



## DEBATE PACK

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# Consumer Protection for Online Gaming

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### Westminster Hall Debate, Tuesday 13 September 2016 at 1430hrs

A Westminster Hall debate on a motion relating to consumer protection for online gaming is scheduled to take place on Tuesday 13 September 2016 at 1430hrs. The Member in charge of the debate is Owen Thompson.

## Consumer Spending on Online Games

UK consumer spend on videogames is increasing: according to figures from the [Entertainment Retailers Association \(ERA\)](#), the total value of consumer sales was around £2.8m in 2015, up 10% on the year before.

The table below shows how spend is distributed between different formats and types of spending. Consumers in 2015 spent more on digital than hard-copy content. Spending was also considerably higher for online retailers compared to 'bricks and mortar' shops.

UK consumer spend on videogames by type, 2015			
		Sales (£ million)	% Market share
Format	Digital	£1,899	67% 
	Physical	£928	33% 
Shopping	Online	£2,199	78% 
	"Bricks & mortar"	£627	22% 
Paying to...	Access content	£1,172	41% 
	Own content	£1,655	59% 

Source: ERA, [Yearbook 2016: UK Market Statistics](#)

41% of consumer spend was on the right to access content, rather than owning it outright. In-app purchases are counted under the 'access' category.

## Consumer protection

There are 3 main pieces of legislation that impacts directly on purchases of this kind, namely:

- The [Consumer Rights Act 2015](#)
- The [Consumer Protection from Unfair Trading Regulations 2008](#) (known as the Unfair Trading Regulations) (as amended by the [Consumer Protection \(Amendment\) Regulations 2014](#))
- The [Consumer Contracts \(Information, Cancellation and Additional Charges\) Regulations 2013](#)

Taken together, this legislation sets out the basic rules which govern how consumers buy and businesses sell goods, services and digital content (including online gaming apps) in the UK.

## The role of the ASA

The [Advertising Standards Authority](#) (ASA) is the UK's independent regulator of advertising across all media. It applies the [Advertising Codes](#), which are written by the Committees of Advertising Practice. Its work includes acting on complaints and proactively checking the media to take action against misleading, harmful or offensive advertisements. In respect of children, rules contained in the Codes are designed to ensure that adverts addressed to, targeted directly at or featuring children do not contain anything that is likely to result in their physical, mental or moral harm.

In June 2015, the Competition and Markets Authority (CMA) concluded its work on monitoring the children's online and app-based games market. The CMA referred 3 online games to the ASA for investigation, on the basis that these games may have breached the UK non-broadcast Advertising Code by directly encouraging children to buy, or ask their parents to buy, extra game features. On 26 August 2015, the ASA announced that its [ruling](#) that both the Moshi Monsters and Bin Weevils games breached the Advertising Code by putting pressure on children to buy a membership subscription. The ASA has stated that the adverts in each of these games must not appear again in their current form. The third game has been referred to the Asociación para la Autorregulación de la Comunicación Comercial (Autocontrol). Autocontrol is the Spanish advertising self-regulation organisation, equivalent to the ASA in the UK.<sup>[1]</sup>

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<sup>[1]</sup> CMA press release, [CMA welcomes ASA games rulings](#), 26 August 2015 (accessed 8 September 2016)

# Review of children's online games

## Work undertaken by the OFT

In April 2013, the Office of Fair Trading (OFT) launched an investigation into the ways in which online and app-based games encourage children to make purchases. It investigated whether there was general market compliance with consumer protection law and explored whether online and app-based games included commercial practices that might be considered misleading, aggressive or otherwise unfair under that legislation. As part of this investigation the OFT published the following documents:

- [Children's online games - report and consultation](#)
- [Response to consultation](#)
- OFT press release, [Games industry should not pressure children to purchase, says OFT](#), dated 26 September 2013
- Children's Online Games: A Survey of the Literature (dated January 2014)
- OFT press release, [OFT investigates free children's web and app-based games](#), dated 12 April 2013

Following this investigation, the OFT published its finalised principles for online and app-based games on 30 January 2014:

- [The OFT's principles for online and app-based games guidance](#), 30 January 2015
- Press release: [Online games industry given two months to get house in order following OFT investigation](#) (30.1.14)

"[The OFT's Principles for Online and app-based games](#)" clarified the OFT's view of the online and app-based games industry's obligations under consumer protection law. The Principles focused on the way in which games were advertised to children. The OFT principles state that consumers should be told upfront about costs associated with a game or about in-game advertising, and any important information such as whether their personal data is to be shared with other parties for marketing purposes. The principles also make clear that in-game payments are not authorised, and should not be taken, unless the payment account holder, such as a parent, has given his or her express, informed consent. Failure to comply with the principles could risk enforcement action.

The OFT also published guidance for parents to help make sure that children are not pressured into making in-game purchases and reduce the risk of their making unauthorised payments.

## Work undertaken by the CMA

On 4 June 2015, the CMA published a short guide providing advice to parents and carers about these games: [Buying features in online games: advice for parents and carers](#).

On the same day, the CMA published a press notice, [CMA refers three children's online games to the ASA](#). It stated that it had worked closely with the European Commission, the International Consumer Protection and Enforcement Network, and national consumer protection authorities around the world. As a result of this collaboration, Google and Apple had made changes, in particular to strengthen payment authorisation settings and to ask games makers to stop describing games as 'free' when they contain in-game purchases. These changes are designed to prevent parents being landed with unexpected bills arising from in-game purchases made by their children.

## Parliamentary Questions:

The following recent PQs are of relevance to this debate:

### [Video Games \[43615\] answered on 5 September 2016](#)

**Anna Turley:** To ask the Secretary of State for Culture, Media and Sport, what discussions she has had with Nintendo about incidences of trespass or disrespecting of cemeteries or religious sites caused by players of Pokémon Go.

**Matt Hancock:** Many people in the UK enjoy playing Pokemon Go and most act responsibly whilst doing so. It is important that all players abide by the law and respect their surroundings. During the summer Pokemon Go's developers in the US, Niantic, added some new warnings to the game's loading screen, for example reminding players not to trespass and not to enter dangerous areas. Owners or managers of specific sites who are concerned about players visiting a nearby PokeStop or Gym are able to use Niantic's report system to request that the stop is removed from the game.

Meanwhile, we are in touch with representatives of Niantic to discuss features of Pokemon Go and the advice they provide to consumers in the UK.

### [Video Games: Internet \[38301\] answered on 3 June 2016](#)

**Barry Sheerman:** To ask the Secretary of State for Business, Innovation and Skills, what assessment his Department has made of the effectiveness of legislation for protecting children from in-game selling and promotions when playing games online.

**Nick Boles:** The Government is committed to ensuring that consumers are properly protected and that children's vulnerability and inexperience is not exploited by aggressive commercial practices. We welcomed the Office of Fair Trading's (OFT) investigation into whether children have been unfairly encouraged to spend money in online games and apps, in breach of consumer laws. The OFT's subsequent *Principles for Online and App-based Games*, which are based on the Consumer Protection from Unfair Trading Regulations (2008), were published in January 2014. The Competition and Markets Authority subsequently referred 3 games to the Advertising Standards Authority for further enforcement action. The Government continues to take a close interest in this issue.

## Further Reading

- Library briefing, [Consumer Rights Act 2015](#)
- Library briefing, [Consumer protection from Unfair Trading Regulations 2008](#)
- Library briefing, [The role of the Advertising Standards Authority](#)
- Ofcom research, [Adult's media use and attitudes](#), 2016
- GameTrack / Ipsos, [GameTrack Digest](#), Q1 2016