

Submission to Senate Environment and Communications References Committee

Inquiry into gaming micro-transactions for chance-based items

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This inquiry into gaming micro-transactions for chance-based items is timely and reflects growing concern, both within Australia and internationally, about the challenges posed by in-game gambling in online video games (Drummond & Sauer, 2018).

The following submission is based on a review of current literature and aims to provide useful information for the Committee's deliberations. We submit that the purchase of chance-based items in online multiplayer video games, combined with the ability to monetise these items on third-party platforms, is a form of gambling. Further, the evidence indicates that the current consumer protection and regulatory frameworks are not sufficient to be able to adequately regulate the challenges posed by these new and emerging products.

The Australian Gambling Research Centre (AGRC) is available for further consultation in relation to this or other matters, as required.

Key terms included in the Inquiry terms of reference

Chance-based in-game items or 'skins'

Many online multiplayer games offer a variety of virtual items in addition to standard game features. These in-game items can hold significant value to the players, based on their potential to facilitate or assist game play (e.g. more powerful weapons), or provide desirable cosmetic features (in the case of 'skins'). Players can obtain in-game items and 'skins' either through game play (i.e. winning or scoring), trading them with other players, or via in-game purchases for real or in-game currency (see Cleghorn & Griffiths, 2015). Highly desirable or valuable items appear only rarely or very rarely in the game.

Micro-transactions for chance-based items ('Loot boxes')

Some game publishers (e.g. PUBG, Valve, EA) offer players the ability to purchase 'loot boxes', 'mystery boxes', 'cases' or 'chests' containing the random in-game virtual items mentioned above. A list of possible items may be, but is not always, provided. The specific item received is randomly

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selected once payment is authorised. A common variation is to periodically give users boxes for free but require them to purchase a 'key' to open the box.

Monetising chance-based items on third-party platforms

The rarity of some in-game items and the emergence of third-party online sites acting as exchange markets (e.g. OpSkins, CSGOLounge) has led to players paying high prices, with some in-game items reportedly selling for thousands of dollars. In this context, in-game items have been able to act as de-facto virtual currencies, which have subsequently been used as virtual betting chips on third-party gambling websites, with significant amounts of real world currency changing hands. The term 'skin' gambling, refers to the use of these in-game items for online gambling, via a range of modes, including third-party platforms. Notably too, the expansion of these third-party sites within the online gaming community serves to encourage players to stake money on 'loot boxes' for the chance to obtain a rare item.

Key issues included in the Inquiry terms of reference

Micro-transactions for chance-based items constitutes a form of gambling

The relevant section of the *Interactive Gambling Act 2001* defines a gambling service for the conduct of a game with the following criteria:

the game is played for money or anything else of value; and
the game is a game of chance or mixed chance and skill; and
a customer of the service gives or agrees to give consideration to play or enter the game.

A gambling service for the conduct of a game, under the Act, may also be defined as: '*a gambling service (within the ordinary meaning of that expression) that is not covered by any of the above paragraphs*'.

Gambling requires an individual or group to risk losing something of value (in the case of 'loot boxes', money is risked) on an event with an uncertain outcome (a 'loot box' containing a random item is received) with the aim of winning something of greater value (although, in reality the 'loot box' is much more likely to contain a common item of low or no in-game value, which may represent a monetary loss; a valuable or highly sought-after item is rarely received).

Micro-transactions for chance-based items therefore fall within the definition of gambling provided in the *Interactive Gambling Act 2001* or, indeed, in any commonly-accepted definition of gambling.

Micro-transactions for chance-based items normalises gambling

The use of for-money, in-game 'loot boxes' as a mechanism through which additional in-game items can be obtained familiarises players, many of whom are less than 18 years of age, with a gambling activity that is practically identical to games available on external sites. It coexists there with lotteries, eSports betting and other more explicit gambling activities played in virtual currency. This process of 'gamblification' can be seen as analogous to that occurring in the context of sports betting, whereby gambling practices are becoming increasingly normalised as an inherent component of sports engagement (Jenkinson, de Lacy-Vawdon, & Carroll, 2018; Lopez-Gonzalez & Griffiths, 2016).



Drummond and Sauer (2018) have highlighted the prevalence of video gaming in countries such as Australia. They have argued that variable ratios of in-game items in 'loot boxes' act as a form of reinforcement; that is, micro-transactions psychologically encourage players to keep repeating these purchases. This mechanism is, in fact, very similar to the structural characteristics that underpin electronic gambling machines design, such as reel spinning, which can encourage addictive gambling behaviours (Livingstone, 2017, especially pp. 8, 13-14). King and Delfabbro (2018) similarly argued that micro-transactions in video games are 'predatory monetisation schemes', which can contribute to the development of internet gaming disorder by hiding the real monetary cost until players are psychologically committed to continue purchasing them.

Gambling is recognised as a significant public health and policy issue in Australia. We submit that normalising gambling to young people through the provision of 'loot boxes' in online video games constitutes an additional, avoidable public health risk.

Briefly, Australia leads the world in gambling expenditure per capita, with losses of approximately \$22 billion on legal forms of gambling each year (Queensland Government Statistician's Office, Queensland Treasury, 2016; The Economist online, 2014). The harms associated with gambling have broad societal affects, including on household functioning and relationships, health and wellbeing, and productivity and employment. In more extreme cases, these harms can lead to family breakdown, family violence and other crimes, mental illness and suicide (Black et al., 2015; Dowling et al., 2016; Productivity Commission, 2010; Rintoul & Deblaquiere, forthcoming).

As a consequence, the harms of gambling, and their successful prevention and minimisation, already represent a considerable and costly public health challenge. Preventing further normalisation of gambling through 'loot boxes' in video games is a sensible public health measure.

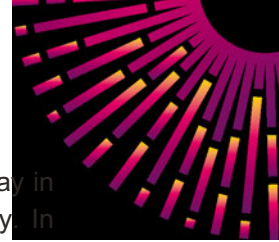
Micro-transactions for chance-based items increase risk of underage gambling

Currently, there are few controls to prevent underage access to in-game gambling via 'loot boxes' and other chance-based items. Further, the informality and unregulated nature of the 'skin' gambling market means that age controls are also largely absent on the many unlicensed 'skin' gambling sites available. Advertising, both traditional and through peer-to-peer networks, of other products on these sites, makes eSports, betting in 'skins', 'skin' lottery, casino games and other forms of gambling easily accessible to underage gamers.

The difficulty of understanding 'skin' gambling to those not versed in gaming culture also means that such practices are often unclear to parents and, therefore, difficult for them to supervise. Anecdotal reports of young people buying in-game items on their parents' credit cards without their knowledge for the purposes of 'skin' gambling are widespread (Griffiths, 2017; Armitage, 2016; Hermant & Doman, 2016; UK Gambling Commission, 2016, 2017).

Changes in government regulation of micro-transactions for chance-based items could decrease the risks of gambling harms from video games

The degree to which online multiplayer games gives rise to gambling practices could, for example, be regulated under the classification system as set out in the *Classification (Publication, Films and Computer Games) Act 1995*, and administered by the Department of Communication and the Arts. However, the current *Guidelines for the Classification of Computer Games 2012* do not explicitly address gambling (although gambling appears to be classified under the category of 'themes' in a somewhat adhoc manner, see Dickins & Thomas, 2016, p. 13). Further, the



classification system currently treats games as content only, rather than recognising the way in which they constitute or facilitate specific practices, such as gambling in virtual currency. In addition, the growing dominance of online forms of delivery for game content, and the increasing amount of new content developed and number of games available for purchase and download, means that the current classification system is unable to appropriately respond to these new and emerging products (Sveen, 2015).

In particular, the in-game 'loot box' opening mechanism should be a key priority for regulation. It is a key functional element allowing the inter-change between various forms of virtual and real currency, and it facilitates a wider 'skin' gambling economy. Moreover, in-game payment for the chance to open 'loot boxes' containing random but potentially valuable virtual items should also be understood as a gambling practice. At present, 'loot-box' games are available to players with no age verification, and without any harm prevention measures in place.

Game publishers' role in addressing 'loot box' gambling in online video games

In-game forms of gambling such as 'loot boxes' might, in principle, be addressed by publishers themselves. This could take place either through self-regulation or through requirements applied to the industry by regulators. This second option is the authors' preference if 'loot boxes' are not banned as it enables surveillance measures to be instituted and monitored by an independent government regulatory body.

Both approaches have been seen in response to the introduction of 'loot boxes'. Apple® introduced a requirement that games sold through their IOS Apple® store that include randomised virtual items for purchase must disclose the odds of receiving each type of item to customers prior to purchase. A 2017 Chinese law imposed similar requirements for games sold within their jurisdiction. While this is an important response to addressing concerns regarding gambling in current 'loot box' games where the odds have not routinely been disclosed, it is only a partial measure, which may have limited effectiveness and does not address young people's access to gambling activities in online video games.

In recent months, other jurisdictions, including Belgium and the Netherlands, have banned 'loot boxes' in games. Japan has also banned 'kompu gacha' mobile games, a revenue model very similar to 'loot boxes' in online multiplayer games, because of gambling concerns (Fletcher, 2012).²

Possible use of third-party platforms for micro-transactions and chance-based items

There is a possibility that the prohibition of 'loot box' games could lead players to increasingly seek opportunities on third-party sites. Such activities would, therefore, need to be considered in relation to the broader 'skin' gambling economy. While third-party 'skin' gambling, exchange and market sites, and 'skin' gambling economies more broadly, may be considered outside the scope of publishers' control, for third-party sites to deal in in-game items, they must hold and control a user account within the game that is the holder of all items listed on the site. Game publishers therefore have some potential to control game-related gambling activity through their ability to terminate or suspend user accounts found to be in breach of the terms and conditions of the game and seize in-game items held by these users.

² Although, game developers have since developed a number of ways to skirt the ban see www.serkantoto.com/2016/03/14/gacha_monetization_japan/



However, since the widely publicised attempts in 2016 to control *Counter-Strike: Global Offensive* 'skin' gambling by its publisher Valve, 'skin' gambling operators have been developing techniques to bypass these control measures. They have disguised the use of in-game items with alternate currencies (either in-game virtual currencies or cryptocurrencies) or used well-established third-party trading sites as intermediaries. The purpose behind these techniques is to create a layer of separation between gambling operations and the publisher's systems, to minimise a risk of being banned under the terms and conditions of the game.

While several publishers, including Valve and PUBG (the publishers of *Counter-Strike* and *PlayerUnknown's Battlegrounds*, respectively, two of the online games most strongly associated with 'skins') have made recent attempts to restrict the trading of 'skins' and reduce the 'negative unintended uses'. It is still to be determined whether these are more successful than previous attempts.³

Unintended consequences and a rapidly developing online environment

Unintended consequences from any changes in regulation, or from further new and emerging products, are likely as the highly popular and growing fields of online video gaming and online communities continue to develop. The AGRC will continue to monitor changes in the online video gaming/gambling market and, where appropriate, make further recommendations to government.

Recommendations

In weighing up these possibilities, and considering recent steps being taken in countries such as Belgium and the Netherlands, we recommend prohibiting micro-transactions for chance-based items in online games available in Australia. This will alleviate the public health risks and associated costs with further normalising gambling in the Australian community through the provision of these items in video games. It is also possible that, for example, banning 'loot boxes', together with introducing alternatives such as the provision of in-game items through non-randomised mechanics, may provide many players with a preferable way of obtaining desired in-game items.

If 'loot boxes' were to be retained, harm minimisation measures could be considered but this would be a weaker option for preventing the potential for gambling harm. A suite of options could include:

- Games should be clearly labelled that gambling with real money is a game feature.
- Make it mandatory that players are provided with the odds of selecting each possible in-game item in an easily accessible and understandable way. The variable odds of achieving low value versus highly desired in-game items, and the cost in actual dollar terms of each 'loot box' item, should be clearly shown.
- Introduce tighter restrictions on micro-transactions for chance-based items, either through the gaming classification system or another regulatory mechanism. Restrict access to gambling aspects of video games for underage players, including through third-party sites.
- Consider introducing other harm reduction measures (such as gambling messaging and mandatory spending limits) similar to those applied to more traditional gambling activities.
- Conduct public education campaigns to better inform gamers, parents and the general public of the harms associated with micro-transactions, and gambling more generally, in online video games.

³ For further information see: <https://www.kotaku.com.au/2018/03/csgo-skin-traders-dumping-their-inventories-after-valve-announces-new-rules/>; <http://blog.counter-strike.net/index.php/2018/03/20308/>; <https://www.pubg.com/2018/05/03/temporary-turning-off-personal-item-trades/>



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