



**Australian
Communications
and Media Authority**

Red Building
Benjamin Offices
Chan Street
Belconnen ACT

PO Box 78
Belconnen ACT 2616

T +61 2 6219 5555

www.acma.gov.au

Chair and Agency Head

1 August 2018

Ms Christine McDonald
Secretary
Environment and Communications References Committee
PO Box 6100
Parliament House
Canberra ACT 2600

By email: ec.sen@aph.gov.au

ACMA file reference: ACMA2018/193

Dear Ms McDonald

Inquiry into gaming micro-transactions for chance-based items: Invitation to make a submission

Thank you for your letter of 2 July 2018, inviting the Australian Communications and Media Authority (ACMA) to make a submission to the Environment and Communications References Committee on gaming micro-transactions for chance-based items.

As the agency that administers the *Interactive Gambling Act 2001* (IGA), we have been keeping ourselves informed of the issues raised by loot boxes in video games.

The ACMA is aware of community concerns regarding loot boxes. Since August 2017 we have received over 35 enquiries and complaints about loot boxes, with these peaking in November 2017 following significant media coverage about gambling-like mechanisms in popular games such as *Star Wars Battlefront II*.

To assist the Committee, we provide:

- > our observations on the application of the IGA to micro-transactions in games; and
- > an overview of international responses to them.

We would be happy to provide further assistance to the Committee as required.

Gambling services under the *Interactive Gambling Act 2001*

One of the matters being considered by the Committee is whether the purchase of chance-based items, combined with the ability to monetise these items on third-party platforms, constitutes a form of gambling.

The IGA defines a 'gambling service' under section 4. Relevantly a gambling service includes:

(e) a service for the conduct of a game, where:

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

In applying this definition of gambling, the ACMA considers the particular features of a service or game, and it is therefore difficult to make statements about 'loot boxes' or video games generally. Further, it does not follow that finding a particular service is a 'gambling service' means that it is prohibited under the IGA. The definition of 'gambling service' is only one of the matters the ACMA must consider in deciding if a service is prohibited under the IGA.

That said, in general, online video games, including games that involve loot box features, have not to date been regarded as gambling services under the IGA, because they are not 'played for money or anything else of value', as set out in subparagraph (e)(i) of the definition of 'gambling service'.

For example, a video game is typically played for recreational purposes, rather than with the object of winning money or other valuable items. Loot boxes in turn are generally not used for the object of winning money or other valuable items, but for other reasons, such as to aid progression through a game or enhance aesthetic characteristics of the gameplay.

In addition, in many cases, the items that may be redeemed from loot boxes do not have any monetary or other value. In those circumstances, the loot box clearly cannot meet the definition of 'gambling service'. That said, there may be cases where the position may not be so clear, particularly where there is a secondary market for items.

The attachment to this letter provides an overview of international responses to loot boxes. It highlights two key areas that are being considered: informed choice and appropriate limits.

While our role is to consider whether such games fall within the definition of gambling under the IGA, we have been and are open to working further with other regulatory agencies to consider various aspects of loot boxes and other micro-transactions in video games.

The ACMA would be happy to engage further with the Environment and Communications References Committee or to provide supplementary information on request. The ACMA contact is Jeanette Knowler, Manager, Interactive Gambling Taskforce, available via phone or email

Yours sincerely

Nérida O'Loughlin

Attached: International responses to loot boxes