7 June 2023

The Director
Reform Policy, Classification Branch
Department of Infrastructure, Transport, Regional Development, Communications and the Arts
GPO Box 594
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By email reform@classification.gov.au

Re: Consultation Draft—*Guidelines for the Classification of Computer Games 2023*

Children and Media Australia (CMA) welcomes this opportunity to make representation to the Committee on the question of gambling and gambling-like content in computer games.

CMA is a peak not-for-profit national community organisation whose mission is to support families, industry and decision makers in building and maintaining a media environment that fosters the health, safety and wellbeing of Australian children.

CMA membership includes ECA (Early Childhood Australia), ACSSO (Australian Council of State Schools Organisations), APPA (Australian Primary School Principals Association), AHISA (Association of Heads of Independent Schools Australia), AEU (Australian Education Union), Parenting Research Centre, Council of Mothers' Union in Australia, SAPPA (South Australian Primary Principals Association), and other state-based organisations and individuals.

CMA's core activities include the collection and review of research and information about the impact of media use on children's development, and advocacy for the needs, rights and interests of children in relation to media use.

This submission has been written by CMA's President, Professor Elizabeth Handsley, and Hon CEO, Barbara Biggins OAM. We are willing to speak to this submission, or to provide additional information, and can be contacted via the phone number and email address below.

Gambling as a separate element

CMA disagrees with the approach of treating gambling as a 'theme', for three main reasons.

First it is a very important issue, of great concern to the Australian community, and it deserves greater prominence in the NCS than to be buried under 'themes'. (CMA acknowledges that other important issues, such as suicide, are treated the same way, but this is an argument for giving them more prominence as well, not giving gambling equally little prominence.)

Second, gambling is not really a 'theme' in any sense. It is a dynamic of gameplay, or a way in which play is structured. A 'theme' implies something that people are prompted to think about, whereas gambling (especially simulated gambling) can in fact be subtle, and not apparent to the untrained eye.

Third, there is no ground for confidence that gambling will be properly confronted and analysed in every classification, and proper consumer advice given, if it is just one of many potential 'themes'. This is an especial concern given that the presence of gambling-like content is not always obvious, but rather requires the application of a trained eye.

Instead, CMA submits that gambling should be introduced as an additional classifiable element, along with violence, sex and nudity, language and so on.

Clear, informative definitions

CMA submits there are changes needed to the proposed definitions to make them clearer and more informative for those seeking to understand and apply the Guidelines, especially those whose interest is from a personal or community perspective. We note the use of the IARC system in relation to games and apps which, for all its many advantages, is only as good as the judgment of the people filling out the form. CMA has concerns about the scope for capturing the subtleties of these proposed guidelines, with the judgment calls they require, in the IARC questionnaire and we envisage a significant role for consumers in bringing any apparent slips to the Government's attention. Empowering them to do so will require a higher level of clarity than might otherwise be needed in the Guidelines.

CMA was surprised to see the term 'simulated gambling' repeated in the proposed definition of that term:

Simulated Gambling:	Simulated gambling that:
	a) resembles or functions like a gambling service; and
	b) has a closed loop economy where rewards cannot be redeemed for real world currency or traded to other players in-game.
	Note: For example, gambling within games that resembles or functions like real world commercial casinos, slot machines, lotteries or other betting services, including betting on sports will be simulated gambling.

Such a definition does not assist with knowing what the term actually means. The definition as drafted serves only to limit the breadth of a still-undefined concept. It tells us what is out, but not what is in. CMA has suggestions below for clarifying this definition and aligning it with the aim of protecting young players' rights and interests.

CMA suggests further that the matter of content with a resemblance to real-world gambling – meaning, presumably, a visual, auditory or other sensory resemblance – should be dealt with separately and not mentioned expressly in the context of simulated gambling, which should be limited to function and not appearance. Sensory characteristics are separate issues from function, and including them in a note to the definition of simulated gambling is likely only to confuse.

The current proposal defines 'in-game purchases linked to elements of chance' and 'Loot Box' separately:

**In-game purchases
linked to elements of chance:** Digital goods or services purchased directly or indirectly using real world currency within a game which are determined by chance, including Loot Boxes.

Loot Box: A virtual container, however described, that rewards players with functional cards or items or cosmetic and other modifications which are determined by chance.

Note: These may be known by other names in the computer game industry such as prize crates and card packs.

CMA submits that a separate definition for 'Loot Box' is not needed, because this concept is not used in the Guidelines in any way independent from 'in-game purchases linked to elements of chance'. As the only significance of 'Loot Box' is as a subset of the latter category, then surely all that is needed is a clear definition of that category.

If the separate definition of 'Loot Box' is to be retained, CMA submits that the words 'cosmetic or other' should be omitted as they do not add any clarity to the definition and are likely only to confuse matters.

Definition of 'simulated gambling'

CMA submits that the definition should expressly capture the fundamental dynamic of gambling, which is to risk something of value in hope of obtaining a reward, where the reward is uncertain and determined by chance or adjusted probabilities.

It could also, for the avoidance of doubt, stipulate that the item risked is not real world currency, otherwise the relevant content is real gambling, not simulated.

The reference to a 'closed loop economy' should also be clarified, to make it clear that the absence of such a loop does not mean the transaction is not gambling – rather it makes it 'real' gambling, rather than simulated. This could be achieved by including a definition of real-life gambling, which should also be addressed through the guidelines themselves (presumably with a statement that games containing such gambling must be rated at least R18+).

Definition of 'in-game purchases linked to elements of chance'

CMA submits that the definition of 'in-game purchases linked to elements of chance' should extend to goods or services purchased with anything of value to the player, not just real-world currency. This is needed if the NCS is to address the main issue, namely the way that gambling-like content primes young players to enjoy the risk-reward dynamic inherent in gambling. It does not matter whether the thing being risked is real-world currency or not, what matters is that it is something of value. A very clear and current example is in-game credit.

Excluding such matters would only create a huge loophole for game developers, which would be difficult to close after the fact.

In this connection CMA believes it is relevant to note the existence of a thriving online gambling market for the very 'skins' that players acquire through loot boxes. Admittedly this is a different matter from the question of what players have risked to obtain those skins, but if the reward has such real-world value then it is difficult to minimise the transaction leading to its acquisition on the basis that the thing risked was not real-world currency.

Definition of 'loot boxes' (if any)

CMA has submitted above that there is no need to define 'loot boxes' because the concept has no role to play in the Guidelines. If a definition is to be included in spite of this, CMA submits that the Guidelines should use a definition based on the one adopted by Greer et al in a review for the Australian Institute of Family Studies:

> **Loot boxes:** *An in-game purchase of a virtual container … that randomly rewards players with functional items or modifications based on chance or adjusted probabilities … .* (Greer et al, 2022)

The concept of 'random rewards … based on chance or adjusted probabilities' should be applied even to the definition of in-game purchases linked to elements of chance (see above). Note also that the definition as set out in the review does not require the risking of real-world currency; rather it goes on to stipulate that 'Loot boxes can … be obtained for free via gameplay'.

Minimum classification for in-game purchases linked to elements of chance

The current proposal would give games allowing in-game purchases linked to elements of chance a minimum classification of M. CMA submits that this is too low a classification for such content, given that the M classification has no legal force, and content carrying that rating is therefore freely accessible to children of any age.

If we all agree that it should not be legal for people under 18 to engage in even simulated gambling, there is a very real question as to how we can justify allowing the supply to them of this kind of content. That is, one can seriously question whether there is a real, functional difference between 'in-game purchases linked to elements of chance' and simulated gambling. From the perspective of children's development and rights, we would suggest there is no such difference, as in both cases players are being primed to enjoy the gambling dynamic (risking something of value for an uncertain outcome) and therefore a minimum R18+ classification would be justified (see Rockloff et al (2023)). In fact, CMA would suggest that in-game purchases are of *greater* concern than simulated gambling because in such cases young players are not only being primed to enjoy the gambling dynamic but they stand to lose something of real value to them.

If the argument for R18+ is not accepted, CMA submits that a requirement of MA15+ minimum for games containing loot boxes would be appropriate and fully justified, as the application of a restricted category would offer a clear signal to families to approach such content with caution, or ideally avoid it completely.

Minimum classification for aesthetic resemblance

CMA submitted above that content with a visual, auditory or other sensory resemblance to real-world gambling settings should be defined and addressed separately from simulated gambling. CMA suggests that such content should carry a minimum classification of M, even if does not involve any actual gambling-like dynamic, as it normalises, and primes young people to take pleasure in, the trappings of gambling.

CMA's proposed definitions

Real Gambling:	Gameplay that involves an opportunity to risk real world currency in return for an uncertain reward that is determined by chance or adjusted probabilities.
Simulated Gambling:	Gameplay that:
	a) involves an opportunity to risk something of real value to the player, other than real world currency, in return for an

uncertain reward that is determined by chance or adjusted probabilities; and

b) provides rewards that cannot be redeemed for real world currency or traded to other players in-game.

Note: For the avoidance of doubt, gambling that fails to meet this definition only because it involves an opportunity to risk real world currency, and/or provides rewards that can be redeemed for real world currency or traded to other players in-game, is Real Gambling.

In-game purchases linked to elements of chance: Digital goods or services, including functional cards, items or modifications, acquired within a game through a process where that acquisition is determined by chance or adjusted probabilities.

Resemblance to real-world gambling: Visual, auditory or other sensory features that resemble real world commercial casinos, slot machines, lotteries or other betting services, including betting on sports, whether or not they are connected to any Gambling (Real or Simulated).

CMA's proposed minimum classifications

Real Gambling: R18+

Simulated Gambling: R18+

In-game purchases linked to elements of chance: R18+, or at least MA15+

Resemblance to real-world gambling: M

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