

COMP230 - Should loot boxes in video games legally be considered gambling?

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1 An introduction to gambling

The gambling industry is huge and according to a survey carried out by the UK Gambling Commission, it made 13.8bn between Oct 2015 and Sep 2016 within the Great Britain alone. [1] The definition of Gambling this paper will be using is defined by the Oxford dictionary as follows: "Take risky action in the hope of a desired result" [2].

It's quite well known that Casinos will use various tricks to make as much money as possible. [3, 4] For the purpose of this paper the one's worth making note of are, maze layouts with the casino as the area you always have to pass through and using their own currency like chips to make customers forget the value of the money they are spending.

2 Video Games and Loot Drops

Video games have had random item drops for a long time as shown in video games like Diablo [5], Castlevania: Symphony of the Night [6], Final Fantasy II [7] and more recent games like Middle Earth: Shadow of War [8] and Assassin's Creed Origins. [9] The use of a loot drop system in games isn't uncommon and can be used to keep players

playing if they want to get the best items and gear. This is very common practice for many MMORPG games, and the Entertainment Software Rating Board (ESRB) don't consider loot drops to be gambling.

3 Video Games and Loot Boxes

With the introduction of loot boxes which can be purchased using an in-game premium currency only available through additional micro transactions. There were calls to ask for the ESRB to update their ratings to cover games that feature loot boxes the ESRB responded later responded saying. While theres an element of chance in these mechanics, the player is always guaranteed to receive in-game content (even if the player unfortunately receives something they dont want). We think of it as a similar principle to collectible card games: Sometimes youll open a pack and get a brand new holographic card youve had your eye on for a while. But other times youll end up with a pack of cards you already have. [10] This raises the question however of when does something change from being an element of chance and being fun to becoming gambling. It's an important distinction that with the example of collectable card games, that these cards have a real world value and rare card could be sold for a profit. Going by their definition of it's not gambling because you get something even if it's of a lower value, then a Casino could say they don't practice gambling by offering a minimum return for every on every bet. Josh Bycer a writer for Gamasutra [11] suggests that the distinction between something being gambling or not is if it's a reward based as a direct result of user skill or input rather than through pure chance, meaning if a player can affect the loot they get with skill it's not gambling.

4 The UK Government on Video Game Gambling

Although the ESRB stated that loot boxes aren't gambling people within the UK started a petition to the UK parliament to ask for the government to pass laws to help regulate loot boxes within the video games industry primarily focusing on games available to children. The initial response on this was to refer to the Gambling Commission who stated their position [12], who had a discussion on the topic back in 2016 [13] Which does admit that there is a "lack of contemporary and directly applicable case law in some of these areas."

They later go on to state that "In our view, the ability to convert in game items into cash, or to trade them (for other items of value), means they attain a real world value and become articles of money or moneys worth. Where facilities for gambling are offered using such items, a licence is required in exactly the same manner as would be expected in circumstances where somebody uses or receives casino chips as a method of payment for gambling, which can later be exchanged for cash." Meaning that the Gambling Commission does view any game that has their in-game items converted into real world value, something that requires a licence the same way a casino does this however is only for the platform that supplies the conversion rather than the games publishers/producers themselves. Though the Gambling Commission can only inform the courts on their findings and can't make laws this does set a precedence for the topic to come under review.

5 Considerations for loot boxes as gambling

If a game features loot boxes, that can be purchased through premium currency it's an decision that was actively made. That means that a company is aware that certain items are more valuable in-game, and that users will want this items. They create a need for items and then they have control over the supply, if users find a way to make money

from these items then it's considered gambling however this practice creates the desire for items and encourages this practice. If a paid alternative was offered to allow users to directly buy the items they wanted to receive it would remove that element of gambling culture from their games and would mean that users could no longer consider this to be gambling as it would mean the prices and values for items would be regulated in a fair way. This would largely remove people's want and need to trade items or gamble money for a chance to receive them.

`/sectionConclusion` To conclude, if video games want to keep themselves from being considered gambling businesses they need to find ways of regulating players ability to ability to trade items or they need to offer the option of a direct cash payment for items alongside their loot box system this ensures that the in-game economy will remain balanced and prevent items being traded for extreme prices amongst their player base.

References

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