

**How should video game classification be integrated with the National Classification
Scheme's Stage 2 Reforms?**

Aaron Drummond^{a*}, Lauren C. Hall^b, & James D. Sauer^a

^aSchool of Psychological Sciences, University of Tasmania, Australia

^bAustralian Institute of Health Service Management, University of Tasmania, Australia

*To whom correspondence should be addressed. Email: aaron.drummond@utas.edu.au

1. On the Authors and the Scope of this Submission:

This submission is authored by the Co-Executive Directors and Co-Founders of the International Media Psychology (IMP) Laboratory, currently housed at the University of Tasmania. Dr. Aaron Drummond and Dr. James D. Sauer are psychological scientists who have been studying the effects of digital media for over a decade, with a particular interest in the psychological impacts of video games. Dr. Drummond and Dr. Sauer were the first to author an empirical investigation of loot boxes and their psychological similarities to conventional gambling, and the first to empirically document the legal similarities between these mechanisms and gambling, with both articles published in a world leading peer reviewed journal (*Nature Human Behaviour*). They were the first to publish data on the association between problem gambling symptoms and loot box spending in Australia, showing that those with greater problem gambling symptoms also spend more on the mechanism. Later, they were the first to confirm this finding across countries by publishing the world's first meta-analytic study on this issue. They are world leaders in this field, having published on this topic in some of the world's most prestigious journals, and having provided expert testimony to Governments in Australia, New Zealand, the US, and the UK. Ms. Hall, the IMP Laboratory's Associate Director Strategic Projects, has a background in Economics and has contributed to the authorship of 7 academic papers relating to the consequences of engagement with monetisation mechanisms in video games. Ms Hall has also co-authored several reports on issues of digital safety and loot boxes for Governments and the technology sector. Last year, Ms. Hall joined Dr. Drummond in presenting oral testimony to the Australian House of Representatives on their inquiry into gambling and loot boxes, ultimately contributing to the creation of the new M15+ classification requirement for games containing paid loot boxes.

Concordant with the expertise of the team, this submission is focused upon how video games, and in particular loot boxes and other monetisation mechanisms within video games, might best be covered by and integrated with the proposed Australian Classification Scheme - Stage 2 Reforms. We organise our report by the requested areas of consultation, structured and guided by the questions posed within the Public Consultation Paper.

2. Clarifying the scope and purpose of the Scheme, including the types of content that should be subject to classification

2.1 Are the guiding principles set out in the Code still relevant in today's media environment?

As noted within the Public Consultation Paper: *“The Code sets out the guiding principles of the Scheme, that: adults should be able to read, hear, see and play what they want; children should be protected from material likely to harm or disturb them; and everyone should be protected from exposure to unsolicited material that they find offensive. The Code also sets out that community concerns regarding depictions that condone or incite violence, particularly sexual violence, and the portrayal of persons in a demeaning manner, must also be taken into account.”*

In our view, these principles remain highly relevant in the modern media environment, however we propose some slight revisions to the principles to maximise their relevance and applicability. Additionally, we have some specific concerns about how video game monetisation mechanisms are presently covered by these principles. We highlight these in Section 2.3 below.

2.1.1 “Adults should be able to read, hear, see and play what they want.”

We support the guiding principle that *“adults should be able to read, hear, see and play what they want”* (p. 8). We note that the Public Consultation Paper stipulates that while this principle has remained unchanged, the purpose of the scheme has changed over time to focus on *“providing information to Australians to make informed choices on the content they and those in their care consume”* (p. 8). We strongly support this revised purpose, and suggest that it is worthy of enshrining into the principles of the Classification Scheme. As we have noted repeatedly in both academic and stakeholder engagement settings, a well-informed consumer base is likely the best defence against potentially problematic content and monetisation mechanisms in media. In our view, it is not enough to let adults make decisions about what they see, hear, read, and play – consumers must have access to adequate information to properly understand what it is they are choosing to engage with. Evidence suggests that consumers exposed to traumatic media coverage, for instance, can unwittingly experience harmful psychological consequences, including post-traumatic stress symptoms, depression, and anxiety (Pfefferbaum et al., 2019; Redmond et al., 2019; Thompson et al., 2019). Similarly, some products, such as loot boxes in video games might expose players to, and encourage engagement with, gambling-like mechanisms without players realising this is what they are being exposed to (Drummond & Sauer, 2018; Drummond et al., 2020). Thus, enshrining the principle that *adults should be provided adequate, accurate, and timely information to be able to make informed decisions about what they want to read, hear, see, and play* into the Scheme would be a valuable addition to the core principles. In other words, adults should be allowed to make their own choices regarding media consumption (within the constraints of the Australian regulatory

frameworks), but we should ensure that there is adequate information to support their ability to make informed choices.

Additionally, we offer a minor point about the wording of the principle which may appear at face value to be pedantry. We would recommend that the principle employ an Oxford comma to read “*adults should be able to read, hear, see, and play what they want.*” In the absence of an Oxford comma, the statement could be misconstrued to imply that seeing and playing were joint preconditions (i.e., that one must both view and play media content to consume it; a logical fallacy). Thus, to avoid misinterpretation of the meaning of the principle, we would suggest an Oxford comma be employed to clarify the principle.

2.1.2 “Children should be protected from material likely to harm or disturb them.”

We strongly support this principle. We note that the Classification Scheme has historically had, via the PG, M, and MA15+ Classifications, a very strong focus on balancing this principle against the liberties of those who wish flexibility in media consumption decisions for people in their care. It is our view that the Classification Scheme has achieved appropriate balance here – providing guidance and support to parents to make informed decisions for their children.

Our only critique of this principle is that it tends to imply that the only people who require protection in the media consumption space are children. Given the rise of video games in the 30 years since the Scheme was enshrined in law, and the recent growth of in-game monetisation mechanisms such as loot boxes, there is a need to consider whether other vulnerable populations might also require protections under the Scheme. For example, we now know that at least some individuals find it challenging to moderate or reduce their video-gaming (e.g., King & Delfabbro, 2018a; King et al., 2019), and that those who spend the most money on loot boxes tend to be individuals who exhibit problem gambling behaviours (Garea et al., 2021; Garrett et al., 2022). Many individuals with addictive disorders find it challenging to control their behaviours, and many require support to do so. Thus, it may be valuable for the Classification Scheme to enshrine into its principles the notion that “*Vulnerable consumers who wish for support are provided the support they need to help regulate their viewing, playing, or spending behaviours.*” Supporting vulnerable consumers to make better decisions for themselves is valuable to mitigate any potential for harm. While a complete list of potential vulnerable consumers is beyond the scope of this submission, we note that evidence suggests that individuals with symptoms of problem gambling appear to consistently be the highest spenders on gambling-like mechanisms in video games (e.g., Loot Boxes; Garea et al., 2021), and therefore supporting individuals with symptoms of psychopathology to reduce or limit their spending is an important goal. Similarly, while it is beyond the scope of the submission to list all available support structures and strategies which might be provided to consumers, increased ease of access to spending controls (Drummond et al., 2019), placing upper limits on the allowable revenue per individual consumer per month (Dreier et al., 2019), options to limit the presentation of gambling-like mechanisms in games, and increased consumer powers to demand refunds for vulnerable consumers (King & Delfabbro, 2018b) are all valuable support strategies.

2.1.3 “Everyone should be protected from exposure to unsolicited material that they find offensive.”

We strongly support this principle, and believe it is an important cornerstone of the Scheme. Key to this principle is the issue of consent: Classification should reduce the risk of an individual unwittingly accessing unsolicited material which might offend. However, in this context we would suggest clarification of the term “offensive” since such ambiguous language may be co-opted by a polarising society to capture a lay-meaning, and thus suggest material with which one disagrees. We do not believe that this was the intention of the Scheme. Noting that we are not legal scholars, if our understanding of the legal context of the Act is accurate, we believe that the principle was intended to refer to content which would cause offence to a reasonable person, rather than simply content one dislikes or with which one disagrees. We would therefore suggest that a careful refinement of the wording of this principle, guided by legal scholars, might be prudent to avoid it being misconstrued and/or misapplied.

2.2 Do you support the proposed criteria that defines what material should be classified under the Scheme?

This question is beyond the scope of the present submission.

2.3 Are there any other issues with the current purpose and scope of the Scheme that should be considered?

One of the most significant challenges for the current video-gaming environment is that potentially problematic mechanisms in video games are being incorporated in ways that might not be evident to consumers. One prominent example is the inclusion of loot boxes within video games. Despite psychological and legal similarities between loot boxes and gambling (Drummond & Sauer, 2018; Drummond et al., 2020), and growing evidence of overlap between spending on loot boxes and problem gambling symptoms (Garea et al., 2021), it is our experience that community knowledge about these similarities remains relatively limited, particularly among parents who are not gamers themselves. Although we are strong supporters of the Australian Government’s move to classify games with paid loot boxes as M15+, we suggest that this not be the only step taken by the Classification Scheme.

Accompanying the incipient change to the age recommendations for games with paid loot boxes, we believe there is an urgent need to ensure that the classification descriptors accompanying these games attract attention and are easily, intuitively, and readily understood by consumers. Such content warnings need to do four things to be effective:

- I. Be noticed and attended to by consumers.
- II. Be understood by consumers.

- III. Accurately reflect and convey to consumers the potential harms of the activity relative to community standards.
- IV. Be useful to and used by consumers in making purchasing and/or content consumption decisions.

Although we presently do not have evidence on point (i) above, we can provide evidence relevant to points (ii) and (iii). With respect to point (ii), regarding whether consumers' understand these content warnings, recent work published by our laboratory suggests that present labelling strategies are inadequate. Research from our laboratory suggests that the current Pan-European Game Information (PEGI) and Entertainment Software Ratings Board (ESRB) labels (intended to alert consumers to the presence of loot boxes in video games), are poorly understood by consumers (Garrett et al., 2023). Less than half of consumers who viewed the "In-Game Purchases (Includes Random Items)" content descriptor identified that this means that outcomes were chance-based. Moreover, approximately 1 in 4 consumers failed to report understanding this meant that they could spend real world money in-game.

With regard to point (iii), in another study, we also collected data on the concordance with community expectations of the risk of harm for specific activities related to loot box spending, and the perceived harm conveyed by existing loot box warning labels employed by PEGI and the ESRB. The results were striking: in all cases the potential for harm of spending on loot boxes when described in detail was rated by consumers as being about 10-20 points higher (on a 100 point scale) than the harm that was inferred from consumers by the PEGI/ESRB warning label; representing a moderate-to-large difference (Garrett et al., 2023).

Taken together, these findings suggest to us that if the goal of the revised classification system is to equip Australians with the information required to make informed decisions about the content they and their children consume, the content warnings currently accompanying paid loot boxes require substantial revision. We suggest this should be underpinned by targeted, applied, cross-disciplinary research, with strong input from psychological scientists, media studies experts, and Information Computer Technology (ICT) researchers. Critically, these research experts should be entirely independent of industry affiliation and funding, to ensure their independence in assessing the efficacy of such labels. In addition to examining the efficacy of the labels for conveying accurate understanding to consumers, they should also be examined to ensure they grab consumers' attention, and are employed effectively by consumers in their purchasing and media engagement decisions.

2.4 Do you support changes to the definition of a 'submittable publication' to provide clarity on publications requiring classification under the Scheme?

This question is beyond the scope of the present submission.

3 Ensuring the classification guidelines continue to be aligned with, and responsive to, evolving community standards, expectations and evidence.

3.1 Do you support the establishment of an independent Classification Advisory Panel or similar body?

Yes. We support the establishment of an independent Classification Advisory Panel. This would allow for independent advice regarding the classification of media and materials, and provide a mechanism for reviewing and responsively adapting to the changing media landscape. This will be especially important given the speed of recent developments in Artificial Intelligence (AI), other computer-generated media, and monetisation mechanisms such as loot boxes in digital media.

3.2 What issues or expertise relevant to the classification environment would you like to see represented in a Classification Advisory Panel or similar body?

Strong representation from academics from empirical science disciplines such as Psychology, Health Science, and Public Health will be important to ensure that the panel is guided by the latest empirical evidence. Representation from fields of developmental psychology, media psychology, cognitive psychology, social psychology, and clinical psychology will help ensure adequate consideration of how media can interact with, and influence, the cognitive, affective, and neurological development of children and young consumers, and aid the panel when making decisions about the appropriateness of specific content.

We also recommend that the Classification Advisory Panel include academic expertise from the academic fields of gambling, gaming, and media depictions of sexual content to ensure that the material incorporated into games, movies, television, and other digital media does not unwittingly expose consumers to potentially problematic content (e.g., gambling-like mechanisms in video games).

Although we see a role for some industry experts to provide representation on the Classification Advisory Panel, the research experts should be truly independent to minimise the introduction of bias into the Panel (or similar body). By this, we mean that to minimise the chances of industry interference in the work of the Panel, the experts appointed to the Panel should be unaffiliated with, and entirely unfunded by, industry stakeholders. This means that any research expert appointed to the Classification Advisory Panel should not have taken money from, or worked within research centres funded by, the gambling, gaming, or entertainment industry. The experts should also not have current data sharing arrangements with industry. Although we see a role for academics with data sharing arrangements with industry, the relational capital required to solidify such data sharing arrangements is often substantial. Such data sharing arrangements often give industry substantial leeway to decide which data to share, and some such arrangements include veto or editorial powers allowing industry to shape the academic message. These factors open such arrangements to the risk of bias or perceived bias, and therefore we suggest that

academics with industry data sharing arrangements be included, but not as a substitute for researchers without such data sharing arrangements. Inclusion of a substantial proportion of independent academics without data sharing arrangements with industry will help maintain the independence and public credibility of the Classification Advisory Panel. Research experts should also be required to recuse themselves from any decision in which they may have a financial or non-financial conflict of interest. In the spirit of transparency, open disclosure, and to ensure that public confidence in the independence of the Classification Advisory Panel is maintained, a publically accessible living database (e.g., a public webpage) of all Panel Experts' affiliations should be maintained, with a provision that the database's contents are updated within a reasonable timeframe of these details changing (e.g., within 2 weeks) to disclose any change of circumstance, affiliation, funding, or potential conflict, for any Panel Expert, during their tenure while serving on the Classification Advisory Panel. This will ensure that the Classification Advisory Panel will maintain the credibility, independence, and public confidence required to perform its functions as a consumer protection authority (e.g., Brown et al., 2020; Dumbrell et al., 2020; Zendle & Wardle, 2023).

3.3 Are there any aspects of the current Guidelines that you would like the Classification Advisory Panel or similar body to consider?

Evidence on the association of loot box engagement with problem gambling continues to emerge, and recent work suggests that loot boxes may act as a gateway to future engagement with conventional gambling (Brooks et al., 2023; González-Cabrera et al., 2023). Thus, we support the current plan to make games with paid loot boxes M15+. However, we also recommend ongoing scrutiny of the evidence surrounding loot boxes and gambling to understand their potential risk of harm. As more evidence emerges, there may be need to adjust the regulatory settings surrounding loot boxes, especially if loot boxes are contributing to the development of conventional gambling behaviours, or worse, pathological gambling disorder, for youth who engage with them. Although recent research shows that loot box spending predicts migration to conventional forms of gambling, it is still not clear that engagement with loot boxes causes this migration. If such causal evidence were to emerge, we would strongly encourage stronger age restrictions be enacted to further protect vulnerable players from harm.

4 Establishing fit-for-purpose governance and regulatory arrangements for the Scheme, under a single national regulator responsible for media classification.

4.1 Do you support the consolidation of classification functions under a single national regulator at the Commonwealth level?

Yes. We strongly support the establishment of a single national regulator at the Commonwealth level. We believe that the consolidation of the Scheme at a Federal level will streamline the classifications process, minimise unnecessary reproduction of classifications work, and improve overall efficiency of the regulatory framework in Australia. We estimate

that the provision of a single point of reference for the classification of media will likely assist consumers' decision making processes by simplifying the number of sources they would need to consult when seeking classification advice. We also anticipate that a single classification body, as opposed to a dispersed state- and territory-based system, will be more readily adaptable to the changing marketplace. Additionally, we anticipate the consistent application of media classification regulations across different jurisdictions, in the form of a single national regulator, may further benefit consumer awareness of media classification guidelines, and enhance consumers' abilities to make informed decisions for themselves and their children.

4.2 What key considerations should inform the design of fit-for-purpose regulatory arrangements under a single national regulator model?

As noted in the Public Consultation Paper, there has been a shift in the function of the Classification Board, moving from making primary classification decisions to providing quality assurance of industry self-classification decisions. Moreover, as noted, this trend is likely to accelerate. We concur with this assessment, as there has been a staggering increase in the volume of independent and online-only video game releases, most of which are classified only through the International Age Rating Coalition (IARC) tool. Given this volume, we concur that it is increasingly onerous to review each one, and some industry self-regulation will be required into the future.

However, we would urge the Department to consider increasing the monitoring and enforcement powers of the Classification Board, increasing the ability of the Scheme to regulate inaccurate, incorrect, and misleading industry self-classification decisions. Recent research suggests that industry compliance with self-regulation rules regarding loot boxes has been sub-optimal. For instance, with respect to labelling of loot boxes in video games, a recent study showed that 71.0% of popular games containing loot boxes on the Google Play Store (whose age rating system is regulated through IARC) did not display the required label, making them non-compliant with the PEGI requirements. More concerningly, as of March 2023, the Apple Store still did not allow the display of a loot box content disclosure on its stores (and to our knowledge this functionality remains lacking; Xiao, 2023a). This suggests that attempts to incorporate loot box warnings in other jurisdictions have received sub-optimal compliance rates on online stores where self-classification is the predominant pathway for classifying games. Similarly, where odds disclosures (i.e., the odds of winning specific items in loot boxes) have been mandated for games containing loot boxes, only 5.5% of games displayed these ratings on the loot box purchase page, with many choosing to display odds disclosures on external websites or other locations not easily located by consumers (Xiao, et al., 2021). Further, where bans have been implemented in foreign jurisdictions, they have not always been effective. In Belgium for instance, where loot boxes were banned under threat of an €800,000 fine, research showed 82% of the highest grossing iPhone games continued to generate money from the gambling-like mechanism (Xiao, 2023b). Taken together these findings suggest that greater monitoring and enforcement powers are required in order to ensure adequate compliance with loot box labelling and classification requirements under Australia's new M15+ law for paid loot boxes. Given the extremely large number of mobile and PC game releases, this will likely

require increased staffing to monitor game releases for the presence of paid loot boxes, and increased enforcement powers for the Australian Classification Board to ensure that games developers, companies, and publishers comply with the age-rating requirements for games containing paid loot boxes.

It is also important to highlight that some games involve a complex loot box purchasing environment. In some games, loot boxes are not directly purchasable, but are purchased for some form of in-game currency such as gems, credits, or keys. In turn, some of these games allow the purchase of this currency for real-world money, but not the direct purchase of a loot box. Thus, players are able to purchase in-game currency for real-world money, and then purchase a loot box using this in-game currency. We have even observed multi-currency chains that ostensibly obfuscate the purchasing chain – for example, real money purchases credits, credits purchase gems, and gems purchase loot boxes. In these environments we would urge the Classifications Board to consider these to be “*paid loot boxes*” and require the M15+ classification be applied, despite the fact that a loot box is not directly purchased with real currency. Examples like this highlight how quickly the landscape can shift, allowing certain content to skirt key classification criteria. This further speaks to the need for a responsive Classification Board informed by independent content experts represented on the Classification Advisory Panel or similar body.

In this vein, an important consideration to highlight is that games are no longer static entities. When the Classification Scheme was introduced in 1995, when a game was released, this version of the game would remain the same throughout its existence. This is no longer the case. For many games, post-game patches, fixes, and changes can substantively alter the game in a variety of potentially important ways. For example, we have seen post-game patches offering improvements in graphical fidelity which might plausibly alter the realism of violent content enough to warrant a reclassification of a game to a higher age rating, as well as instances of games which did not contain loot boxes having loot boxes added post launch (Yin-Poole, 2019). We have also seen patches which incorporate loot boxes into games which previously did not contain them. Thus, technological advances have enabled a post-release environment where games can change substantively following release. We would encourage the Department to consider revising the Classifications System to adapt to this post-release environment. We would recommend that the Classifications System adaptation takes three key forms. First, the Australian Classifications Board should allow for review and reclassification of games that have previously passed the rating process in Australia. Notably, this is not unprecedented; for instance, being commonplace in ethics requirements for the responsible conduction of research (National Health and Medical Research Council, 2023). For example, in Australia, research protocols receive approval following review by an overseeing research ethics committee to ensure ethical requirements are met. However, following approval, if the research protocol changes, the protocol is required to undergo a further review as the changes made may materially affect the risks posed to participants. We would argue the same approach could apply here: If an entity changes substantively following an initial classification, it should be reviewed with the potential for reclassification. This process should be made as uncomplicated and effortless as possible to ensure that it does not substantively increase the administrative burden on the games industry. Second, companies should be required to update their ratings in the IARC when new patches are released which make major changes to the game, or submit their changes for review to the Classifications

Board. Third, the Classifications Board should incorporate some form of continual ratings monitoring to re-assess games and ensure that post-game release patches have not substantively altered the appropriateness of the given rating. This could utilise the Classifications Website as a sort of 'living database' of the Classification of each version/build of a game, allowing consumers to make informed decisions not only about which games they feel are appropriate for themselves and their families, but also which *version* of games they feel are appropriate for themselves and their families.

4.3 Is there a role for the Classification Board and the Classification Review Board under a single national regulator model?

As noted above, we feel that there are many valuable roles the Classifications Board and the Classification Review Board may play under a single national regulator model.

4.4 Are there any gaps or unintended consequences that may be caused by consolidating classification functions under a single national regulator at the Commonwealth level?

We believe that the consolidation of classification functions under a single national regulator will be a valuable and important action to streamline and unify the Classification System, allowing it to increase in adaptability to changing market trends.

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