



**Statement of Keith S. Whyte, Executive Director,
National Council on Problem Gambling**

**Loot Boxes or Slot Machines? Similarities & Solutions From the Gambling
Addiction Prevention Field**

**U.S. Federal Trade Commission Workshop Inside the Game: Unlocking the
Consumer Protection Issues Surrounding Loot Boxes**

August 7, 2019

Statement of Keith Whyte, Executive Director of the National Council on Problem Gambling, on
Loot Boxes or Slot Machines? Similarities & Solutions From the Gambling Addiction
Prevention Field at the U.S. Federal Trade Commission Workshop Inside the Game: Unlocking
the Consumer Protection Issues Surrounding Loot Boxes

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Thank you for the opportunity to testify on behalf of the National Council on Problem Gambling, the nation's oldest and largest organization dedicated to addressing problem gambling. Since 1972 the National Council on Problem Gambling (NCPG) has worked with Federal, state, tribal and local governments, gambling industry and non-profit groups on gambling addiction and responsible gambling issues. We have consistently maintained a position of neutrality, neither supporting nor opposing legalized gambling.

We are concerned that many features of loot boxes are similar to those of slot machines. Players who pay to play a slot machine or unlock a loot box are risking that money for the chance of winning a prize or reward that is of value to them. Factors common to many loot boxes and slot machines include random distribution of prizes, variable value of the prizes, near-miss features plus visual and sound cues associated with participation and reward. These features are well known to trigger urges to play along with increased excitement and faster play. For some users this is a pathway to problem gambling. Consequences of gambling problems include financial harm, emotional difficulties, poor work or school performance, poor mental and physical health, and higher rates of depression, substance abuse and suicidal behavior. The gambling addiction field has developed a variety of innovative responsible play policies and programs that may be applicable to better inform consumers, prevent gambling-related problems, facilitate treatment-seeking, support recovery and increase the evidence base. I will briefly review the relevant research and discuss proposed solutions based on the evidence and our 47 years of experience in gambling addiction prevention, education, treatment, enforcement, research and recovery.

While the research on loot boxes and gambling problems is still in its infancy, the published reports have all shown cause for concern. The most recent research in this area concluded that paying for loot boxes is linked to problem gambling.¹ Problem gambling includes all gambling behavior patterns that compromise, disrupt or damage personal, family or vocational pursuits. The essential features are increasing preoccupation with gambling, a need to bet more money more frequently, restlessness or irritability when attempting to stop, "chasing" losses, and loss of control manifested by continuation of the gambling behavior in spite of mounting, serious, negative consequences. In extreme cases, problem gambling can result in financial ruin, legal problems, loss of career and family, or even suicide. An earlier large study of more than 7,000 gamers found evidence for a link between the amount that gamers spent on loot boxes and the severity of their gambling problems.² In March 2019 a law review article reviewed specific case studies and regulatory responses, proposed solutions and identified difficulties with solely

¹ Zendle, David. *Paying for Loot Boxes Is Linked to Problem Gambling, Regardless of Specific Features Like Cash-out and Pay-to-win*. *Computers in Human Behavior*, in press.

² Zendle, David and Cairns, Peter. *Video game loot boxes are linked to problem gambling: Results of a large-scale survey*. *PsyArXiv*, August 2018.

industry-based solutions.³ The scientific journal *Nature* published an editorial urging the scientific community to “engage actively in the debate regarding the status of video game loot boxes and the potential risks they present for vulnerable populations and the authors also found that nearly half of the loot boxes they reviewed met psychological criteria for gambling even though those games are rated as appropriate for adolescent players under 18.”⁴⁵ Noted gambling researcher Dr. Mark Griffiths stated loot boxes meet “almost any definition of gambling currently used in the field of social sciences.”⁶

Loot boxes already meet criteria for gambling in some jurisdictions, including Belgium and the Netherlands. But even if other gambling regulators, such as in the UK, determine that loot boxes do not meet gambling criteria in their particular jurisdiction, a loot box system may still have negative impacts, including gambling problems. The American Psychiatric Association’s Diagnostic and Statistical Manual of Disorders (DSM 5) and World Health Organization’s International Classification of Diseases and Related Health Problems (ICD 10) clinical criteria for gambling disorder do not require that rewards be “real money” or preclude a diagnosis if the client played with virtual coins or received several free plays before spending excessive amounts of time and money purchasing loot boxes and developing a gambling problem.

The National Council on Problem Gambling believes that an approach to loot boxes, particularly concerning potential negative impacts on youth, should be based on a precautionary principle. “The precautionary approach rejects the notion that risks are acceptable until harm has been proven or that risks can continue unmitigated until such time as the effectiveness of a harm minimization measure is proven.”⁷ As stated previously, every study we are aware of has found an association between loot boxes and gambling problems. Indeed, given everything we know about the similarities between loot boxes and slot machines it would be extremely surprising if there was not such an association. If the video game industry disputes this characterization they could make publicly available the massive amounts of data on player loot box activity they collect for objective researchers to analyze. A number of articles claim some gaming companies are indeed using such data to target players, including children, in ways that “could be characterized as unfair or exploitative.”⁸

There is a reasonable concern that gambling-related harm may occur to some loot box users, particularly among minors and among individuals with or at risk for gambling problems. Video game players are predominately young men and boys, many under the age of 18. Males are consistently found to be at higher risk for gambling problems and youth are another vulnerable population with strong associations between gambling, gaming and gambling problems. “The early onset of gambling remains one of the biggest predictors for the development of gambling-related problems. There is abundant national and international research identifying the potential

³ Moshirnia, Andrew. *Precious and Worthless: A Comparative Perspective on Loot Boxes and Gambling*, 20 Minn. J.L. Sci. & Tech. 77 (2018).

⁴ Editorial: *Gaming or Gambling?* Nature: Human Behavior, Vol 2, August 2018

⁵ Drummond, Aaron and Sauer, James. *Comment: Video game loot boxes are psychologically akin to gambling*. Nature: Human Behavior, Vol 2, August 2018.

⁶ Griffiths, Mark, *Is the Buying of Loot Boxes In Video Games A Form of Gaming or Gambling?* GLRE 2018.

⁷ Massachusetts Gaming Commission, Responsible Gaming Framework, Version 2.0, May 2018.

⁸ King, Daniel, et al. *Unfair play? Video games as exploitative monetized services: An examination of game patents from a consumer protection perspective*. Computers in Human Behavior 101 (2019) 131-143.

harms associated with young people's early exposure to gambling.”⁹ Negative consequences include depression, delinquency, higher rates of substance use and abuse, criminal behavior and even suicide.¹⁰ In addition, “Gambling in youth is a key predictor of future problems among adults. These patterns, combined with rapidly changing technological, regulatory and corporate practices, has led to increasing concern about the impact of gambling upon the lives of young people. This is both in terms of the immediate impact of youth gambling but also as the antecedents of future behavior.”¹¹

Impulsivity, the inclination to act on urges without significant regard for consequences, is associated with both video game playing and with risk taking, especially addiction, in youth. According to the American Psychological Association (APA), “Impulsive children with attention problems tend to play more video games, while kids in general who spend lots of time video gaming may also develop impulsiveness and attention difficulties.”¹² This raises particular concerns regarding youth video gamers who play (and pay for) loot boxes as “impulsivity seems to be one of the most critical factors associated with problem gambling and other disorders in adolescence such as substance use problems or eating disorder behavior.”¹³ Children are also routinely and extensively exposed to advertising and marketing for video games, including those with loot boxes.

An additional vulnerable population are active-duty military personnel and veterans, who tend to be young men with high rates of risk-taking behavior. On average they show at least twice the rate of gambling problems as civilians. Of particular concern are the possible negative effects of video games with loot boxes on veterans seeking treatment for a variety of behavioral health issues, especially those with Post Traumatic Stress Disorder (PTSD).¹⁴ Studies have found veterans with PTSD may be up to 10 times more likely to have gambling problems.

Based on the above information we recommend addressing concerns around loot boxes and addiction with a multi-layered approach to users, parents and communities to ensure an appropriate range of protections is put into place for youth and other vulnerable populations. Game companies and designers/developers as well as associations like ESA must play a constructive role by utilizing their data, design expertise and innovative technology to develop solutions and partnerships. Such measures should:

Better inform consumers

- Facilitate informed choice among users by providing information on whether loot boxes are present, the number or value of items in loot boxes and the frequency of distribution.

⁹ NCPG Letter to McDonalds & Nintendo of America, August 16, 2018.

¹⁰ Messerlian, Carmen, Derevensky, Jeff & Gupta, Rina. *Youth gambling problems: a public health perspective* Health Promotion International, Volume 20, Issue 1, March 2005, 69–79.

¹¹ Wardle, Heather. *Perceptions, people and place: Findings from a rapid review of qualitative research on youth gambling*. Addictive Behaviors 90 (2019) 99–106

¹² Gentile, Douglas, et al. *Video game playing, attention problems, and impulsiveness: Evidence of bidirectional causality*. Psychology of Popular Media Culture, 2012; 1 (1): 62.

¹³ Secades-Villa, Roberto, et al. *The Relationship between Impulsivity and Problem Gambling in Adolescence*. Front Psychol. (2016); 7: 1931.

¹⁴ Colder, Carras. *Connection, meaning, and distraction: A qualitative study of video game play and mental health recovery in veterans treated for mental and/or behavioral health problems*. Soc Sci Med. (2018) Nov;216:124-132.

We acknowledge the efforts of Riot Games and Blizzard in this area and encourage every gaming company using loot boxes to follow suit. The information should be presented in user-friendly, interactive ways to increase uptake and understanding. However, we know from gambling research that information alone about odds and randomness does little to improve decision making or reduce risk of addiction so additional measures are necessary.

- Develop youth-specific addiction prevention and educational messages and campaigns around loot box usage, ideally in cooperation with game companies and/or associations. The graphical and interactive structure of online gaming provides an opportunity to create informed consumers with access to a variety of information designed to encourage safe choices and discourage unsafe behavior.
- Provide information on risks and rates of addiction among users who pay for loot boxes.
- Implement advertising rules for loot boxes in accordance with other topics within the FTC's own "Truth in Advertising" laws.
- Prohibit targeting of ads and marketing to children known to be under 18, or in using communications channels with significant underage audiences.
- If loot boxes in a game meet criteria for prize, chance & consideration as determined by subject matter, visual content, and other indicators similar to those used to determine applicability of the Children's Online Privacy Protection Act (COPPA) the game should trigger a rating of M for Mature. This should require players to undergo additional Know Your Customer (KYC) age and ID verification.
- Recommend changing ESRB definition to "using real currency to participate in gambling or simulated gambling" and adding a Simulated Gambling and/or Loot Box content descriptor to better inform parents and players about gambling-related risks.

Prevent gambling-related problems:

- Continue to encourage parents to enable parental controls, perhaps by designing games with loot boxes that would require parental controls to be activated before a game can be purchased, played, installed and/or started for the first time.
- Allow or require players to set limits on time spent playing and amount of money spent on loot boxes using in-game settings. Provide a "lock out" of at least 12 hours before a user can increase or delete their limits.
- Develop independent, 3rd party consumer protection guidelines and programs to verify compliance and acknowledge participating designers and game companies.
- Provide funding for media literacy campaigns dedicated to youth and other vulnerable populations on loot boxes and other in-game gambling-like mechanisms and advertising.

Facilitate treatment-seeking and support recovery:

- Provide players with links to NCPG's upcoming www.responsibleplay.org website as a resource for children and adults who are concerned with negative consequences of their online gaming behavior. This site will provide self-tests, information connections, links and support to organizations providing gambling addiction, gaming addiction and/or internet addiction help such as GameQuitters and Consumers for Digital Fairness.

- Allow for self exclusion including through payment providers and global lists. Provide for penalties if properly excluded players are able to pay and play.

Increase the evidence base:

- Companies with loot boxes in their games should provide access to de-identified player data. Consumer protection programs can be improved by utilizing this data to develop profiles of general gaming behavior, including medians and benchmarks that would facilitate awareness of norms as well as predictive programs for abnormal usage. Operators should provide access to de-identified data on player behavior to objective third parties for research purposes with a requirement that the resulting reports be made public.
- Call for NIH Institutes, particularly NICHD, NIMH and NIDA as well as CDC to commission intra- and extra-mural research into loot boxes.

Strong regulation is important, but it cannot be effective at reducing harm unless accompanied by equally robust prevention, education, treatment, recovery and research services. A portion of gaming company loot box revenue must be set aside in a public health trust fund or other independent vehicle for such programs. If such measures are not adopted by the video game industry we suggest regulation by FTC is required. In addition, we call on state, tribal and local gambling regulators to review loot boxes and determine if they meet the criteria for gambling and thus should be subject to regulation in their particular jurisdiction.

Sincerely,



Keith S. Whyte, Executive Director

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The National Council on Problem Gambling was founded in 1972 and is neutral on legalized gambling. We serve as the national advocate for programs and services to assist problem gamblers and their families. We improve health and wellness by leading state and national stakeholders in the development of comprehensive policy and programs to reduce the personal, social and economic costs of problem gambling.