

Loot Boxes and Gambling: ESRB's Perspective

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On my honor as a University student, I have neither given nor received unauthorized aid on this assignment as defined by the Honor Guidelines for Thesis-Related Assignments.

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In the past decade the video game industry witnessed a radically changing business model. Less of a game's profits were being from the upfront cost of a game. In fact, today's most popular games like Fortnite, Candy Crush Saga, and League of Legends are all available for free. This is due to microtransactions, or in-game purchases, becoming the main stream of revenue for video game developers. Microtransactions are the revolutionary business model changing the video game industry. They primarily generate revenue from downloadable content (such as an additional level), cosmetic additions (such as decorative attire for a character), and functional additions (such as items/weapons) that are available for purchase with real-world currency. An estimated 32 billion U.S dollars is expected in 2020 solely from in-game purchases, an almost 150% increase from 2015 (Fuller, 2019). While they can exist in many forms within a game, one specific type has caused much controversy within the gaming community. Since their origins in 2006, loot boxes have proliferated. The business model soon spread, reaching free-to-play games like Farmville, a Facebook application, generating \$150 million U.S. dollars in 2010, and Clash of Clans, a mobile game, generating \$2.3 billion U.S dollars in 2016 (Agarwal, 2019). The conception of this subset of microtransactions, loot boxes, has led to suggested government regulation, concerns of minors engaging in gambling, and questions on the effectiveness of self-regulation within the gaming industry.

This controversy has seen input come from many participants, all with vastly different perspectives. Some argue, including many gamers, that the business model encourages adolescents to put wagers using their or their parent's money with hopes of unlocking a new in-game item. Critics of loot boxes argue this almost perfectly resembles standard gambling, with the exception that loot boxes are made much more cartoonish and appealing for a younger audience. Lawmakers seems to agree with the majority of video game fans, claiming the

similarity to gambling makes regulation imperative for the continued existence of loot boxes. Video game corporations seem to be split on the issue, with some recalling the usage of loot boxes, and others incorporating them more and more into each new iteration of their games. The Entertainment Software Ratings Board (ESRB), the self-regulating body for the industry, holds the stance that loot boxes are just another creative way to keep gamers entertained and engaged in a given game. The ESRB claims no action is necessary to prevent the ubiquity of loot boxes in today's games. Despite backlash, the ESRB has stood firm that loot boxes are unrelated to gambling. Critics, journalists, lawmakers, and parents all seem to disagree. How has ESRB made its case?

It would not be the first-time regulation would be proposed to protect adolescents from predatory practices, or the first-time self-regulation would be conducted unprofessionally. In 2018, as a response to the war on childhood obesity, Chile saw a ban on “iconic cartoon characters from sugary cereal boxes and banned the sale of candy like Kinder Surprise that use trinkets to lure young consumers” (Jacobs, 2018). In 1971 a U.S. ban on cigarette advertisements on TV and radio went into effect (Truth Initiative, 2017). In a study on the consumer socialization of children, John (1999) explains that, “Marketing may help socialize children as consumers, inform them about products, and help them carve out unique identities as they reach adulthood.” Based on this it appears to be evident that the ESRB's obliviousness to the dangers loot boxes are inexcusable. With clear evidence pointing to the similarities of loot boxes and gambling, does society want to socialize children this way? Two realities are evident: the ESRB intentional obliviousness to the problems of loot boxes indicates that an independent ratings body would be better suited than self-regulation, and an age limit on games with loot boxes should be instituted to diminish the number of adolescents playing games with these mechanics.

Parents alone cannot be expected to protect their kids from the many predatory tactics of greedy corporations, and an age restriction will discourage loot boxes in future games.

Extensive research currently exists that links loot boxes and gambling. Thus, further examination into their similarities will not be conducted. The goal is to gain an understanding of what action are deemed appropriate in a setting where corporations take advantage of adolescents.

Review of Research

Research has been conducted on whether loot boxes are a form of gambling, and indicates there is a strong correlation between the two. Zendle and Cairns (2018) found that individuals who spent money on loot boxes were also likely to spend money on real-world gambling. Griffiths (2018) demonstrated that loot boxes perfectly fit the UK definition of gambling, and shows that items from loot boxes do have real-life value. Loot boxes operate like gambling does, and they are legal only because the law has not caught up to the new technology. Zendle, Meyer, and Over (2019) found a link between loot boxes and problem gambling in adolescents. The most common reason for buying loot boxes was to engage in some sort of gambling behavior, suggesting that loot boxes may encourage adolescents to gamble.

It is evident from research that self-regulation can lead to marketing or technology used wrongly. Research on industry self-regulation suggests an industry without external regulation is one that can lead to lack of standardization, inadequately equipped self-regulatory bodies, and biased settlements that favors corporations' financial interests. Noell and Babor (2016) demonstrate an example of regulatory capture, showing how the alcohol industry "may be ineffective at removing potentially harmful content from the market-place." They claim the industry fails to serve public health objectives, with self-regulation being the root cause.

Regarding industries that lack external regulation, Lenox and Nash (2003) conclude that “without explicit sanctions for malfeasance, such self-regulatory programs are likely to attract more polluting firms.” If lack of effective self-regulation within the video game industry continues to persist, then the industry could see itself become what past research has found.

Loot Box Origin

Before diving into the implications of loot boxes it is useful to mention their origin. Loot boxes were a response to a frantic industry. One example comes from Rami Ismail (2017), a game developer, who tweeted “I don't like loot boxes but nothing has made me like them more than the slow audience realization that game developers do need income.” According to Martin (2017) the industry “should be doing everything in its power to protect workers and end the constant cycle of layoffs and studio closures that drives talent away from the industry. If pay-to-play loot boxes and microtransactions help with that, they might be a necessary evil.”

Early on, video games development costs were small but the products were profitable. What has caused reactions like the one from Rami Ismail are the result of more computing power in computers. As computing power increased, so the size of development teams. Game studios went from small groups of programmers to artists, game designers, producers, marketers, etc. A typical video game budget can be around \$50-150 million U.S. dollars (Superannuation, 2014). In addition to a larger staff, games can take years to develop. Publishers consider loot boxes a necessary process to the monetization of a game. Byford and Gartenberg explain that publishers cannot raise the base price of the game (currently \$60 U.S. dollars for all AAA games) for fear of losing total sales of a game. The best option would then be to have revenue streams post-release of a game. Every game released by a publisher is a huge risk. A sequence of failed releases can lead to the demise of a company, and that is why it is imperative to squeeze as the maximum

amount money from a game. This is why loot boxes are so beloved by upper management in the industry.

However, developers as a whole are split on the issue. According to Brightman (2017), loot boxes can mesh well in certain games. He argues that loot boxes work well when not implemented in a predatory manner where the consumer feels coerced into buying them, and the design and implementation of loot boxes are entirely made by the developers. However, when loot boxes are added solely as a means to generate post-sales revenue instead of incentive to continue playing the game, the design of loot boxes strongly hinders a player's ability to enjoy the game. Much of a loot box design would appear to be a result of the relationship between developers and upper management. When developers can create games where the baseline gameplay does not coerce players into purchasing loot boxes, new content that can be obtained from loot boxes is typically welcomed from the community in the game (Fenlon, 2017). This can generate revenue for the publisher while not upsetting their consumers.

ESRB

In 1994, the ESRB, the self-regulatory body for the video game industry, was started by the Interactive Digital Software Association (renamed the Entertainment Software Association (ESA) in 2004). The ESRB was made as a response to games like Doom and Mortal Kombat being perceived as a corrupting influence on adolescents. It was clear that if publishers could not self-regulate then the government would be destined to intervene (Sinclair, 2015). Since its beginning, the ESRB has been on the front-lines, defending the video game industry from all of its critics. The ESRB's rating system has been adopted by all games on console, mobile devices, personal computers, and virtual reality.

The ESRB is governed by the same Board of Directors as the ESA. The ESA is the largest lobbying company for the video game industry. The ESA elects its members on its board every two years, and has seen many senior executives from major video game publishers elected. As a result, throughout the ESRB's history, it has seen multiple executives regulating the same companies they are responsible for running. When asked about the situation, Vance, president of ESRB, said "as with any self-regulatory body, the industry is involved in establishing the general rules by which ESRB operates - that means the overall nature of the rating system, how it gets funded, broadening the adoption of ESRB ratings on mobile storefronts (i.e., support of IARC) and other key policies." While this remained a potential conflict of interest for much of the ESRB's lifespan, a clear contention has emerged recently when the ESRB announced its stance on loot boxes.

In October 2017, in response to criticisms of loot boxes, ESRB defended them, asserting that loot boxes and gambling are unrelated. It compared loot boxes to "locked treasure chests that contain an array of virtual items that can be used in the game once unlocked" (Vance, 2019). Vance, acknowledges that loot boxes entice children to spend money in game. She urges parents to take "advantage of parental controls available on every game device" to prevent children from purchasing games with loot boxes. ESRB asserts that parents are ultimately responsible for their children's purchases (Vance, 2019).

However, facing growing criticism, ESRB added an "in-game purchases" label to games with in-game monetization. The label applies not only to loot boxes, but also to "surprise items, music, virtual coins and other forms of in-game currency, subscriptions, season passes, and upgrades." Critics called the label insufficient, but Vance insisted "Parents need simple information, we can't overwhelm them with a lot of detail.... We have not found that parents are

differentiating between these different mechanics” (2017). When asked about U.S. Senator Maggie Hassan’s open letter to ESRB, asking the board to review the ratings process as they relate to loot boxes, Vance had to say “a large majority of parents don’t know what a loot box is... So, it’s very important for us to not harp on loot boxes per se, to make sure that we’re capturing loot boxes, but also other in-game transactions.” Vance and ESRB defend loot boxes as a “fun way to acquire virtual items for use within the game” (2017). When asked about the psychological effects of loot boxes on children, Vance said the ESRB has been “unable to find any evidence that children specifically have been impacted by loot boxes or leading them to some sort of tendency towards gambling. We really truly don’t know of any evidence supporting those claims” (2018).

ESRB has been often accused of concealing its ratings process, and criticized for ratings of certain games. In 2005, the National Institute on Media and Family (NIMF) released a “report card” assessing the relationship between the gaming industry and ESRB. NIMF assigned the ESRB a “Rating’s Accuracy” of F (Sinclair, 2005). According to NIMF, ESRB “is owned and operated by the industry it is supposed to monitor.” NIMF concluded with demands for an “Independent Universal Ratings System.” ESRB did not take this lightly. Within a couple days, ESRB President Patricia Vance issued a statement responding to the report card. Vance then responded to each claim, “Over 80% of NIMF’s ratings agree with ESRB,” Vance said, and “NIMF has relied on for-profit companies with a vested financial interest in undermining the ESRB” (2007). ESRB then responded, issuing a report card for NIMF, assigning it all F ratings (Vance, 2019). Haninger and Thompson’s (2004) research would show that while what was listed in a game’s ratings were accurate (i.e. “strong language” indicated there was surely such content in-game), a clear discrepancy could be seen in what was not listed. Researchers found

many games did not have the appropriate content descriptors, causing Thompson to warn that “M-rated video games popular with children and adolescents contain a wide range of often unlabeled content, exposing young people to messages that may negatively influence their perceptions, attitudes, and behaviors.” ESRB (2006) would eventually respond to the study, “after reviewing the study it is not that ESRB is not accurate, but that the authors simply think games should be rated differently. Their philosophy would litter game packaging with descriptors for every type of content possibly encountered in a game, no matter how fleeting or insignificant the impact on the playing experience may be.”

Critic Backlash

To others, however, the ESRB is evading its responsibility. Tassi (2018) calls the in-game purchases tag on games a “clear punt for the ESRB.” Since the sticker applies to any game with any type of available in-game transaction, it is expected that nearly every game on the market will contain an “in-game purchase” tag. Tassi compares this move by the ESRB to “a gambling regulatory body (run by the casinos, not the government) informing you that a stay at a casino will cost you money, but without differentiating between spending cash on food, blackjack, drinks, poker, hotel rooms or slot machines.” Many games with loot box mechanics are criticized as “pay-to-win.” The goal of these systems is to directly tie a player’s competitiveness to the items they are able to get from the loot boxes in-game (Lawrence, 2017). This then creates a cycle of players continuously spending money to improve their ability to remain competitive. Avard (2017) explains how an entire game can be designed around enticing the player to purchase loot boxes. This includes requiring a great deal of wasted time to be spent “leveling up” a character, when a simple purchase could be made to immediately get a character up to par. Many fans of video games are upset at this new design.

A prominent video game critic, Joe Vargas, or “Angry Joe,” is a YouTuber with over 1 billion total views and 3 million subscribers. He opposes loot boxes. He argues that any game with loot boxes should have a “mature rating.” While many critics want to ban loot boxes, Vargas and his followers want the video game industry to refrain from targeting children. Vargas attacked ESRBs decision on a basketball video game (the NBA 2k franchise) for its rating of “E” (for all ages), despite having loot boxes from which the company, Take-Two Interactive, earns most of its profit (Vargas, 2019). Vargas also accuses companies of applying planned obsolescence, so the value of loot box contents falls quickly, enticing some players back to the game (2019).

Another well-known YouTuber, YongYea, reports that a teenage individual who spent over \$13,000 on microtransactions, said “When you’re about to click the button going ‘Do you agree to spend \$100?’ you don’t really get the feeling of that low kind of gut punch that I get now.” He wants to see behaviors to such purchases made more difficult. YongYea compares loot boxes to gambling, “they use the same audio and visual cues to build up anticipation, and exploit the same high that gamblers get when they finally earn a desired reward every once in a while.” He believes they target younger gamers.

Some lawmakers want to ban loot boxes. Josh Hawley, U.S. Senator for Missouri has condemned loot boxes (Hawley, 2019), arguing “video games prey on user addiction, siphoning our kids’ attention from the real world and extracting profits from fostering compulsive habits” (Hawley, 2019). The Federal Trade Commission agreed in November 2018 to investigate loot boxes as gambling, and children’s susceptibility to them. The Entertainment Software Association (ESA) condemned Hawley’s proposal as, “flawed and riddled with inaccuracies” (Good, 2019). Major gaming companies responded defending loot boxes. The Vice President of

Electronic Arts (EA), a major game company has responded to its critics. Hopkins distinguished video games with RCPs from similar game features: “randomized purchases aren’t loot boxes, but rather surprise mechanics.” She compares loot boxes to other children’s toys, such as Kinder Eggs and Hatchimals (Bailey, 2019).

Children’s organizations would argue that “monetization of gaming brings children closer to gambling” (Hood, 2019). The Children’s Commissioner, a public body to protect children’s rights in the United Kingdom, explained how children can become addicted to these features, saying “peer pressure from friends and online strangers, as well as influence from famous gaming YouTubers, are all factors that children say lead to them feeling pressured to spend money on in-game purchases” (Hood, 2019). The organization argues it is the functional items acquired from loot boxes that are problematic. Many children will feel pressured to put as much money into loot boxes as they can to remain competitive in a given game. Many popular YouTube videos consist of content creator’s purchasing a large quantity of virtual money to go on loot box purchasing sprees, suggesting to children that spending great deals of real-world money for a game is a normal activity. The report from the organization recommends an update of the United Kingdom’s gambling laws to “reflect the reality of children’s experiences of spending money within games,” and that for publisher’s to “not enable children to progress within a game by spending money” (Hood, 2019). They explain how companies are currently able to get around laws because loot boxes do not contain real-world value, and thus are not considered gambling under the law. ParentZone, another organization protecting the rights of children by helping inform parents, does not believe in the link between loot boxes and gambling. However, they do acknowledge the enticing characteristics of loot boxes. They believe the solution lies in educating the parents on loot boxes. They had this to say to parents

about loot boxes, “Buying a loot box occasionally isn’t going to lead to problem gambling.... Make sure to get involved and be aware of what your child is spending.” They argue preventing loot boxes from becoming problematic is as easy as monitoring their online spending.

National Health Services (NHS) in the United Kingdom would take a more drastic stance, saying loot boxes are “setting kids up for addiction” (Yin-Poole, 2020). When asked about Hopkins “surprise mechanics” comment on loot boxes, Murdoch (2020), mental health director for the NHS, responded with “Frankly no company should be setting kids up for addiction by teaching them to gamble on the content of these loot boxes. No firm should sell to children loot box games with this element of chance, so yes, those sales should end.... Young people's health is at stake, and although the NHS is stepping up with these new, innovative services available to families through our long-term plan, we cannot do this alone, so other parts of society must do what they can to limit risks and safeguard children's wellbeing.”

Conclusion

The video game industry is a rapidly growing one. More big-name publishers are appearing, kicking obsolete ones out that cannot keep up. This has caused desperate publishers to piggyback on loot boxes to keep their companies alive. However, even with knowing the implications of loot box mechanics, the ESRB has failed to accept responsibility for the effects of them on adolescents. Business interests influence the ESRB to treat them as an insignificant feature. Having a self-regulatory body and lobbying company share the same Board of Directors is a serious conflict of interest, and loot boxes are an obvious example of how corporations with financial interests can control these self-regulatory bodies.

A regulatory body run by the publishers it regulates will never do anything too radical that goes against the publisher’s interests. Without reform to the ESRB, the only true places

where a change could be seen is with legislation and pressure from fans of video games. As mentioned, regulation to mitigate loot boxes in games is already in action. If the push to restrict games with loot boxes to people under 18 succeeds, the entire industry will have to drastically readjust. However, ubiquitous and standardized regulation for loot boxes is still years away. Pressure from consumers is also ongoing. An example being the boycott on Electronic Arts (EA), forcing them to remove the mechanic from their game “Star Wars Battlefront II”. This pressure from fans may mitigate the mechanic in some instances, but is unlikely to kill it in its entirety. Replacing ESRB with an independent ratings body will resolve much of consumers frustration. Requiring games with loot box mechanics to be rated “Mature,” so that being 18 years old to buy a game is a requirement will help mitigate loot boxes effect on adolescents. The fight between the ESRB, developers, and game publishers against fans and journalists is an ongoing one, and will likely persist for a long while to come.

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