

Mr Leon Y. Xiao ([lexi@itu.dk](mailto:lexi@itu.dk)) – Response to Inquiry: Supplementary 1 to Sub. 127

## **I. Introduction**

1. This is a supplementary response to my Submission 127 to the Australian House of Representatives Standing Committee on Social Policy and Legal Affairs' Inquiry into online gambling and its impacts on those experiencing gambling harm launched in September 2022 and amended in October 2022.
2. I address three additional matters that have either arisen since my original submission or I now think should be brought to the Committee's attention. I am making this submission ahead of the public hearing scheduled for 1 March 2023, for which I have been asked to appear as a witness.

## **II. Loot box presence warning labels**

3. The video game age rating organisations for North America and Europe: the ESRB (Entertainment Software Rating Board) and PEGI (Pan-European Game Information) introduced the 'In-Game Purchases (Includes Random Items)' label to warn consumers about loot box presence in April 2020 (hereinafter, 'Label').
4. The Google Play Store uses the IARC (International Age Rating Coalition) to provide age ratings for games. The Australian Classification Board (ACB) is a participating age rating authority of the IARC. The Label was, according to an official response that I received from the IARC, introduced to the Google Play Store in February 2022.
5. I conducted a study on whether games containing loot boxes are displaying the Label in January 2023.<sup>1</sup> I found that 71 of 100 popular games containing loot boxes did *not* display the Label.
6. The official response from the IARC has been that games originally submitted for rating prior to February 2022 need not attach the label. However, the IARC

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<sup>1</sup> Leon Y Xiao, 'Beneath the Label: Unsatisfactory Compliance with ESRB, PEGI, and IARC Industry Self-Regulation Requiring Loot Box Presence Warning Labels by Video Game Companies' (OSF Preprints, 12 February 2023) <<https://osf.io/asbcg/>> accessed 12 February 2023.

still acceded to my request and, after independent verification, labelled the vast majority of a list of 84 unlabelled games that I presented to them.

7. I am raising this matter to the Committee's attention because Australian consumers do not have ready access to loot box presence warning labels either through the Australian Google Play Store or through the ACB's website.
8. Most, if not nearly all, currently high-grossing games on the Google Play Store were released prior to February 2022, and this is unlikely to change for years to come because of how mobile games operate and monetise as a long-term service. Because of the IARC's approach of not retroactively applying the Label to older games, most games would therefore not be liable to being labelled. This is unsatisfactory and unjustifiable. I highlight also how 'older' is simply defined as having been rated prior to February 2022, which means that even 'new' games released just a few months ago might be an 'older' game.
9. How only *some* older games are labelled is of particular concern. Some of these older games were labelled due to my request, but a number of others were already labelled voluntarily before my study. Consumers might now be under the false impression that all games have been duly labelled and therefore assume that unlabelled games do not contain loot boxes.
10. The Committee may be aware that the UK Government has decided to rely on industry self-regulation, rather than legislate against loot boxes.<sup>2</sup> Towards that effort, the UK Government has put together a technical working group of industry members (including Google) to develop industry self-regulation.
11. PEGI and I are hoping that this self-regulatory process in the UK would mean that the situation on the Google Play Store would improve in due course. Specifically, I am hoping that all older games containing loot boxes on the Google Play Store would be duly labelled by the end of 2023.

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<sup>2</sup> Department for Digital, Culture, Media & Sport (UK), 'Government Response to the Call for Evidence on Loot Boxes in Video Games' (GOV.UK, 17 July 2022) <<https://www.gov.uk/government/consultations/loot-boxes-in-video-games-call-for-evidence/outcome/government-response-to-the-call-for-evidence-on-loot-boxes-in-video-games>> accessed 18 July 2022.

12. However, that is just my hope and optimism, which others might not share. If UK industry self-regulation does not improve the situation, the ACB, as a participating age rating authority of the IARC, may be able to exert certain pressures to ensure that the situation improves.
13. I recognise here that the ACB is governmental, rather than industry self-regulatory (which both the ESRB and PEGI are). This might mean that the ACB would be more willing and able to act against video game industry interests.
14. **I recommend that the Committee ask the Australian Classification Board to exert pressure on the International Age Rating Coalition to change its current approach of *not* retroactively labelling older, but very popular and high-grossing, games containing loot boxes with a loot box presence warning label.**
15. The ACB's domestic approach should also be improved. The ACB attaches so-called 'consumer advice' to their ratings. They explain this as follows:

“Consumer advice helps you to make informed choices about what you read, view and play. It provides information about the strongest content (content that may scare, upset or cause concern) in a film or computer game. Consumer advice usually includes references to the classifiable elements which are: themes, violence, sex, language, drug use and nudity.”
16. At present, loot box presence is not a type of 'consumer advice' that the ACB attaches to games that it rates, although a generic 'In-game purchases' is sometimes used (albeit seemingly inconsistently in my view).
17. **I recommend that the Committee ask the Australian Classification Board to catch up to international standards by incorporating a loot box presence warning label (which does not have to impact on the age rating) into its rating system.**
18. Indeed, currently, even games attached with the Label on the Australian Google Play Store (see Fig.1) when incorporated into the ACB database would lose that information (see Fig.2; note how the 'IARC' was listed as the 'applicant').

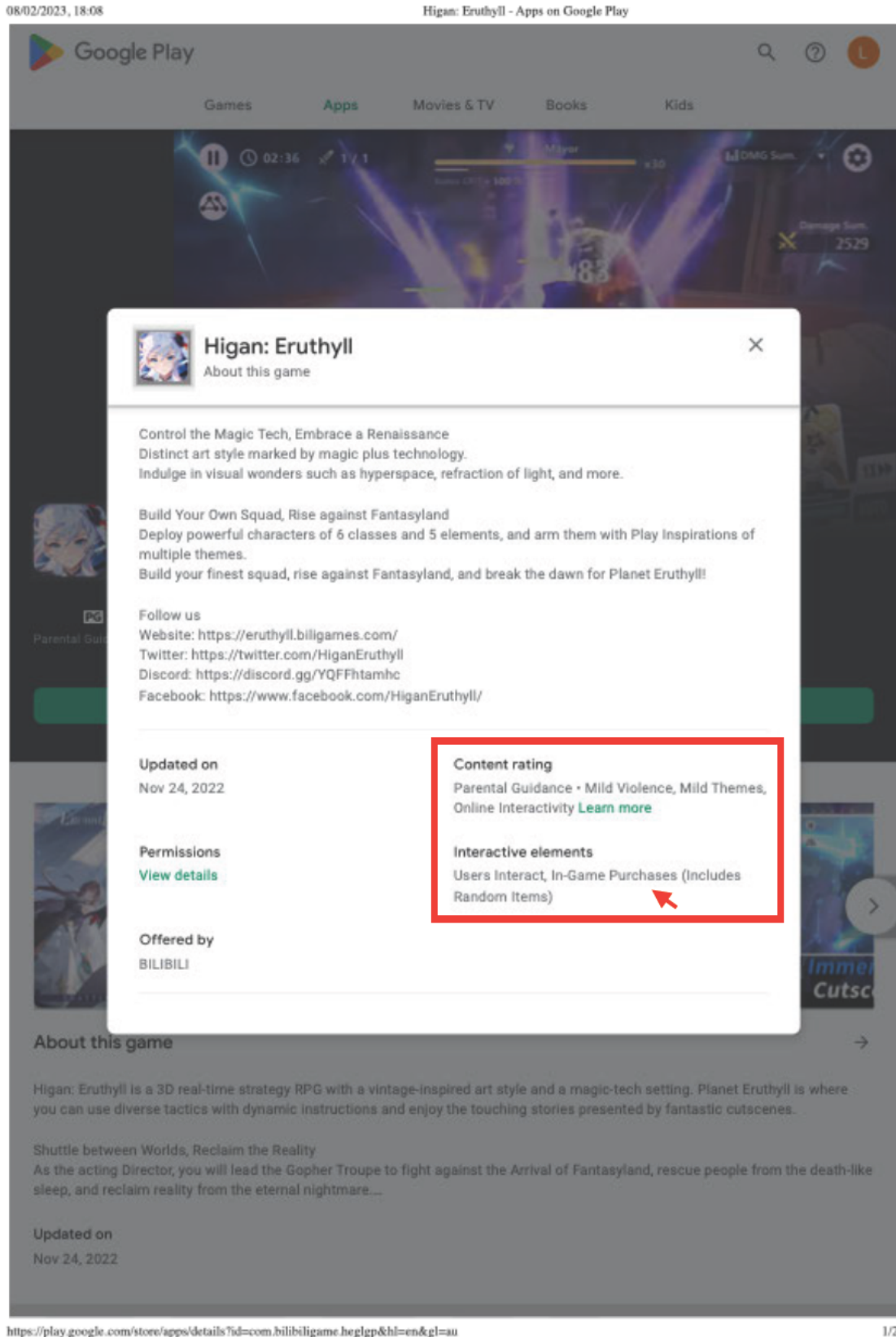


Figure 1. A pdf printout of the Australian Google Play Store page for *Higan: Eruthyll* dated 8 February 2023 showing that the loot box presence warning label was attached. © 2022–2023 BILIBILI & Google

The screenshot shows the Australian Classification Board website for the game 'Higan: Eruthyll'. The page features a navigation bar with the Australian Government logo, the Department of Infrastructure, Transport, Regional Development, Communications and the Arts, and the 'Australian Classification' title. A search bar is located in the top right. Below the navigation bar, there are links for 'Classification ratings', 'For industry', 'About us', and 'Contact us'. The main content area displays the game's title 'Higan: Eruthyll' and its classification 'PG' (Mild Violence, Mild Themes, Online Interactivity). The 'Industry details' section is highlighted in blue and contains a table of information. The 'Consumer advice' row in this table is highlighted with a red border, showing the classification 'Mild Violence, Mild Themes, Online Interactivity'. The table also lists other details such as 'Classification date', 'Year of production', 'Category', 'Media type', 'Version', 'Duration', 'Author', 'Publisher', 'Production company', 'Country of origin', 'Language', 'Applicant', 'File number', 'Classification number', and 'Alternative titles'.

**Industry details**

Classification date	28 August 2022
Year of production	Not Specified
Classification	PG
Consumer advice	Mild Violence, Mild Themes, Online Interactivity
Category	Computer Games
Category detail	Computer Games
Media type	Not Specified
Version	Not Specified
Duration	Variable
Author	Not Specified
Publisher	BILIBILI
Production company	BILIBILI
Country of origin	Not Specified
Language	Not Specified
Applicant	IARC
File number	Not Specified
Classification number	103476284
Alternative titles	Not Specified

Figure 2. A screenshot of the Australian Classification Board's website page for *Higan: Eruthyll* captured on 8 February 2023 showing that any information regarding loot box presence has been removed. © 2022–2023 Australian Classification Board

19. Even if the ACB is not minded to include a loot box presence warning label into its own domestic system for whatever reason, surely such additional helpful information for consumers should not be deleted where already available.
20. **I recommend that the Committee ask the Australian Classification Board to include information on loot box presence, instead of actively deleting it, when incorporating information submitted by the International Age Rating Coalition.**

### **III. Fewer young people are buying loot boxes?**

21. The second matter is very simple. The UK Gambling Commission conducts an annual survey of young people's gambling experience. Loot box purchasing has seemingly decreased significantly in popularity from 2019 to 2022.
22. In 2019, 22.9% of 11–16-year-olds in the UK self-reported paying real-world money to buy loot boxes.<sup>3</sup> However, this figure decreased to 10.32% in 2022.<sup>4</sup>
23. As far as I can discern, the research methodology did not change between the two surveys. I do not have a good explanation for this decrease, but I think it is worth considering whether loot boxes might be becoming less popular.

### **IV. Emerging longitudinal studies**

24. The third matter can also be conveyed very briefly. For many years, academic researchers have been very cautious about making causal statements about loot boxes and gambling because all studies were cross-sectional. In the last two months, two longitudinal studies have been published suggesting that young people who purchase loot boxes are more likely to engage in traditional gambling and also spend more money on gambling six months later.

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<sup>3</sup> UK Gambling Commission, 'Young People and Gambling Survey 2019: A Research Study among 11-16 Year Olds in Great Britain' (2019) <<https://web.archive.org/web/20210129123612/https://www.gamblingcommission.gov.uk/PDF/Young-People-Gambling-Report-2019.pdf>> accessed 29 June 2021.

<sup>4</sup> UK Gambling Commission, 'Young People and Gambling 2022' (*Gambling Commission*, 10 November 2022) <<https://www.gamblingcommission.gov.uk/report/young-people-and-gambling-2022>> accessed 9 January 2023.

25. The first study by Brooks and Clark was based on young people from the US, the UK and Canada,<sup>5</sup> whilst the second study was based on young people from Spain.<sup>6</sup>
26. I defer to Drs Drummond and Sauer and other psychologists on the appropriate interpretation of these results.

## **V. Recommendations**

27. **I recommend that the Committee ask the Australian Classification Board to exert pressure on the International Age Rating Coalition to change its current approach of *not* retroactively labelling older, but very popular and high-grossing, games containing loot boxes with a loot box presence warning label.**
28. **I recommend that the Committee ask the Australian Classification Board to catch up to international standards by incorporating a loot box presence warning label (which does not have to impact on the age rating) into its rating system.**
29. **I recommend that the Committee ask the Australian Classification Board to include information on loot box presence, instead of actively deleting it, when incorporating information submitted by the International Age Rating Coalition.**

## **VI. Final note**

30. I look forward to answering the Committee's question on 1 March 2023. I hope I might be helpful.

## **VII. Legal disclaimer**

31. The views and recommendations expressed herein are those of Mr Leon Y. Xiao personally, based on a reasonable search and analysis of publicly available

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<sup>5</sup> Gabriel A Brooks and Luke Clark, 'The Gamblers of the Future? Migration from Loot Boxes to Gambling in a Longitudinal Study of Young Adults' (2022) 141 Computers in Human Behavior 107605.

<sup>6</sup> J González-Cabrera and others, 'Loot Box Purchases and Their Relationship with Internet Gaming Disorder and Online Gambling Disorder in Adolescents: A Prospective Study' (2023) 143 Computers in Human Behavior 107685.

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LEON Y. XIAO

12 February 2023