

Australian Greens' additional comments

Summary

1.1 The Australian Greens agree with many of the observations made within the Majority Report. However it is our view that evidence given in this inquiry clearly indicates the risk to children and vulnerable adults from developing gambling-related harms through interaction with loot boxes is of such significance that stronger regulatory action should be taken.

Legal definitions of gambling

1.2 We note that regulators around the world have been bound by the definitions of gambling included in current legislation when considering the status of loot boxes as a form of gambling. In particular, throughout the inquiry it was argued that to be considered a gambling service, a game must be played for a prize or monetary value. Although loot boxes are not homogenous entities and therefore need to be considered on a case-by-case basis, it appears evident that the monetisation of virtual items is widespread and common practice.

1.3 It is also clear that a broader concept of utility and value operates in the video-game community with subjective value created through the combination of item scarcity and competitive advantage. Variable scarcity can affect the way in which players perceive the value of virtual items and can motivate players to continue purchasing loot boxes in an attempt to obtain such items. Rare items are often referred to as epic or legendary, and obtaining such items can change the way in which players are perceived by other players, including adding to a player's prestige or status. As such, items have a tangible value to players beyond monetisation.

1.4 The Australian Greens are of the view that the rapid evolution of online activity requires the regular review of legislative definitions to ensure that regulatory gaps do not eventuate, particularly where risks to children and vulnerable adults may exist.

Psychological definition of gambling

1.5 Through the inquiry we heard that many loot boxes meet the psychological definition of gambling, even where they do not meet legal definitions. The Australian Greens note with concern the evidence that a number of loot box mechanisms contained in home game console and PC release games meet the five psychological criteria of gambling. Of particular concern were loot boxes which both meet the five psychological criteria, and which allow the monetisation of virtual items. We accept the evidence that these loot boxes would most closely meet the accepted definitions, both legal and psychological, of gambling.

Psychological mechanisms

1.6 The Australian Greens were concerned to hear that loot boxes utilise psychological mechanisms commonly seen in other forms of gambling, including poker machines. These mechanisms include variable ratio reinforcement schedules, game-play experience, entrapment, and ready and constant availability. Further, there is evidence that outcomes are being manipulated through the configuration of loot boxes according to player behaviour.

1.7 We were also concerned to learn that loot boxes encourage repeated player spending through intrusive and unavoidable solicitations, limited disclosure of the product, and systems which manipulate reward outcomes to reinforce purchasing behaviours at the expense of encouraging skilful or strategic play.

Similarity to poker machines

1.8 The Australian Greens were disturbed to learn that the variable ratio reinforcement schedule mechanism more commonly found in poker machines, underpins the mechanism of many loot boxes. This mechanism, which rewards certain behaviours to encourage the repetition of such behaviour, but delivers rewards on a seemingly random schedule, results in the rapid acquisition of extremely persistent behaviours which are robust to extinction. In particular, players are unable to determine how many purchases are required to obtain a particular item they see, and the exact number of required purchases varies. We noted with concern the assessment by the Royal Australian and New Zealand College of Psychiatrists (RANZCP) that the risk to players who engage with loot boxes of developing gambling-related harms is likely to be similar to the risk posed by other forms of gambling that utilise variable ratio reinforcement schedules.

1.9 In addition to the use of variable ratio reinforcement schedules, we heard that the game-play experience of opening many loot boxes mirrors the gameplay experience of using a poker machine. In particular, the sensory feedback of lights, and sound, and the use of rolling graphics showing potential prizes were highlighted by witnesses as being almost indistinguishable from the experience of playing a poker machine. Further, other mechanisms utilised by both loot boxes and poker machines include rapid playing speeds, rapid and immediate payouts, and the potential to quickly and easily multiply transactions.

1.10 We are concerned that such mechanisms which closely resemble poker machines appear to be widely accessible to children and vulnerable adults, without apparent restriction or regulation.

In-game currency

1.11 Another similarity that loot boxes share with other forms of gambling is the dematerialisation of payment through the use of symbolic currency. Players purchase symbolic currency with real-world money, and then use the symbolic currency to purchase loot boxes. This is similar to the use of casino chips to make bets and play

games, and this process is known to reduce the ability of players to monitor and track spending, which can lead to overspending.

1.12 Children are particularly vulnerable to the effect of dematerialisation of payment as it can be difficult to conceptualise that an interaction using virtual currency in fact has real-world economic consequences. Furthermore, there is research to suggest that the conversion into abstract currency may increase people's willingness to spend money when it is in abstract forms rather than real-world dollars.

Entrapment

1.13 Loot boxes can reinforce and perpetuate continued play which sustains ongoing spending through so-called 'entrapment'. This is similar to 'chasing losses' which is seen in other forms of gambling. In entrapment situations, players often spend an escalating amount of money which begets further spending as players eventually believe that too much has been invested to stop.

Potential for harm

1.14 The Australian Greens note the evidence that because loot boxes are a relatively new phenomenon, there is little empirical research available regarding the potential for gambling-related harms to be experienced by players. Drs Zandle and Cairns provided the committee with what was described as the only current empirical evidence which demonstrates a link between loot boxes and problem gambling. This study hypothesised that loot boxes may be acting as a gateway to problem gambling amongst gamers, or alternatively, individuals who are problem gamblers tend to overspend on loot boxes due to the similarities between loot boxes and other forms of gambling. We are of the view that both propositions are troubling and, at the very least, warrants further research.

1.15 Through the inquiry analogous evidence was given which compared both the mechanics of loot boxes and the potential for gambling-related harms to be experienced, to other more widely researched forms of gambling. We found this evidence compelling, particularly in light of the evidence that loot boxes utilise a number of psychological mechanisms seen in other forms of gambling such as poker machines.

1.16 We accept that more research is required on the potential for harm associated with loot boxes. However we are of the view that existing research, particularly in relation to the psychological definitions of gambling as they apply to loot boxes is sufficient as to warrant the Australian Government taking urgent action on the issue.

Groups vulnerable to harm

1.17 In understanding the potential for loot boxes to cause harm, it is important to identify those groups most vulnerable to experiencing such harm. Much of the discussion has focused on the potential for children to experience gambling-related harms as a result of interaction with loot boxes. However, submitters have also argued

that there are also a range of other vulnerable persons, including adults with impulse control issues, and those with poor computer and financial literacy, who are at risk.

1.18 Children are still developing cognition and impulse control and are therefore particularly vulnerable to conditioning effects such as variable ratio reinforcement schedules. Children are also vulnerable to immersive features associated with games which cause loss of time harms. In addition, children are impacted by the use of enticing colours, rewards, and the social opportunities provided by games.

1.19 It is alarming that there appear to be few controls which prevent underage access to loot boxes, especially in light of the evidence that loot boxes are psychologically akin to other forms of gambling, even where they do not meet legal definitions.

1.20 There is considerable concern that even if loot boxes are not determined to be gambling according to legal definitions, the game play experience is similar enough that gambling is normalised for children. This normalisation may lead to children taking up other forms of gambling, and suffering subsequent gambling-related harms.

Need for regulation

1.21 The Australian Greens are of the view that the protection of children from gambling related harms warrants the introduction of regulatory measures to restrict access to loot boxes to those over the age of 18, and to ensure that consumers are made aware of the risks associated with loot boxes.

1.22 We accept the evidence that the industry has had to seek alternative sources of revenue to meet the increasing costs of game development, and acknowledges that micro-transactions are a significant source of income.

1.23 The Australian Greens are however concerned that without appropriate regulation, micro-transactions may become, or in some cases are, predatory monetisation schemes where children and vulnerable adults are exploited for profit utilising gambling mechanisms and strategies.

1.24 We do not believe that the introduction of measures such as appropriate labelling and classification are so onerous that the profitability of the video game industry would be in jeopardy.

Classification and labelling

1.25 The classification of computer games provides an opportunity for the Australian Government to ensure that games containing loot boxes are not made available to children, and that parents and guardians are aware that games contain such mechanisms.

1.26 Gambling is a significant public health concern, and it has long been government policy that such activity should be restricted to those over the age of 18.

Further, activities which normalise gambling, particularly to children and young adults has been recognised as creating a pathway to other forms of gambling.

1.27 We accept the evidence that some loot boxes meet the established psychological criteria for gambling, and that virtual items contained in a number of loot boxes can be monetised (i.e. meeting the legal requirement that prizes are of monetary value). Where games meet both elements, there would appear to be the most serious risk to players of suffering gambling-related harms as loot boxes most closely resemble other forms of gambling.

1.28 As such, we are of the view that where games meet the psychological definition of gambling (as outlined in Chapter 3), and where virtual items can be monetised, the Classification Board should assess and rate these games as R18+.

1.29 We are also of the view that where games meet the psychological definition of gambling, but where virtual items cannot be monetised, the Classification Board should assess and rate these games as MA15+. It is clear that even without monetisation, virtual items have intrinsic value to players, and that loot boxes utilise a range of techniques seen in other forms of gambling. It is not appropriate that children are exposed to such elements without parental guidance.

1.30 In addition to appropriately classifying games, there is a clear need to inform consumers and the parents and guardians of children that games contain loot boxes. Appropriate labelling would increase consumer knowledge, and ensure that parents and guardians are aware that games contain material inappropriate for children.

Consumer protection framework

1.31 The Australian Greens acknowledge and commend the video game industry's stated commitment to ensuring the protection of children and young people. We also note the industry's efforts to implement parental controls and purchase restrictions on many platforms. It is clear that there is a willingness on the part of the Australian video game industry to engage with regulators to address community concerns and to develop appropriate responses.

1.32 We consider that a consumer protection framework for the video games industry, based on existing frameworks such as the Australian National Principles of Child Safe Organisations, would provide consumer confidence and clarity for the industry. Such a framework should include risk assessment processes to identify risks to children, reporting mechanisms, and policies and processes for developers and publishers to respond to safety concerns, and information to assist consumers and parents and guardians. This framework should be developed in collaboration with the video game industry and community organisations.

Recommendation 1

1.33 The Australian Greens recommend the Australian Government review the definition of 'gambling service' contained in the *Interactive Gambling Act 2001* to ensure that it continues to be fit for purpose, particularly with regard to micro-transactions for chance-based items.

Recommendation 2

1.34 The Australian Greens recommend that games which contain loot boxes that meet the psychological definition of gambling, and where virtual items can be monetised, be rated as R18+.

Recommendation 3

1.35 The Australian Greens recommend that games which contain loot boxes that meet the psychological definition of gambling but where virtual items cannot be monetised, be rated as MA15+.

Recommendation 4

1.36 The Australian Greens recommend that games containing loot boxes be required to clearly display 'Contains Simulated Gambling' in the video game content rating label.

Recommendation 5

1.37 The Australian Greens recommend that a consumer protection framework be developed in collaboration with the video game industry and community groups. This framework should include risk assessment processes to identify risks to children, reporting mechanisms for concerns, policies and processes for developers and publishers to respond to safety concerns, and information to assist consumers and parents and guardians.

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