Submission in response to the 'proposed new mandatory minimum classifications for gambling-like content in computer games'

I am writing to express my fervent opposition to the proposal in its current form as it disproportionately prioritises the risks associated with simulated gambling gameplay as opposed to real-world gambling, and I believe that the proposed positions ought to be reversed, with simulated gambling instead necessitating a minimum PG or M classification, while games containing transactions linked to chance involving real-world currency must necessitate, without exception, a minimum classification of R18+ to reflect real-world restrictions on actual gambling.

Real-world purchases linked to chance

Unfortunately, the industry has been far too slow to respond to the widespread problem of gambling-like monetisation in computer games, which exploded in popularity with the widespread adoption of smart phones in the early 2010s. Mobile games typically default to a "free-to-start" business model, in which players can download the game at no cost, however, the gameplay is designed to initially engage audiences, but gradually hinder the player's progress unless he or she makes in-game purchases to facilitate further progress/success. Such purchases may not be explicitly linked to chance on the face of it, however, these purchases may not necessarily result in a desirable outcome for the player either. For example, such a purchase could be linked to enhancing a player's probability of completing a particularly difficult level, in which case, players may be implicitly enticed to make additional purchases and try again, akin to a slot machine in a commercial gambling environment. Such content is routinely issued "all ages" classifications internationally without being challenged, and I have long been a proponent of restricting any form of software that contains chance-based purchases to adults, whether such elements of chance are explicit (e.g. loot boxes, random items) or implicit (e.g. one-time consumables to temporarily enhance a player's probability of success, including the purchase of in-game currency in exchange for real-world funds).

I suspect that such practices are far too prevalent to be practicably and/or retroactively regulated, and due to regulatory bodies taking so long to respond, the practice of in-game purchases linked to chance have consequently entered mainstream console/PC gaming in more recent years, typically by publishers that I would describe as being less than scrupulous, and I am frankly appalled that chance-based transactions are currently deemed permissible with as little as a G classification (and are very common in sports games, such as those from the FIFA and NBA series). I understand that R18+ classifications would prove disadvantageous for major computer game publishers who indulge in these exploitative practices (that enable children to engage with gambling-like practices without parental supervision or hindrance), and I am confident that they would be quick to cease engaging in such practices if classification bodies were more inclined to scrutinise such material with the appropriate severity.

Such games should receive an R18+ classification with consumer advice such as: (but not limited to)
- In-game purchases linked to chance (e.g. loot boxes, random items)
- In-game purchases linked to probability (e.g. one-time use consumables)
- In-game purchases linked to simulated gambling (e.g. applicable to prominently casino-like games)

- Online gambling

There may be situations where simulated gambling may warrant an MA15+ classification or higher, and more specific consumer advice may be warranted if a game prominently deals with matters of sex, nudity, or violence that are linked with gambling or other games of chance (as opposed to the more vague description of "related to incentives and rewards"). For example…
- Nudity related to simulated gambling (e.g. strip poker)
- Sexualised imagery related to simulated gambling
- Violence related to simulated gambling/chance (e.g. Russian roulette or a scenario where a character is assaulted or killed for losing a game of chance)

And to serve the needs of concerned parents, any MA15+ rated game that contains simulated gambling that could normally be accommodated at the M classification level may also be flagged in the consumer advice in order to help parents make more informed choices (however, this would not be necessary at the R18+ classification level for moderate impact content).

History of the ACB's response to gambling-like content

The current Classification guidelines and framework appear to be ill-equipped to adequately deal with the theme of gambling as the guidelines do not, explicitly or implicitly, appear to refer to gambling at all, and my understanding of the ACB's response to gambling can only be surmised by reviewing past classification decisions.

In the 1990s, it seemed that gambling-like material would not be flagged by the Board unless a game explicitly takes place in a casino environment, in which case, such games would typically receive a classification of G8+ (since superceded by PG in May 2005) for "Adult themes". Other forms of gambling-like content would generally not be flagged, and could receive as little as a G classification, such as the earliest entries in the main series of Pokémon games, namely Pokémon Red, Pokémon Blue, and Pokémon Yellow.

The games featured an in-game facility called "Game Corner" that allowed players to wager "coins" (akin to tokens, separate to the game's currency) on a slot machine minigame. Players could redeem their winnings on exclusive items and an exclusive Pokémon character (Porygon) that cannot be obtained by any other means, thus serving as an incentive to engage players in gambling-like gameplay in order to realise the franchise's mantra of "Gotta catch 'em all". This aspect of the game is otherwise completely optional and comprises only a tiny proportion of the overall experience, however, its implementation is problematic due to the enticement of exclusive rewards, in which case, perhaps, an M classification would be more appropriate by current standards. Players can also spend in-game currency on purchasing coins rather than earning them via the slot machines.

The games also feature a class of characters named "Gamblers", and players can pit their Pokémon companions against theirs, however, the Gamblers' dialogue characterises them as being recklessly compulsive and eccentric, rather than aspirational. These characters were quickly retired from the series following Pokémon Yellow (which served as a deluxe release of the Red and Blue versions).

Pokémon Crystal was the first game in the series to receive a G8+ classification for "Mild gambling references", even though the content was otherwise identical (with respect to the classifiable element of themes/gambling) to previous G-rated instalments Pokémon Gold and Pokémon Silver (with Crystal serving as a deluxe release of these two games). This also appears to be one of the earliest (if not the first) examples of a game classified as such by the ACB (then OFLC) for gambling-like content. Subsequent games (up until Platinum) in the series would contain less appealing rewards but otherwise retain the "Game Corner" facility.

Subsequent Pokémon games, Ruby, Sapphire, FireRed, LeafGreen, and Emerald also received G8+ classifications for the same reason. Diamond, Pearl, and Platinum were the last games in the series to receive a PG rating for "Mild gambling references". European classification body PEGI had taken a harsher stance on gambling-like material after the release of Pokémon Diamond/Pearl, and in order to avoid the minimum 12+ rating (analogous to Australia's M classification) that PEGI would have imposed, Platinum was modified for the European market, with the gambling-like activities replaced with a new non-gambling activity, and successfully received the desired 3+ classification (analogous to Australia's G classification). Australia received the North American version of Platinum, that retained the gambling-like activity (and hence the PG classification). In response to PEGI's stance on simulated gambling, Pokémon HeartGold/SoulSilver (remakes of Pokémon Gold/Silver/Crystal) were modified for the Western market, replacing the gambling component with a new activity called Voltorb Flip (a game similar to Minesweeper), and were classified G locally. The Japanese release retained the gambling-like component in Pokémon HeartGold/SoulSilver, however, all gambling-like elements were henceforth retired from the series internationally.

I cannot pinpoint when the ACB made the decision to default to M classifications for "simulated gambling", however, one of the earliest examples that I am aware of is Dead or Alive Paradise (classified in February 2010). A similar game, Sexy Poker, classified in 2009, was not flagged for "gambling" at the M level, so I would surmise that an internal decision was made to default to the M classification for simulated gambling at some point between these two decisions, a standard that the ACB appears to have (more or less) adhered to since.

One unusual case where a game received a PG classification flagging "mild gambling references" was Kirby: Planet Robobot, a side-scrolling platformer that features a level that takes place in a casino environment, featuring depictions of roulettes, playing cards, billiard balls, dice etc. (most of which serve as obstacles/threats to the protagonist), however, there is no interactive gambling component or any depiction of gambling by non-playable characters (NPC).

Two more recent unusual cases (and a rare example of G-rated games with consumer advice citing "gambling references") include computer game adaptations of the popular US television game shows Wheel of Fortune and Jeopardy!, both classified in December 2019. Both game shows are routinely classified G for their respective television broadcasts. While I am a little unclear on what the Board considered to constitute "gambling" in Wheel of Fortune, my supposition is that it is due to the fact that players can risk in-game winnings on buying a vowel.

In Jeopardy!, players may encounter questions ("Daily Doubles") where they must then make a wager, which must be a minimum of $5, but they can wager up to a maximum of their total current

winnings (or up to $1,000 if their score is negative in the first round; $2,000 in the second round). Players are made aware of the category that they are wagering on, but the clue is revealed after the wager is made, hence the element of "jeopardy". This could aid underperforming players in catching up to the others, but could also serve to their detriment should the outcome prove unfavourable.

I had played the American retail release of the game (which was released in October 2018, over a year prior to its Australian online-only release), and I had predicted a PG rating due to the element of interactivity serving as an aggravating factor, and also considering the fact that virtually any "wagering" elements would default to a minimum PG classfication (if not M), so I was quite surprised by the Board's response in this particular instance. I do not necessarily think that the game deserves a PG classification per se given the context of the game as a whole, however, I also object to the Classification Board defaulting to an R18+ (or even an M) classification for any and all gambling-like gameplay, no matter how vaguely a work can be construed as containing such elements, and that context is paramount to upholding the usefulness of the Board's decisions in the estimation of the broader public.

The viewing impact of simulated gambling can also be aggravated by incentives or mitigated by the lack thereof. The Nintendo Switch game 51 Worldwide Games (which was classified M for "Simulated gambling, online interactivity"), contains two activities that are based on those typically associated with real-world gambling, namely Texas Hold 'Em and Blackjack.

Players wager tokens, and these tokens do not carry over to subsequent games, nor is the player rewarded with any form of in-game currency that may incentivise players to unlock rewards (such as other games or "skins"), which greatly diminishes their impact. Other classifiable elements were virtually absent among the remaining 49 activities, however, "Yacht Dice" (similar to the popular parlour game Yahtzee) is described in a non-interactive cutscene as being "similar to poker", without emphasising further, however, such a brief comparison can arguably be accommodated at the G classification level given that the activity itself is not typically associated with commercial gambling. Incidentally, previous games in the Clubhouse Games series (which 51 Worldwide Games is a sequel to) were rated no higher than PG for the same sorts of activities. The lack of rewards or in-game currency that can be accumulated, as well as the lack of interest to children, I think, mitigates the overall impact of the classifiable element of themes/gambling, and I think that the game could be accommodated at the PG level, however, considering the advisory nature of the M classification, I would not deem the Board's decision to be unreasonably restrictive either. Had such a game rewarded players with an in-game currency that could be spent on unlocking content, then I would unequivocally agree that such content would necessitate a minimum M classification.

My concern with the current proposal is that we could see video games jump from as little as a historical G rating to an R18+ classification, such as the previously cited examples of Wheel of Fortune and Jeopardy!, and these are just two of many potential examples where the Board's function will be undermined by arbitrary decisions that trivialise the weight of an adult classification in the estimation of the public while neglecting to reflect community standards.

Conclusion

Unfortunately, I have been unable to formulate, perhaps, a more persuasive and detailed argument, and conduct more rigorous research to corroborate my position given that I have learned about the Board's proposal so close to its cut-off date. I also apologise for any formatting (or other) errors as I was mere minutes from meeting the deadline.

In short, I am opposed to a default R18+ classification for gambling-like gameplay as it disregards the impact level and context of the individual work, and that each game should be considered on a case-by-case basis, dependent on incentives, rewards, whether comprising a prominent component of the work as a whole or merely serving a peripheral function, and whether there are any links with other classifiable elements that could aggravate or mitigate against the impact (for example, a game of Russian roulette, linking gambling with the element of violence, could aggravate both elements; whereas a work with a bona fide anti-gambling message that depicts the harms and risks of such behaviour could serve as a mitigating factor).

However, my position regarding in-game transactions linked to chance is that they must instead receive a default R18+ classification as this essentially constitutes real-world gambling that is within the grasp of children, and that such purchases must not be within the grasp of minors in order to reflect real-world restrictions on gambling.