



## BRIEFING PAPER

Number 8498, 18 November 2020

# Loot boxes in video games

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## Summary

Loot boxes have been defined as “features in video games which may be accessed through gameplay, or purchased with in-game items, virtual currencies, or directly with real-world money”. They often appear as chests, crates, or card packs.

Concerns have been raised about the “structural and psychological similarities” between loot boxes and gambling and that they can encourage children to gamble, possibly leading to harmful behaviour.

The Gambling Commission has [said](#) that the *Gambling Act 2005* does not cover loot boxes. It therefore cannot use any of its regulatory powers to take action. However, the Commission has also said that it is “concerned with the growth in examples where the line between video gaming and gambling is becoming increasingly blurred”.

In September 2019, the Digital, Culture, Media and Sport Committee published a [report](#) on immersive and addictive technologies. This called for Regulations to be made to extend the 2005 Act to loot boxes. A House of Lords Committee [report](#) (July 2020) on gambling harm also called for loot boxes to be brought within the scope of the Act.

In June 2020, as part of its response to the DCMS Committee report, the Government [announced](#) that it would be launching a call for evidence into the impact of loot boxes on in-game spending and gambling-like behaviour. The [call for evidence](#) opened on 23 September 2020 and closes on 22 November 2020.

# 1. What are loot boxes and why are they controversial?

Loot boxes have been defined as “features in video games which may be accessed through gameplay, or purchased with in-game items, virtual currencies, or directly with real-world money”:

(...) They contain randomised items, so players do not know what they will get before opening them, but they will get something. The items are usually either cosmetic i.e. items of clothing for avatars etc, or power-ups to improve the playing experience. Loot boxes vary in the way they are accessed, their cost, how the random reward is selected and in the content they return. They are a form of microtransaction where they are available as an in-game purchase. However, loot boxes are only one part of the in-game purchase market. Their unique element is the chance mechanism. For other forms of in-game purchase, players will know what item they will receive in advance of purchase.<sup>1</sup>

As many children play computer game players, it has been claimed that loot boxes can encourage gambling and possibly lead to harmful behaviour.<sup>2</sup>

An October 2019 [report](#) from the Children’s Commissioner for England looked at children’s experiences of gaming. The report concluded, among other things, that the “monetisation of gaming brings children closer to gambling”:

- The fact that children can now spend money in games - and indeed are often pressured to do so - marks a significant divergence from their normal offline behaviour.
- In some cases, this spending (in some cases of hundreds of pounds) was done without any knowledge of what the rewards would be. Other than the fact that these rewards come in the form of in-game benefits rather than real-world currency, this behaviour is much like gambling.
- The amount of money spent, and the lack of a guaranteed reward meant children often feel like their money is wasted. In some cases, they lose control of their spending and attempt to ‘chase losses’ by spending more.<sup>3</sup>

Academics have raised concerns about the “structural and psychological similarities” between loot boxes and gambling and that the random delivery of loot box rewards is “akin” to gambling products.<sup>4</sup>

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<sup>1</sup> Department for Digital, Culture, Media and Sport, [Loot Boxes in Video Games - Call for Evidence](#), September 2020, p3; See also Digital, Culture, Media and Sport Committee, [Immersive and addictive technologies](#), HC 1846, September 2019, para 73

<sup>2</sup> See, for example, House of Lords [debate](#) of 17 January 2019 on children, young people and digital technology; “[Gambling: ‘loot boxes’ in video games could be conditioning children](#)”, *The Conversation*, 4 December 2018; “[Video game loot boxes addictive and a form of ‘simulated gambling’](#)”, *Senate inquiry told*”, *Guardian*, 17 August 2018

<sup>3</sup> Children’s Commissioner for England, [Gaming the system](#), October 2019, p25

<sup>4</sup> Digital, Culture, Media and Sport Committee, [Immersive and addictive technologies](#), para 80

There is academic research showing that there is a connection, though not necessarily a causal link, between loot box spending and problem gambling.<sup>5</sup>

## 2. Loot boxes and gambling law

### The Gambling Act 2005

The *Gambling Act 2005* regulates gambling in Great Britain.

[Section 6](#) of the Act defines gaming as “playing a game of chance for a prize”. Under section 6(5), a prize in relation to gaming (except in the context of gaming machines):

- (a) means money or money's worth, and
- (b) includes both a prize provided by a person organising gaming and winnings of money staked.

The Secretary of State can make regulations setting out when an activity is to be treated as a game or game of chance for the purposes of the Act.<sup>6</sup>

The [Gambling Commission](#) oversees the 2005 Act.

### What has the Gambling Commission said?

In a November 2017 [statement](#), the Gambling Commission explained why loot boxes don't meet the Act's definition of gaming:

(...) Our starting point in deciding our position with any product is to look closely at whether or not it falls under UK gambling law. The definition of what is legally classed as gambling is set by Parliament rather than by us. Our role is to apply that definition to activities that we see and any changes to that definition need to be made by Parliament.

The law sets a line between what is and is not gambling. As the regulator we patrol that line and where an activity crosses it and presents a risk to people, especially children, we have and will take robust action...

**A key factor in deciding if that line has been crossed is whether in-game items acquired 'via a game of chance' can be considered money or money's worth. In practical terms this means that where in-game items obtained via loot boxes are confined for use within the game and cannot be cashed out it is unlikely to be caught as a licensable gambling activity.** In those cases our legal powers would not allow us to step in.<sup>7</sup>

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<sup>5</sup> See House of Lords Select Committee on the Social and Economic Impact of the Gambling Industry, [Gambling Harm – Time for Action](#), HL Paper 79, July 2020, paras 432-5; Digital, Culture, Media and Sport Committee, [Immersive and addictive technologies](#), paras 80-3

<sup>6</sup> Section 6(6) of the 2005 Act

<sup>7</sup> Gambling Commission, [Loot boxes within video games](#), November 2017, emphasis added

## 6 Loot boxes in video games

However, the Commission did say that it had concerns about the blurring of the line between video gaming and gambling and stressed the need to keep children safe:

...many parents are not interested in whether an activity meets a legal definition of 'gambling'. Their main concern is whether there is a product out there that could present a risk to their children. We are concerned with the growth in examples where the line between video gaming and gambling is becoming increasingly blurred. Where it does meet the definition of gambling it is our job to ensure that children are protected and we have lots of rules in place, like age verification requirements, to do that.

Where a product does not meet that test to be classed as gambling but could potentially cause harm to children, parents will undoubtedly expect proper protections to be put in place by those that create, sell and regulate those products. We have a long track record in keeping children safe and we are keen to share our experiences and expertise with others that have a similar responsibility. Whether gambling or not, we all have a responsibility to keep children and young people safe.<sup>8</sup>

A section of the Commission's website on [social gaming](#) refers to the findings of a "scoping review" with other regulators and the industry:

(...) Based on the data we saw, and subject to its limitations, we do not consider there is a persuasive case to move from an historical 'watching brief' stance we had adopted:

- While the data suggests that, in general, the vast majority of people who play social games spend very modest amounts of time and money, there is clearly a very small group who spend significant amounts. However, it is likely that this group is not sufficiently large to justify any form of additional regulatory intervention.
- While playing social games does not appear to be harmful in itself (for the vast majority of players) we are much less clear on whether in some circumstances it leads on to, or causes, more harmful behaviours.

We continue to monitor the market, getting regular updates from a number of key stakeholders and identifying any additional risks to players.<sup>9</sup>

In September 2018, the Gambling Commission joined other gambling regulators across Europe, as well as Washington State Gambling Commission, in signing an [agreement](#) to work together on loot boxes.<sup>10</sup>

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<sup>8</sup> Ibid

<sup>9</sup> Gambling Commission website, [Social gaming](#) [accessed 18 November 2020]

<sup>10</sup> ["International concern over blurred lines between gambling and video games"](#), Gambling Commission News, 17 September 2018

### 3. Calls for the law to be changed

In her October 2019 [report](#) on gaming, the Children’s Commissioner for England recommended that the Government “should take immediate action to amend the definition of gaming in section 6 of the Gambling Act 2005 to regulate loot boxes as gambling”.<sup>11</sup>

Two select committees have also called for the law to be changed.

#### **Digital, Culture, Media and Sport Committee report (September 2019)**

In its September 2019 [report](#) on immersive and addictive technologies, the Digital, Culture, Media and Sport Committee called for Regulations to be made to bring loot boxes within the scope of the 2005 Act:

97. We agree with the Gambling Commission that games companies should be doing more to prevent in-game items from being traded for real-world money, or being used in unlicensed gambling. These uses are a direct result of how games are designed and monetised, and their prevalence undermines the argument that loot boxes are not a form of gambling. Moreover, we believe that the existing concept of ‘money’s worth’ in the context of gambling legislation does not adequately reflect people’s real-world experiences of spending in games.

98. We consider loot boxes that can be bought with real-world money and do not reveal their contents in advance to be games of chance played for money’s worth. *The Government should bring forward regulations under section 6 of the Gambling Act 2005 in the next parliamentary session to specify that loot boxes are a game of chance. If it determines not to regulate loot boxes under the Act at this time, the Government should produce a paper clearly stating the reasons why it does not consider loot boxes paid for with real-world currency to be a game of chance played for money’s worth.*<sup>12</sup>

#### **Lords Committee report on gambling harm (July 2020)**

A House of Lords Committee [report](#) (July 2020) on gambling harm looked at loot boxes and problem gambling.<sup>13</sup> The Committee recommended that the 2005 Act should be extended to loot boxes:

There is academic research which proves that there is a connection, though not necessarily a causal link, between loot box spending and problem gambling. We echo the conclusions of the Children’s Commissioner’s report, that if a product looks like gambling and feels like gambling, it should be regulated as gambling. We also agree with the House of Commons Digital, Culture, Media and Sport Committee’s recommendation that loot boxes should be regulated as a game of chance...<sup>14</sup>

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<sup>11</sup> Children’s Commissioner, [Gaming the system](#), October 2019, p4; [“Changes to gambling laws needed as our report into online gaming reveals children’s gambling fears”](#), Children’s Commissioner News, 22 October 2019

<sup>12</sup> Digital, Culture, Media and Sport Committee, [Immersive and addictive technologies](#), HC 1846, September 2019, paras 97-9, italics in original

<sup>13</sup> House of Lords Select Committee on the Social and Economic Impact of the Gambling Industry, [Gambling Harm – Time for Action](#), HL Paper 79, July 2020, paras 422-46

<sup>14</sup> Ibid, paras 445-6

## 4. DCMS call for evidence into loot boxes (September 2020)

In June 2020, as part of its [response](#) to the DCMS Committee report, the Government announced that it would be launching a call for evidence into the impact of loot boxes on gambling-like behaviour.<sup>15</sup> The [call for evidence](#) opened on 23 September 2020 and closes on 22 November 2020.<sup>16</sup> It aims to gather information on:

- the experience of video games players;
- the impact of loot boxes, including any evidence of potential harms;
- the size, scale and functioning of the loot box and in-game purchases market in the UK; and
- the impact of current voluntary and statutory protections such as controls to manage spending and access, video games labels, and consumer regulations.<sup>17</sup>

The Government has said that it is “ready to take action should the outcomes of the call for evidence support taking a new approach to ensure users, and particularly children and young people, are protected”.<sup>18</sup>

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<sup>15</sup> DCMS, [Government Response to the Digital, Culture, Media and Sport Select Committee Report on Immersive and Addictive Technologies](#), June 2020, pp7-8; [“Government to launch call for evidence into loot boxes”](#), DCMS News Story, 8 June 2020

<sup>16</sup> [“Government launches call for evidence on video game loot boxes”](#), DCMS press release, 23 September 2020

<sup>17</sup> DCMS, [Loot Boxes in Video Games - Call for Evidence](#), September 2020, p3

<sup>18</sup> Ibid, p2



## 5. Loot boxes in other countries

Loot boxes have prompted action in other countries.

### Belgium

In April 2018, the Belgian Gaming Commission found that a number of video games with loot boxes violated Belgian law.<sup>19</sup> A Commission [report](#) (in English) gives further detail.

### Netherlands

In April 2018, the Netherlands Gaming Authority declared that loot boxes where the content was non-transferable were seen as games, and therefore legal, while loot boxes where the content was transferable were seen as gambling, and therefore illegal.<sup>20</sup>

### Australia

In November 2018, the Environment and Communications References Committee of the Australian Senate completed an inquiry on loot boxes. The Committee's [report](#) acknowledged the concern that children and some vulnerable adults may suffer gambling-related harms as a result of interaction with loot box mechanisms included in video games.<sup>21</sup> However, it also noted that neither video games nor interactive gambling were unregulated in Australia.<sup>22</sup> The report recommended that the Australian Government should undertake a comprehensive review of loot boxes.<sup>23</sup> It also summarised the position on loot boxes in:

- Denmark;
- France;
- Germany;
- the United States;
- China;
- New Zealand.<sup>24</sup>

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<sup>19</sup> ["Video game loot boxes declared illegal under Belgium gambling laws"](#), BBC News, 26 April 2018

<sup>20</sup> House of Lords Select Committee on the Social and Economic Impact of the Gambling Industry, [Gambling Harm – Time for Action](#), para 428

<sup>21</sup> Environment and Communications References Committee of the Australian Senate, [Gaming micro-transactions for chance-based items](#), November 2018, p72

<sup>22</sup> Ibid, p72

<sup>23</sup> Ibid, p73

<sup>24</sup> Ibid, pp9-15

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