



## BRIEFING PAPER

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# Loot boxes in video games

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## Summary

Loot boxes have been defined as “items in video games that may be bought for real-world money, but which provide players with a randomised reward of uncertain value.” 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 and possibly lead to addictive 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 (such as requiring age verification) 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”.

Reports published in 2019 by the Digital, Culture, Media and Sport Committee and the Children’s Commissioner both called for Regulations to be made to extend the 2005 Act to loot boxes.

### **What next?**

A [Background Briefing](#) to the Queen’s Speech of 19 December 2019 says that the Government will carry out a review of the Gambling Act, with a particular focus on loot boxes as well as the use of credit cards.

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

Loot boxes have been defined as “items in video games that may be bought for real-world money, but which provide players with a randomised reward of uncertain value.”<sup>1</sup> A September 2019 [report](#) by the Digital, Culture, Media and Sport Committee explained:

(...) Those rewards will be virtual items for use in the game, such as tools, outfits and weapons, or characters with particular skills, all of which will be of variable benefit within the game. They are a common form of microtransaction, with a 2018 Gambling Commission survey finding that 31% of 11–16 year olds have paid money or used in-game items to open loot boxes. Although some games (including, notably, a version of Fortnite) reveal the contents of a loot box to the player before they decide whether to pay for it, usually the contents of loot boxes are unknown to the player at the point of purchase—what a player gets for their money is therefore based on chance.<sup>2</sup>

As many children play computer game players, it has been claimed that loot boxes can encourage gambling and possibly lead to addictive behaviour.<sup>3</sup>

An October 2019 [report](#) from the Children’s Commissioner 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>4</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>5</sup>

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<sup>1</sup> Quoted in Digital, Culture, Media and Sport Committee, [Immersive and addictive technologies](#), HC 1846, September 2019, para 73

<sup>2</sup> Ibid

<sup>3</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>4</sup> Children’s Commissioner, [Gaming the system](#), October 2019, p25

<sup>5</sup> Digital, Culture, Media and Sport Committee, [Immersive and addictive technologies](#), HC 1846, September 2019, para 80

There is some research suggesting that loot boxes can cause harm.<sup>6</sup> However, academics “broadly acknowledge” that there is insufficient evidence to conclude that there is a causal link between loot boxes and problem gambling.<sup>7</sup>

## 2. Loot boxes and gambling law

### The Gambling Act 2005

The *Gambling Act 2005* (as amended) provides the legislative framework for 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>8</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 do not 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**

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<sup>6</sup> Ibid, paras 82-3

<sup>7</sup> Ibid, para 81

<sup>8</sup> Section 6(6) of the 2005 Act

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**gambling activity.** In those cases our legal powers would not allow us to step in.<sup>9</sup>

However, the Commission 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>10</sup>

A section of the Commission's website on [safer 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>11</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>12</sup>

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<sup>9</sup> Gambling Commission, [Loot boxes within video games](#), November 2017, emphasis added

<sup>10</sup> Ibid

<sup>11</sup> Gambling Commission website, [Social gaming](#) [accessed 4 November 2019]

<sup>12</sup> ["International concern over blurred lines between gambling and video games"](#), Gambling Commission News, 17 September 2018

## Calls for the law to be changed

In its September 2019 [report](#) on immersive and addictive technologies, the Digital, Culture, Media and Sport Committee called for loot boxes to be brought 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>13</sup>

The Government has yet to respond to the Committee’s report. In an October 2019 [PQ response](#), the Government said:

We are aware of concerns about the potential for excessive spending in games, particularly by young people. These concerns, and particularly those regarding the availability of loot boxes, are discussed in the recent DCMS Select Committee report on Immersive and Addictive Technologies. We are currently considering the Report and its recommendations and will respond in due course...<sup>14</sup>

### Children’s Commissioner report (October 2019)

The October 2019 [report](#) from the Children’s Commissioner also recommended, among other things, 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>15</sup>

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<sup>13</sup> Digital, Culture, Media and Sport Committee, [Immersive and addictive technologies](#), HC 1846, September 2019, paras 97-9, italics in original

<sup>14</sup> [PQ 3532](#) [on spending on loot boxes], answered 28 October 2019

<sup>15</sup> Children’s Commissioner, [Gaming the system](#), October 2019, p4

### 3. Government action?

A [Background Briefing](#) to the Queen's Speech of 19 December 2019 says that the Government will carry out a review of the Gambling Act, with a particular focus on loot boxes as well as the use of credit cards.<sup>16</sup>

### 4. 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>17</sup> A Commission [report](#) (in English) gives further detail.

#### Netherlands

The Netherlands Gambling Authority has recently concluded that some loot boxes contravened its Betting and Gaming Act.<sup>18</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>19</sup> However, it also noted that neither video games nor interactive gambling were unregulated in Australia.<sup>20</sup> The report recommended that the Australian Government should undertake a comprehensive review of loot boxes.<sup>21</sup>

Pages 9 to 15 of the [report](#) summarise the position on loot boxes in:

- Denmark
- France
- Germany
- the United States
- China
- New Zealand.

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<sup>16</sup> Prime Minister's Office, [Queen's Speech Background Briefing](#), 19 December 2019, p59

<sup>17</sup> ["Video game loot boxes declared illegal under Belgium gambling laws"](#), BBC News, 26 April 2018

<sup>18</sup> Digital, Culture, Media and Sport Committee, [Immersive and addictive technologies](#), HC 1846, September 2019, para 92

<sup>19</sup> Environment and Communications References Committee of the Australian Senate, [Gaming micro-transactions for chance-based items](#), November 2018, p72

<sup>20</sup> *Ibid*, p72

<sup>21</sup> *Ibid*, p73

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