



ENTERTAINMENT SOFTWARE RATING BOARD

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February 27, 2018

The Honorable Margaret Wood Hassan
United States Senate
330 Senate Hart Office Building
Washington, DC 20510

Dear Senator Hassan:

Thank you for your letter dated February 14, 2018. All of us at the Entertainment Software Rating Board (ESRB) greatly appreciate your confidence and support, and I personally look forward to having the opportunity to openly discuss the concerns you have raised. At the end of the day, we have the same goals -- to give parents access to effective tools with which they can make the best decisions for their families.

For almost 25 years, the ESRB has been providing consumers, especially parents, with age and content ratings for video games. Age rating categories suggest the age appropriateness of a game, and content descriptors provide parents with a snapshot of the types of content that their child may encounter in the game. The video game industry moves at a rapid pace, and the ESRB is constantly reviewing our rating process, policies, communications, and more to ensure that we continue to empower parents to make informed decisions on behalf of their children—to borrow your well-put words.

This requires us to be in regular communication with parents. We conduct annual research with parents to measure awareness and use of ratings, as well as to learn about their concerns. We have a history of making adjustments to our rating system based on that research. We also receive a high volume of emails from parents providing us with a qualitative basis to inform our assessment of the rating process. This research and our ongoing interactions with parents led us to create a third part to our rating system -- interactive elements. In 2013, when we started rating mobile games and apps, we began to include disclosures about certain features within a game or app that reflect parents' top concerns when it comes to how their children interact with these products. For a time, these disclosures were not as relevant for physical video games sold in a box, but that time has changed, and so too must our ratings.

Today, we are announcing the creation of a new label, "In-Game Purchases," the first interactive element for physical video games, which discloses to parents when there are in-game offers to purchase digital goods or premiums with real world currency. This includes a wide array of items, including bonus levels, skins, surprise items (such as item packs, loot boxes, mystery awards), music, virtual coins, and other forms of in-game currency, subscriptions, season passes, and upgrades (e.g., to disable ads). Beginning this spring, the In-Game Purchases interactive element will appear on video games that can be purchased in stores and wherever those games can be downloaded.

Based on our research, 91 percent of parents indicate that they do not allow their children to make in-game purchases without permission. Moreover, we know that there is very low awareness of loot boxes

among parents. And those who claim they know what a loot box is, often do not. When we explain to parents what a loot box is, their primary concern by far is their child's ability to spend money. This is why we are introducing the In-Game Purchases notice and not one that is specific to loot boxes.

But we are not stopping there. Every game device has parental controls that enable parents to manage the games their children play, including how much time and money they spend. Most controls can block in-game spending altogether, and, should any of the parental controls be circumvented by a particularly sharp-witted child, the account holder will always receive an email notification when a purchase is made from their own or their child's account. This is one of the reasons *we always recommend that parents set up a child account or sub account for their kids.*

In fact, we are also launching a new microsite, ParentalTools.org, to raise awareness of those parental controls, with easy-to-use instructions about how to set up the controls to manage in-game purchasing for many of the devices on which children play games. We believe that the combination of upfront disclosures about the availability of in-game purchases combined with activating parental controls is a quick and effective way to address the concerns you have raised.

It is worth discussing the history of microtransactions, as these features are not new to the industry. Video games have long offered significant content updates or add-ons either as awards or as purchased items. This first gained popularity in the 1990's with sizable expansions for computer games, but it took a good decade or more before microtransactions started showing up in video games playable on a console. Two more recent industry trends greatly expanded the number of games with microtransactions – “free to play” and “products as service” business models. “Free to play” is most prevalent in mobile and online computer games. Obviously, with no upfront purchase price, game developers needed a way to earn revenue. Microtransactions and subscriptions have become the most common business models for free to play games, although some mobile games are also ad-supported. “Products as service” games have become more common for physical games purchased at a store, enabling fans to engage with a game and its community for years after the initial release thanks to a continuing stream of new content that can be purchased or earned through gameplay.

Loot boxes initially gained popularity in mobile games in the early 2000's, mostly outside of the United States. They are relatively new to console and computer games. I think it is important to clarify that these purchases are *always* optional, are often awarded at no cost to the player, can be acquired using virtual currency that can be earned through gameplay and/or purchased, and are never required to complete the game.

With respect to the questions you raise regarding the classification of “gaming disorder” as a mental health concern by the World Health Organization (WHO), I understand that this matter remains a proposal at this stage. While I appreciate your position and concerns, given the longevity of loot boxes as an in-game mechanic, there does not appear to be any concrete evidence of “gaming disorders” stemming from loot boxes nor am I aware of any scientific evidence indicating that unlocking loot boxes has any psychological impact on children more specifically. However, I do know that a group of thirty-six academic researchers¹ recently rebutted attempts by the WHO to diagnose a “gaming disorder,” citing a lack of credible evidence or conclusive research. Additionally, in investigating the claims set forth in your

¹ See *PsyArXiv*, “A Weak Scientific Basis for Gaming Disorder: Let Us Err on the Side of Caution” (Feb. 8, 2018), available at: <https://psyarxiv.com/kc7r9>.

letter, we did not encounter any loot boxes that specifically target children. Regardless, we will continue to monitor the research in this field, as well as stay abreast of parental concerns, should they arise, about the potential impact loot boxes have on children and help guide parents accordingly.

As you referenced in your letter, there is some debate within the video game community about whether loot boxes constitute gambling. The ESRB has previously stated publicly that we do not consider loot boxes to be gambling for various reasons, nor am I aware of any legal authority in the United States that has classified loot boxes as gambling. In fact, the UK Gambling Commission recently determined that loot boxes do not constitute gambling.²

We believe that loot boxes are more comparable to baseball cards, where there is an element of surprise and you always get something. Loot boxes are an optional feature in certain games that provide the player a fun way to acquire virtual items for use within the game itself. Most of the time, these items are cosmetic in nature. They are sometimes earned as an award to the player; other times they can be purchased. But at all times, they are optional. Additionally, there is no way to cash out in the game; the player can only use the item to customize game play experience. Having said that, if parents have a concern about how much time or money their kids are spending playing games, they can activate parental controls to help them manage both.

I think we can both agree that we need to do more to educate parents about the tools at their disposal to manage the time and money their children spend playing games. As such, I invite you to support our education campaign, including linking to our PSA and microsite—www.ParentalTools.org—to inform parents about the new In-Game Purchases interactive element, as well as other useful tools like parental controls and the ESRB age and content ratings. We will also be supporting this initiative through well-placed bylines that target parents with varying levels of knowledge about video games and apps. With the video game industry's commitment to amplify our campaign, we hope to cultivate a meaningful conversation with parents to help them make the best decisions for their families.

The creation of the In-Game Purchases interactive element and ParentalTools.org are only the first steps of an ongoing process to ensure that parents are informed. As a parent myself, and the “only mom” who set and enforced content restrictions in the neighborhood (a badge I wear proudly to this day), I understand the importance of managing children's access to potentially inappropriate media. You have my word that the ESRB will continue to monitor consumer concerns, especially those of parents, and evolve our rating system to address them.

The ESRB's priority is, always has been, and always will be providing parents with the tools they need to make informed decisions for their family. We're proud to be part of an industry that is fully committed to supporting that mission.

Thank you again for your confidence in the ESRB and for your letter. I hope to continue our constructive dialogue on this matter in the future.

² See *UK Gambling Commission*, “Loot Boxes Within Video Games,” (Nov. 24, 2017), available at: <http://www.gamblingcommission.gov.uk/news-action-and-statistics/news/2017/Loot-boxes-within-video-games.aspx>.

All the best,

A handwritten signature in blue ink that reads "Patricia G. Vance". The signature is written in a cursive style with a large initial 'P' and a distinct 'G'.

Patricia Vance
President, Entertainment Software Rating Board