is important that those involved in the video game sector pay attention to the obligations set out in the [General Data Protection Regulation](#) and in the [Organic Law on Data Protection and guarantee of digital rights](#). According to these rules, the relevant companies could be acting as **data controllers or processors**, and the players and users could be considered data subjects, the latter being the ones protected by the regulation.

When am I considered a data controller?

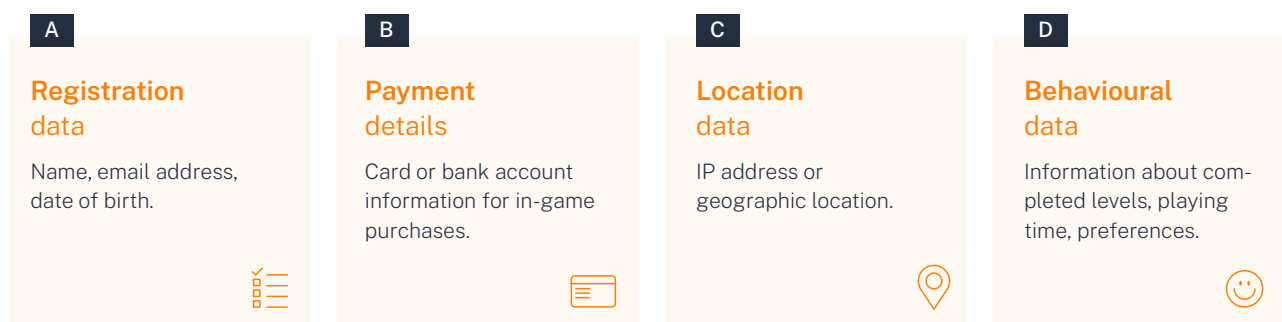
Someone is a **data controller** when they decide the purposes and means of processing the data of players and users. In other words, when you decide what personal data to collect, **how to use it and why you need it**, you are acting as a data controller.

When am I considered a data processor?

The **processor** of personal data is the person who processes the data on behalf of the controller. The data processor **follows the instructions of the controller** and ensures that the data is processed in accordance with the regulations. For example, if a publisher hires a company to manage its database of players, this second company would be the data processor.

What is personal data, and what types of personal data can I collect in the video game?

Personal data is any information about a person that can identify them, either directly or indirectly. In this context, the **data subjects** are the owners of the personal data. In the video game sector, this may include player and user data such as:



⚠ Other types of data are considered special and are subject to particular protection under regulations. Such data may include data relating to health, data relating to sexual orientation or data revealing racial or ethnic origin, among others.

These data types **can only be processed under certain circumstances**. For more information on the legal implications of such processing, it is advisable to seek specialist advice from experts in the field, who will be able to provide detailed guidance and ensure that all applicable regulations are complied with.

What obligations do data controllers have when collecting players' personal data?

When collecting data from players or users, controllers must clearly and accessibly inform them of certain key points. This information must be **accessible**, either within the application, on the website, or as an attached form at the time of user registration or purchase of the video game. In practice, this is known as the **privacy policy**.

	Information	Example
	Identity and details of the data controller	Company name, registered address, and contact details.
	Data protection officer (DPO) details, if any	DPO email for privacy queries.
	Purpose and legal basis of processing	We collect data in order to provide the service, and our legitimate basis for doing so is the contractual relationship.
	Legitimate interest, if applicable	We process data to prevent fraud and protect players.
	Recipients of the data	Data may be shared with our analysis partners.
	International data transfers	Appropriate safeguards are in place for data transferred outside the EU.
	Data retention period	We will keep the data for two years or until your account is deleted.
	Rights of the data subject	You may request access, rectification, erasure, restriction or portability of your data.
	Complaints to the supervisory authority	If you are not satisfied, you can submit a complaint to the Spanish Data Protection Agency.
	Automated decision-making and profiling, if any	Profiling techniques are used for personalised recommendations.

This information can be displayed to users in two interrelated ways: the **information layers**. The **first layer** allows the minimum information to be given, as long as it provides a way to access the **second layer** (e.g. via a link).

A

First layer

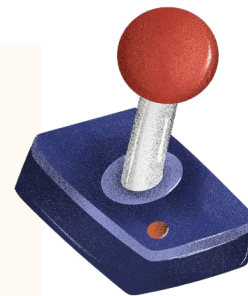
Basic information on data protection:

- » Controller
- » Purpose
- » Rights
- » Additional information:

B

Second layer

The **privacy policy** set out above constitutes this second layer.



What other obligations do I have as a controller or processor?

In addition to their duty to inform, controllers and processors must demonstrate proactivity in complying with the regulations by complying with certain obligations relating to transparency and security measures in processing activities. This proactivity manifests itself in the following ways:

Obligations of the **data controller**

- » **Register of processing activities:** create and maintain a register of data processing activities, detailing the purposes and legal bases.
- » **Facilitate the exercise of rights:** implement simple mechanisms (such as a specific email) for data subjects to exercise their rights.
- » **Security measures:** guarantee the integrity and protection of data, adapting measures according to the risk and type of processing.

Obligations of the **data processor**

- » **Data processing agreement:** ensure that there is a contract in place covering the processor's obligations, including security, confidentiality and compliance with the controller's instructions.

What if the players are minors? How is parental consent managed?

When players are minors, regulations require **parental consent to be obtained for children under the age of 14**. To manage this consent, controllers must implement reasonable procedures to verify that consent has been given by parents or guardians.

Some ways of managing parental consent include:

A

Age verification during registration

Ask the player to enter his or her date of birth. If they are under 14 years of age, a parent or guardian's email address will be requested to verify consent.

B

Authorisation by electronic signature

Use platforms that allow the electronic signature of a parental consent document to validate the process.

C

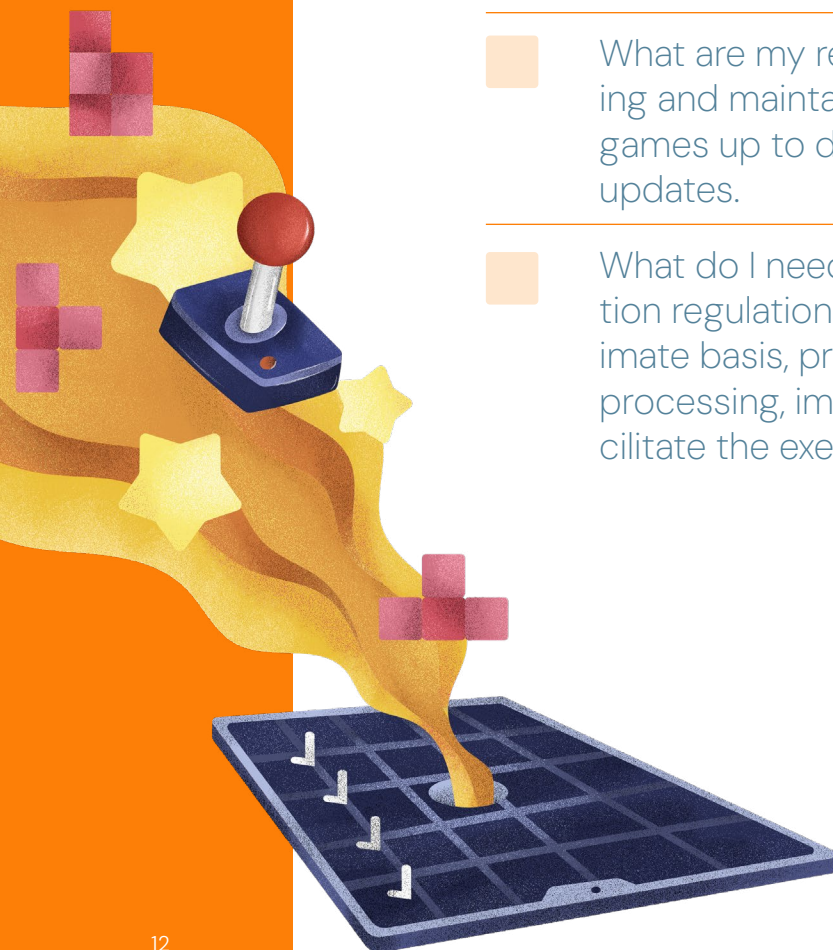
Include notices in promotional materials

For example, the game's description or the official website could state that parental consent is required for the data of minors.

Summary

Essential checklist

- What rights do players have over video games? Players are entitled to clear information on the characteristics of digital game content, a 14-day right of withdrawal and protection against unfair terms.
- How can I ensure compliance with advertising regulations? Advertising campaigns must not contain misleading information or prohibited content. Transparency is also required in collaborations with influencers.
- What should I bear in mind about loot boxes? It is recommended that you implement age verifiers to prohibit access to minors, report on the likelihood of rewards and allow spending limits.
- What are my responsibilities with regard to updating and maintaining video games? You must keep games up to date, fix bugs and inform users about updates.
- What do I need to do to comply with data protection regulations? You must process data on a legitimate basis, provide clear information about data processing, implement security measures, and facilitate the exercise of players' and users' rights.



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