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INSIDE THE GAME: UNLOCKING THE CONSUMER ISSUES
SURROUNDING LOOT BOXES
AUGUST 7, 2019

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1 P R O C E E D I N G S
2 INSIDE THE GAME: UNLOCKING THE CONSUMER ISSUES
3 S U R R O U N D I N G L O O T B O X E S

4 MS. JOHNSON: Good morning, everyone. My
5 name is Mary Johnson. I'm an attorney in the Division
6 of Advertising Practices in FTC's Bureau of Consumer
7 Protection. Thank you for your interest in today's
8 topic, "Consumer Issues Related to Video Game Loot
9 Boxes and Microtransactions."

10 Before we get started with the program, I
11 need to review some administrative details. I don't
12 have a catchy video to hold your attention, so please
13 listen carefully. Please silence any mobile phones
14 and other electronic devices. If you must use them
15 during the workshop, please be respectful of the
16 speakers and your fellow audience members.

17 Please be aware that if you leave the
18 Constitution Center building for any reason during the
19 workshop, you will have to go back through security
20 screening again when you return. So bear this in mind
21 and plan ahead, especially if you are participating on
22 a panel, so we can do our best to remain on schedule.

23 If you received a lanyard with a plastic FTC
24 event security badge, please return your badge to
25 security when you leave for the day. We do reuse

1 those for multiple events.

2 So now some important emergency procedures.
3 If an emergency occurs that requires evacuation of the
4 building, an alarm will sound. Everyone should leave
5 the building in an orderly manner through the main 7th
6 Street exit. After leaving the building, turn left
7 and proceed down 7th Street to E Street to the FTC
8 emergency assembly area. Please remain in the
9 assembly area until instructed to return to the
10 building.

11 If an emergency occurs that requires you to
12 leave this conference center but remain in the
13 building, please follow the instructions provided over
14 the building PA system. And if you notice any
15 suspicious activity, please alert building security.

16 Now a little bit about photos and recordings.
17 Please be advised, this event may be photographed and
18 it is being webcast and recorded. So by participating
19 in this event, you're agreeing that your image and
20 anything you say or submit may be posted indefinitely
21 at FTC.gov or on one of the Commission's publicly
22 available social media sites.

23 Please also note that the microphones in this
24 room on the stage are live. They will remain live
25 throughout the day, even during breaks.

1 We certainly hope that you will have
2 questions for panelists during the day. So please
3 feel free to submit written questions for the
4 panelists during the Q&A segments of each panel.
5 Question cards are available in the hallway on the
6 information table immediately outside the conference
7 room. Also, FTC volunteers will be walking around the
8 room with question cards. So if you need a blank card
9 or you have a written question to submit, just raise
10 your hand and an FTC volunteer will assist.

11 You may also submit questions for panelists
12 via Twitter to @FTC using the hashtag, #LootBoxFTC.

13 Food, drink and other necessities, lunch is
14 available here in the building from 11:30 to 2:00 p.m.
15 And after 2:00, between 2:00 and 3:00, there's some
16 limited hours and services. After 3:00, it will be
17 closed.

18 The restrooms are located in the hallway just
19 outside this conference room.

20 Finally, thank you to everyone who helped put
21 together this event. That includes the staff of the
22 Bureau of Consumer Protection's Division of
23 Advertising Practices, Division of Financial
24 Practices, Division of Litigation Technology and
25 Analysis, and Division of Consumer and Business

1 Education. It also includes staff of the Bureau of
2 Economics and FTC's event planning team, Office of
3 Public Affairs, media team, and security management
4 team.

5 And now, I am pleased to introduce our bureau
6 director to give opening remarks for today's workshop.
7 Andrew Smith is Director of the FTC's Bureau of
8 Consumer Protection. He came to the FTC from the law
9 firm of Covington & Burling, where he co-chaired the
10 Financial Services Practice Group. Earlier in his
11 career, Mr. Smith was a staff attorney at the FTC,
12 where he focused on consumer financial protection
13 issues and led the agency's efforts to make several
14 rules under the Fair Credit Reporting Act.

15 Please join me in welcoming BPP Director
16 Andrew Smith to the podium.

17 (Applause.)

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1 WELCOME AND OPENING REMARKS

2 MR. SMITH: Thank you, Mary.

3 So good morning, everybody. It's my pleasure
4 to welcome you to our workshop, "Inside the Game:
5 Unlocking the Consumer Issues Surrounding Loot Boxes."
6 I probably should give our standard disclaimer that I
7 speak only for myself and not for the Commission or
8 any individual commissioner. But thank you for being
9 here at the Constitution Center or for joining us
10 through the FTC's live webcast. And, also, thanks to
11 those of you following on Twitter.

12 We also thank the individuals and
13 organizations who have taken the time to submit public
14 comments or make suggestions for today's workshop
15 panels. The comment period will be open until October
16 11 and we encourage you to submit written comments on
17 issues discussed in the workshop. You'll find details
18 on how to submit comments on our Loot Box Workshop
19 event web page.

20 So everyone -- children and adults -- plays
21 video games. There's a video game out there for
22 almost any interest, from action and adventure to
23 sports and strategy. The video game landscape has
24 changed dramatically over the last several years.
25 Games today offer rich graphics, sophisticated

1 storylines, and can be accessed through mobile
2 devices, computers, and console systems. By one
3 estimate, more than half of game players play on more
4 than one platform, with mobile being the most common.

5 The popularity of gaming is such that it has
6 become something -- not just something that people do,
7 but an activity that people watch, discuss, debate.
8 Players livestream their video game play, YouTubers
9 and others broadcast shows about gaming, and eSports
10 competitions attract hundreds of millions of viewers
11 worldwide and have prizes in the millions of dollars.

12 But let's get to the issue that brings us
13 here today, the purchase of loot boxes and other
14 in-game items. The ability to make in-game purchases
15 isn't new. It's a feature available over multiple
16 platforms. These purchase options, often referred to
17 as microtransactions, encompass a range of digital
18 items, such as cosmetic skins to outfit an avatar,
19 in-game currency, bundles, upgrades, bonus levels, and
20 containers with random assortments of mystery rewards
21 called loot boxes, loot crates, or loot chests.

22 Alternatively, players may earn virtual items
23 or in-game currency by investing time rather than
24 money, such as hours of gameplay, competing in timed
25 challenges within the game, or racking up bonuses for

1 logging into the game daily.

2 While the rewards may be virtual,
3 microtransactions are a very real revenue stream for
4 game developers and publishers. Game companies report
5 billions of dollars in revenue from such transactions.
6 When it comes to loot boxes and other randomized
7 digital rewards, these so-called surprise mechanics --
8 surprise, here I am -- are not always welcome
9 surprises. There have been anecdotal reports of
10 consumers spending hundreds to thousands of dollars in
11 pursuit of coveted items.

12 Many people have expressed serious concern
13 about whether these mechanics are predatory or
14 contribute to gambling-like behavior, particularly as
15 to children or with people who already struggle with
16 gambling or addictive problems. In addition, do
17 consumers, especially children or adolescents,
18 adequately understand what they're purchasing and how
19 much time or money they're spending? Are the
20 disclosures adequate? For example, disclosures about
21 the odds of obtaining specific loot box items,
22 especially if those odds may change depending on game
23 behavior.

24 The FTC has a long history of looking at
25 consumer issues involving the video game marketplace.

1 We've issued several reports on marketing violent
2 entertainment to children; we've published guidance
3 for parents about video games and kids; and we've
4 carefully examined cases in which there is a potential
5 for consumer injury. Video game microtransactions
6 raise important consumer issues and ones that we look
7 forward to discussing today.

8 So here's today's lineup. This morning,
9 we're going to explore the in-game microtransaction
10 landscape; who plays video games; the history of loot
11 boxes and game monetization more generally; what is a
12 loot box and what are the different types of in-game
13 purchases; how do players make these purchases; what's
14 the role of in-game microtransactions in video games;
15 and other considerations from a developer's
16 perspective, including a small or an independent
17 developer. We'll also hear about what consumers,
18 including gamers, think about loot boxes and concerns
19 about how they are being marketed.

20 To walk us through these issues, we will hear
21 from representatives of two gaming industry
22 associations and an attorney who represents companies
23 in the video game industry. We also will hear from
24 representatives of two consumer groups and from a
25 talent agent who represents online performers and

1 influencers in the video game space.

2 After lunch, we will turn to academic
3 research by four professors, each of whom has
4 approached the subject of loot boxes and digital media
5 from a different angle. A media effects specialist
6 will discuss his research on the associations between
7 loot boxes and problem gaming. A marketing professor
8 will present research exploring whether people who buy
9 loot boxes do so to enjoy the game or to advance in
10 the game.

11 An industrial engineering professor will talk
12 about how to design and optimally price loot boxes
13 from the perspective of the gaming company. We also
14 will hear from a clinical child psychologist who helps
15 parents and children address excessive and problematic
16 digital media use.

17 Our final panel of the day will examine what
18 role self-regulatory initiatives and consumer
19 education can play in addressing concerns about loot
20 boxes and microtransactions. You will hear from the
21 organization that establishes ratings for video games,
22 two consumer groups, and an organization that focuses
23 on problem gambling. They will discuss video game
24 ratings, tools that consumers can use to restrict or
25 monitor in-game purchases, ways to improve consumer

1 understanding and awareness, and suggestions for
2 industry best practices.

3 Our panelists today have a wealth of
4 experience and represent a variety of viewpoints when
5 it comes to loot boxes. We look forward to a frank
6 discussion of these issues and to using the
7 information shared today and on the public docket to
8 inform regulatory priorities, as well as industry and
9 consumer guidance. We have a lot to cover.

10 Before we do that, I want to single out a
11 couple of folks for special thanks for organizing
12 today's program, Mary Johnson, Andrew Wone, Will
13 Ducklow, Rick Quaresima, Patrick -- oh, Patrick, this
14 is going to be tough -- McAlvanah, and Brittany
15 Frassetto from our Bureau of Consumer Protection and
16 our Bureau of Economics.

17 So without further ado, let me turn the
18 podium over to Brittany Frassetto and Andrew Wone to
19 introduce the first panel.

20 Thank you very much.

21 (Applause.)

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1 PANEL 1: TREASURE OR TRIFLE? A MACRO LOOK AT
2 MICROTRANSACTIONS

3 MR. WONE: Okay. My name is Andrew Wone and
4 I'm an attorney in the Division of Advertising
5 Practices. And co-moderating this panel with me is
6 Brittany Frassetto, who's in our Division of Financial
7 Practices.

8 Our first panel today, as Andrew mentioned,
9 is entitled "Treasure or Trifle? A Macro Look at
10 Microtransactions." The panel will explore the role
11 of loot boxes and similar mechanics in the video game
12 ecosystem and the impact of these monetization models
13 on end users.

14 You'll hear from six panelists who will
15 present for approximately 15 minutes. After all of
16 the presentations, we'll take a short break and then
17 proceed with the moderated discussion.

18 And now, I'll turn the microphone over to
19 Brittany who will introduce the panelists.

20 MS. FRASSETTO: Good morning, everyone.

21 So starting to my left and then going down
22 the line is Sean Kane. Sean is a partner at the law
23 firm of Frankfurt Kurnit Klein & Selz and is a
24 founding member of the Video Game Bar Association.

25 Next to him is Jeff Haynes, Senior Editor of

1 Video Games and Websites at Common Sense Media.

2 To his left is Mike Warnecke, Senior Policy
3 Counsel for the Entertainment Software Association, or
4 ESA.

5 Next is John Breyault, Vice President for
6 Public Policy Telecommunications and Fraud at the
7 National Consumers League.

8 To his left is Renee Gittins, Executive
9 Director of the International Game Developers
10 Association.

11 And, finally, we have Omeed Dariani, the
12 co-founder and CEO of Online Performers Group, which
13 represents content creators in the video game space.

14 And Sean will be starting us off this
15 morning.

16 MR. KANE: Thank you.

17 Well, initially, I wanted to thank Mary,
18 Will, Andrew, Brittany, and the rest of the FTC team
19 for inviting me here this morning.

20 So in a way, this is what I call somewhat my
21 mandatory waffle slide. I'm here today really to
22 speak about my own opinions. I've worked in the video
23 gaming industry for over 15 years. I represent more
24 than 100 video game companies, and those companies
25 range from literally one or two people that are

1 creating apps for the app store all the way up to the
2 largest video game publishers and developers in the
3 world.

4 I've literally wrote the book on video game
5 law, so I was thankful to be able to come here today
6 and just talk a little bit about my experience and try
7 to give some background on the history of the games
8 industry when it comes to monetization.

9 So I really wanted to start by just talking a
10 little bit about where we've come because I don't
11 think we can understand the modern concept of loot
12 boxes and microtransactions without understanding what
13 the history of this industry looks like.

14 So the games industry really became in the
15 forefront of, I think, popular culture starting back
16 in the 1970s. I was lucky enough to know the
17 gentleman who basically created the home video game
18 system, a gentleman named Ralph Baer who passed away a
19 couple of years ago. He created the first home game
20 system back in the '60s.

21 At the time, they really had no idea what
22 they created and how it was going to really change
23 popular culture. But once it was created, someone
24 began to start to market it and they began to try to
25 figure out, how can we build an industry around this.

1 Initially, the industry really wasn't
2 home-based. I'm old enough to remember arcades. I
3 spent many, many, many an hour and many a quarter
4 playing games like Pacman and Galaga, and I did it
5 fondly because there was a social aspect of it, there
6 was an entertainment aspect of it. And these
7 particular arcades were a place that people went to
8 have community with like-minded individuals. And we
9 played on very low tech games, and we pumped billions
10 and billions of quarters into this industry. If you
11 look back on it and you adjusted for today's
12 inflation, it's almost \$10 billion was pumped in by
13 the end of the 1970s.

14 But things changed. The consoles that we all
15 went and used at arcades, in some cases, were still
16 there. However, it was the dawn of really home video
17 game systems. There was a shift. If we look at the
18 late '70s into the '80s, there were more than a dozen
19 home video game systems that were launched.

20 I will mention a few of them and I'll be
21 shocked if people remember some of these. But there
22 was the Fairchild Channel F, which came out in 1976;
23 RCA Studio 11, that's 1977; Bally Astrocade, 1977; my
24 favorite and the one that I spent too many hours on,
25 the Atari 2600, also 1977; the Magnavox Odyssey came

1 out in '78; Intelelevision, 1980; and ColecoVision 1982.
2 So the shift became from the concept of an arcade, a
3 place that you would go to see these games, to the
4 home.

5 Now, initially, some of these games were more
6 analog, they were actually built into the systems. So
7 when you purchased that console, you pretty much got
8 all of the games. That quickly changed. Games
9 started to be sold on cartridges and disks as time
10 went on. And those things replaced the concept of
11 putting a quarter in every time you would play.
12 Now, you were paying for those particular discs, you
13 were playing for the particular game that you wanted
14 to play. No one was forced to buy all of them. You
15 bought the game that you felt was going to be most
16 interesting to you, most exciting to you, most
17 entertaining to you. I spent a lot of time trying to
18 jump over crocodiles in Pitfall because that was
19 entertaining to me.

20 Now, in the '90s, we saw things shift even
21 further because the technology increased, the
22 bandwidth started to populate, and we got to a point
23 where we could -- you didn't necessarily have to go
24 buy that disk, buy that cartridge. You can basically
25 start, in a way, downloading certain games.

1 And it was really a wonderful opportunity for
2 hobbyists, people that liked games but wanted to
3 actually create their own games. In fact, there are
4 certain popular games that are out there today that
5 really were launched as modifications to other
6 existing games.

7 And so the downloadable aspect of games
8 launched an entire culture of hobbyist gamers, many of
9 whom stopped becoming hobbyist and became
10 professionals. I'm sure Renee probably has many
11 stories of people that started out modding games or
12 started out creating their own simple games, and then
13 have moved on to create other very popular games, both
14 as independents or potentially going to move to one of
15 the larger publishers or developers. But we also saw
16 the PC market expand significantly as things like the
17 PC culture in the US grew, Windows grew.

18 Now, we get to the 2000s. This was
19 interesting because PC games started to deal more with
20 multiplayer issues. We started initially just with
21 the LAN culture, which basically meant people were
22 coming together and they were all plugging into a
23 local network and they were all playing together in
24 one space. Now, that changed and expanded to also
25 internet-based multiplayer. So people didn't have to

1 be in the same place. They could still be playing,
2 they could still be socializing.

3 We also became, in the 2000s, kind of the
4 beginning of really browser-based games. Now, those
5 were really some of the first free-to-play games.
6 Before that, as I said, the games and discs, they were
7 sold individually. Now, we have a rise of a business
8 model where the games were free. You could go on,
9 anyone could play them that had an internet
10 connection. A lot of those games might have been
11 backed by banner ads or other sort of advertising
12 revenue models.

13 We also then launched into the arrival of
14 really online multiplayer games. I think World of
15 Warcraft is a great example of that. That was
16 probably one of the first that most people, even those
17 who weren't gamers, weren't in the gaming culture,
18 really had heard of. In that particular case, they
19 would still sell an original, the initial game, and
20 then there was expansion packs or subscription models
21 that survived out of that. And that's how the
22 monetization was going for those mostly online
23 multiplayer games. And it was really the debut of a
24 subscription model, people deciding that I'm going to
25 play this game almost daily.

1 Prior to that, there were games that charged
2 by the minute when you were playing or by the hour.
3 That model changed and people started to realize,
4 well, I can pay one set fee and play as much as I want
5 over the course of a month or two months. I know
6 people that have been playing World of Warcraft still
7 for almost 15 years, and they have friends in the game
8 and they have people that they consider family in the
9 game, which are part of their guilds or their clans.

10 Now, we get into the late 2000s and we see
11 the rise of the smartphones as game platforms.
12 Initially, most of the games that were
13 smartphone-based were pay-to-play. You spent 99
14 cents, you spent \$2, you spent \$4.99 to download that
15 game, and then you were able to play that game as much
16 as you want. But we also then had the concept of the
17 "freemium" game, which, again, was a game that was
18 free to play and anyone can play it. Whether or not
19 you choose to spend or not spend is within your
20 decision. And they're monetized by in-app
21 microtransactions.

22 Some of the other panelists are going to
23 really get into what the nature of some of these
24 microtransactions are. So I'm not going to delve too
25 much into them because I don't want to steal their

1 thunder. But, basically, what some of it was there
2 were things like power-ups, there were things like
3 extra lives mechanisms. If there were cool-down
4 timers built into the games, these were ways to bypass
5 them.

6 Really, one of the first games to make the
7 "freemium" model popular was a massively multiplayer,
8 online role-playing game called Maple Story. It
9 released in the US in 2005. So we've been seeing
10 these things as part of our kind of culture now for
11 about 15 years.

12 Once we get past the 2010s, we're getting
13 into more of what the modern situation looks like in
14 the gaming industry, and it was really more games as a
15 service. And they were designed basically to be
16 workable when there was always an internet connection.
17 Because some of the earlier mobile games, really you
18 downloaded them. You could play them. You didn't
19 need to have an internet connection. You didn't need
20 to be connected in any way to the servers once you
21 downloaded it really to continue to play those games.

22 But, now, we have games that are much more
23 interactive and so that consistent connection is
24 necessary. These games have actually started to offer
25 digital assets. These can be consumables and

1 nonconsumables. As the name would suggest,
2 consumables are limited time, maybe one use. They're
3 something that you can use; once you use it, it is
4 gone. Nonconsumable items, as was already mentioned,
5 you have skins, you have different cosmetics, things
6 that once you acquire, your characters, your avatars
7 continue to use them. It allows for customization.

8 And I can tell you, as the son of a
9 14-year-old, customization in games is exceedingly
10 popular and it's something that they do to really
11 interact with their friends. They love to be able to
12 show off some sort of new element that allows their
13 game character to more reflect their own personality.
14 And I think we live in a world right now where being
15 able to reflect your personality is very important.
16 So a new generation is finding new ways to do that.

17 But one of the things that's also come out of
18 this now is loot boxes, and that's one of the reasons
19 we're here to talk about. Loot boxes are interesting
20 because loot boxes are not just things that are paid
21 for; loot boxes can be earned in-game as well. Most
22 games have different sorts of currencies, currencies
23 that are earned and then currencies that can be
24 purchased. And in many games, loot boxes can be
25 accessed using either one of those currencies.

1 Now, the content of a loot box -- in some
2 respects, they talked about surprise. That's a little
3 bit of a misnomer. Not all loot boxes have a surprise
4 element to them. There are definitely loot boxes
5 where players have a very good sense, if not complete
6 knowledge, of what's inside that loot box when they
7 decide to open it. So certain games do have an
8 element of them where there is an aspect of the
9 unknown involving the loot box. But many other games
10 make this known.

11 We also have things that have come out like
12 battle passes and season passes. Now, these are
13 somewhat similar, but battle passes, generally, we
14 look at it from the context of you really know what's
15 in that. You're buying kind of a whole stream of
16 content. It's known content. You have a very good
17 sense of what each one of those things are. They'll
18 be unlocked at different points in the game. So as
19 you progress, as you play more, your character, your
20 account will unlock these different rewards. And
21 those rewards can run the gamut from consumables, from
22 skins, to wholly different aspects of the game that
23 you can then play.

24 One of the first, I think, games that really
25 had that was Valve's game Dota 2. Back in 2013, they

1 released something called "The Compendium," which
2 provided unique in-game content and kind of features.
3 So that was one of the first times we've seen these
4 things. So we're looking at this now -- it's already
5 been in the industry for over 6 years.

6 Now, season passes, the concept behind there
7 is usually more of a discounted package for current or
8 future content. And that content, again, may be
9 unknown. But, again, it'll be unlocked as things
10 progress. One of the games that really started that
11 or put that out pretty early was Rockstar's L.A. Noire
12 back in 2011. So again, that's another thing that's
13 been around in the industry now for quite some time.

14 So one of the things I want to just hit
15 before I run out of time here is, basically, games
16 have really changed over the last 15 or 20 years.
17 Really, these things were much more simplistic, they
18 were linear. Now, they're open worlds. If we look
19 just at something like this, to see the changes just
20 in the imagery of games has expanded to a level that's
21 almost photorealistic.

22 But with that, the cost of games has
23 skyrocketed. Over the last 15 years, your average AAA
24 game, the cost has risen from, say, maybe \$20 to \$30
25 million to over \$100 million, and in some cases, over

1 \$200 million. Because the cost of developing a game
2 with hundreds if not thousands of hours of play and
3 then marketing that game is immense. We put together
4 a slide chart just showing some of the costs of some
5 of the top movies recently and putting them up against
6 some of the top games, the most expensive games, to at
7 least give a level of understanding.

8 And mobile games as well. My first mobile
9 game deals were very small. They were \$5 million, a
10 couple million, in some cases, a couple hundred
11 thousand. And now, they can be \$50 million or more
12 because it's not just the development, it's the live
13 operations of games that costs a lot for companies to
14 create. A quick chart just to show some concept of if
15 we looked at inflation, how much the cost of some of
16 these games would have been even back when they were
17 launched.

18 So the average game today costs about \$60.
19 The average game in June of 2000 was about \$49. If we
20 take that number and look at it for inflation, it
21 really would be much, much higher. That \$49 would be
22 worth about \$120.

23 But, really, in the last 13 years or so, the
24 price of games has not changed. The cost has gone up
25 by about 1,000 percent, but the price of games has

1 remained steady, which is why microtransactions has
2 populated in the industry quite a lot. "Freemium"
3 games, games as a service, they went out there to stop
4 piracy, but they also went out there to try to help
5 bridge the gap between the cost of games and the sales
6 price of games.

7 And I want to basically close by just saying
8 some of the concept of these microtransactions gives
9 players a choice. No one is forced to spend money in
10 a video game that is free to play. They choose what
11 they want to spend and when they want to spend it and
12 how they want to spend it. Effectively, it's a try-
13 before-you-buy model. You get to get out there and
14 play a game. If you like the game and you want to
15 spend money in the game, well, then do so. And the
16 percentage that does is very small compared to the
17 entire percentage of players in that particular game.

18 Microtransactions also means lower costs for
19 everyone around the board and makes these things open
20 to more people who may not have the ability to spend
21 even \$60 right now. Or if we were going to charge the
22 actual cost of development, that number might be more
23 like \$300, \$400, \$500 a game to cover a budget of \$200
24 million.

25 And it also provides parental oversight

1 because, to the extent that people don't realize it,
2 every one of the consoles has parental locks.
3 If parents choose, they can learn more about the
4 consoles, they can learn more about the games their
5 kids are playing, and they can make decisions on what
6 games children should play and whether or not they
7 should spend in it.

8 I wanted to basically stop at that point and
9 just say thank you again very much for having me. I'm
10 happy to answer any questions that we have later on.
11 And I will turn it back over to our wonderful FTC
12 moderators.

13 MR. WONE: Thank you, Sean.

14 Next, we'll hear from Jeff Haynes.

15 (Applause.)

16 MR. HAYNES: Good morning, ladies and
17 gentlemen. My name is Jeff Haynes and I'm the Senior
18 Editor of Video Games at Common Sense Media. It's an
19 honor to be here today to talk about loot boxes,
20 microtransactions, and advocating for consumers trying
21 to navigate this digital landscape of games and apps.
22 This is something that my writers and I deal with on a
23 daily basis when we're evaluating the latest products
24 that are released, so it's great to be able to share
25 some of the expertise and insights on this digital

1 content, which might seem a little odd or confusing to
2 some non-gamers. But don't worry because it's a
3 little confusing at times to some gamers as well.

4 So to try to reduce this confusion, let's try
5 to unpack loot boxes, shall we? So what are loot
6 boxes? The simplest definition that could be used is
7 that they're containers of randomized digital content
8 that hold items of varying degrees of in-game value.
9 That could cover everything from weapons and items to
10 virtual cash, customizable costumes, game characters,
11 and much more. The rarity or associated value of each
12 item within a loot box will vary from game to game and
13 even from mode to mode. So that can make them
14 somewhat unique. It's also one of the reasons why
15 they're known by many different names, like loot
16 crates, price crates, booster packs, lock boxes, and
17 many more.

18 These are frequently earned rewards that are
19 provided to gamers for their in-game play, and they
20 often provide bonuses based on victories or
21 particularly skilled moves demonstrated during a
22 match. Loot boxes can also be purchased by gamers
23 with in-game currency or with real money through
24 in-game stores.

25

1 Now, unlike most video game genres, the
2 current concept of loot boxes, as they're thought of
3 today, is still somewhat relatively new, having really
4 developed over the past 15 years or so. They're
5 descended from treasure chests that were typically
6 found in role-playing games, like Diablo, or massively
7 multiplayer online games, like World of Warcraft, and
8 even earlier, things like Dungeons and Dragons. As
9 players will complete quests, defeat bosses, or
10 accomplish certain tasks, they'd be rewarded with
11 chests that players could use to enhance and improve
12 their in-game character.

13 But it was the inclusion of online access in
14 games, as well as regularly updated content, that
15 helped drive the expansion of loot boxes from this
16 niche feature to where they currently are today.
17 Nowadays, loot boxes can be found in just about every
18 single game genre, especially because developers made
19 a heavy investment into these mechanics in the past
20 decade. Now, that being said, the genres that
21 typically include these systems more than others are
22 collectible card games, first person shooters, sports
23 games, action titles, and role-playing games.

24 But while loot boxes spread across multiple
25 genres, not all of them were handled very well.

1 Unfortunately, poorly-implemented boxes raised a lot
2 of user complaints and issues because some players
3 felt that they had already paid for a game and were
4 getting gimmicky play or were being squeezed for
5 additional content that they had already paid for,
6 meaning that over a few years, a lot of complaints
7 were being levied in forums and other locations.

8 As a result, the video game industry started
9 to move away from this as a response to consumer
10 outrage. As a matter of fact, at this past E3 a few
11 months ago, a lot of developers were announcing that
12 their upcoming games would not feature loot boxes or
13 microtransactions. On the other hand, the mobile
14 industry, which produces dozens of apps a week for
15 phones and tablets, has fully embraced loot boxes as a
16 way to additionally make some cash from consumers.

17 Now, to help simplify some of the loot box
18 distinctions, I'm going to group them into three
19 categories. Before I break them down, I do want to
20 point out something important. Since developers can
21 update and tweak the mechanics of these features at
22 any point in time with a simple update, any or all of
23 these categories could apply to a game with a loot box
24 system at any point in time.

25 So the first category is the cosmetic loot

1 box, which typically provides optional content to
2 gamers that they can choose to use or ignore for their
3 gameplay. Cosmetic loot boxes don't provide an edge
4 to players over their opponents, but, instead, it
5 gives them ways to customize characters, weapons, and
6 in-game expressions, which are also known as emotes.
7 Those are the dances or the faces that are made that
8 you often see in internet videos.

9 Games like Overwatch frequently indicated the
10 kind of item that you received based on an easy-to-
11 understand color scheme. The more colorful the item,
12 the rarer the item happened to be. What's more, some
13 games even let you redeem duplicate items to earn
14 additional in-game currency, so that you could claim
15 gear that you didn't actually have, which would reduce
16 the amount of game time that you would have to play or
17 even cash that you would spend on other content.

18 The second category are mode specific loot
19 boxes. Now, these are usually tied to specific
20 sections of games, like fantasy sports team management
21 modes, and often use baseball card pack presentations
22 to govern the provided content. By opening these
23 packs, gamers acquire characters or athletes, gear,
24 and items of varying quality. These can be used to
25 build their teams or squads into the best possible

1 lineup to play against online opponents or computer-
2 controlled teams. Duplicate items can be saved and
3 used in later matches or sold for in-game credits in
4 the game's auction house.

5 Now, on the plus side, this kind of loot box
6 is entirely optional. You can avoid it entirely if
7 you want to. But that said, some games will award
8 in-game points for packs so slowly that it takes
9 forever for players to actually acquire higher-powered
10 or rarer items. Star Wars Battlefront II is notorious
11 for this, requiring the equivalent of days of
12 consistent play to unlock one character or vehicle if
13 players didn't spend real money to unlock them sooner.

14 The last category is sarcastically known as
15 "pay to loot," and it requires players to pay money to
16 ultimately be successful with the gameplay. This
17 typically occurs in collectible card games, like
18 Hearthstone or Magic: The Gathering, in which players
19 who are willing to spend lots of money on higher-
20 tiered cards or packs, will frequently get a better
21 chance of having more powerful units than other
22 gamers. In other titles, like Call of Duty: Black
23 Ops, some game modes, like "blackout," even restrict
24 access to certain types of gear in the blackjack
25 stashes unless you've already paid for them through

1 the store.

2 In many cases, the options to unlock these
3 items are limited, reduced, or removed, which leads to
4 one of the biggest problems with the "pay to loot"
5 mechanics. These are kind of slot machine style
6 mechanics where paying extra possibly gives players
7 more chances to earn higher rewards. But the
8 developers control both the odds as well as the payout
9 for these items. That tempts players into spending
10 more money for additional chances to win rarer items,
11 which could easily trigger people that have compulsive
12 gambling urges.

13 But even people with restraint can find
14 themselves in fiscal trouble thanks to a separate
15 issue tied innately to loot boxes, which is that of
16 microtransactions. It's important to note that while
17 all loot boxes are microtransactions, not all
18 microtransactions are loot boxes. But consumers that
19 don't pay attention to how much they spend on these
20 smaller purchases can quickly and surprisingly charge
21 hundreds or even thousands of dollars on digital
22 items.

23 So let's quickly explore what these are.
24 Microtransactions are, in their most basic sense,
25 optional virtual goods or downloadable content that

1 can be added to any game for a nominal fee. These
2 include expansion levels, new characters, enemies,
3 game modes, and bonus items. One of the earliest
4 examples of a microtransaction dates back to 2006,
5 where The Elder Scrolls IV: Oblivion offered gamers
6 the chance to buy horse armor for in-game steeds for
7 \$2.50. Nowadays, this content can be sold separately
8 or even packaged together in bundles of like-themed
9 content, such as costumes for characters or bonus
10 materials to give players a head start in their
11 titles.

12 It also covers what's known as season passes,
13 which is something that Sean mentioned, which gives
14 users a chance to buy upcoming content that will be
15 released by a developer at a discounted price.

16 Like loot boxes, these microtransactions can
17 also be broken down into three main categories as
18 well. The first is the optional microtransaction,
19 which gives players the choice to include or exclude
20 content as they see fit.

21 The one area where this gets a little bit
22 dicey is when some games charge a little extra to
23 unlock content that's already on a game disk or
24 included in a downloadable title. Some fighting
25 games, like Ultimate Marvel vs. Capcom, or role-

1 playing games, like Persona 5, kept content locked
2 unless a purchased download code was recognized on a
3 user's account, at which point, the game would reveal
4 those bonus items.

5 That tactic really wasn't popular with gamers
6 and companies were frequently taken to task on the
7 internet. So a lot of games have started to move away
8 from this as a feature because of the negative
9 response from the consumers.

10 The next kind are the pay-to-progress
11 microtransactions. These are mainly baked into free-
12 to-play games, where the basic game is free, but
13 players are charged extra for incentives, in-game
14 items, or to continue playing portions of games. Some
15 people also refer to this as gatekeeping or metered
16 play because developers can sometimes put arbitrary
17 limits on gameplay, like limited turns, character
18 energy, or limited moves that you have before you have
19 to stop playing.

20 If you use up your allotted time, you're
21 sometimes offered the chance to use in-game currency
22 to buy more play. More than likely, you're basically
23 urged to pay real world cash to get additional time
24 sooner.

25 Parents might recognize this tactic from

1 games like Pokemon Go and Harry Potter Wizards Unite,
2 in which you're constantly controlled by how much
3 energy you have to cast your spells or gather your
4 Pokemon unless you go to real world locations to
5 virtually check into areas, like gyms or inns that
6 are designated by the game to gain additional power.
7 Hidden object games also take this tactic by selling
8 more time to solve additional puzzles.

9 The issues here are obvious. Metering the
10 amount of available gameplay time might get some
11 players to put the game down, but these limits don't
12 always have a logical purpose aside from making
13 additional money or slowing some players down that
14 might fly through the available content within a game.

15 Players with these games are also frequently
16 hounded by in-game offers of extra energy or items for
17 gameplay, prices of which can range from 99 cents up
18 to \$100 in some bundles. Worse, these games
19 frequently include ads for other products to gain more
20 time to play. This garners more cash for the
21 developer because of the number of ads viewed, but it
22 also allows them to gather info on the kinds of games
23 that players are engaged in to serve up more ads.

24 Finally, there are the pay-to-win
25 microtransactions, which is a variation of the free-

1 to-play, or "freemium," concept. The most successful
2 games that use this approach, like Clash of Clans,
3 Game of War, or Mobile Strike, tend to have very easy
4 mechanics, which help to get players into the game
5 experience quickly. These include detailed tutorials,
6 colorful characters, and simple controls. The
7 difficulty level ramps up at a relatively slow pace,
8 so players understand how the game play works and how
9 to succeed.

10 Frequently, they offer a couple of practice
11 rounds to build up your confidence about the single-
12 player experience, and then they add in multiplayer
13 after a few rounds, which is where the bait-and-switch
14 starts to occur because this is when they start to
15 offer you the option to buy things to help you win.
16 The problem with this is that instead of setting up a
17 level playing field for all gamers, it blatantly skews
18 the odds in favor of those players willing to pay for
19 a clear advantage.

20 Players who are hardcore fans of a game that
21 are willing to collect everything that is offered,
22 players that have deep pockets or are willing to get
23 themselves in financial trouble, and players looking
24 for an unfair edge will always exploit these options
25 instead of relying upon skill.

1 Plus, these games frequently start by
2 offering limited content for free and charging for
3 more. Developers try to squeeze players, in some
4 cases, as much as they can, while limiting access to
5 new characters, content, or items in some cases.
6 They might also restrict access to players who haven't
7 chosen to buy certain items for certain game modes.

8 So how should consumers protect themselves
9 from these issues? While not all of these options
10 that I'm going to give are foolproof and they can be
11 limited in some scope, there are some steps that are
12 available. First and foremost, consumers should
13 realize that they don't really need to buy any of this
14 content to play a game. There are plenty of great
15 games out there that don't use loot boxes or
16 microtransactions at all and others that include them
17 as options instead of necessities to succeed. And if
18 you feel that someone is getting greedy for your cash
19 as a developer, you can simply choose to delete the
20 game.

21 It's also worth noting that free games seem
22 to have most of the most problematic microtransactions
23 and loot boxes. So easily, paying for games can help
24 minimize some of these concerns. Being a paid
25 customer also gives consumers a better position when

1 it comes to complaining to companies. Both EA and
2 Warner Brothers wound up changing their
3 microtransaction formats in certain titles after
4 players who bought those games had problems with some
5 of the microtransaction and loot box mechanics.

6 And if you're a parent, you can also enable
7 parental controls on devices to reduce the option of
8 one-button payments. Or even better, you can remove
9 the save payment information from your devices
10 altogether. That way, anyone who's tempted to buy
11 something will have to manually input purchasing info.
12 For parents, this would reduce or eliminate surprise
13 or sudden charges on their credit cards. And for
14 other adults, it would provide a moment to step back
15 and decide whether they really need to buy that
16 downloadable content or if they can let it go for that
17 day by itself.

18 Finally, parents can talk to their kids about
19 why they feel that they have to have a certain item or
20 want to spend money on a particular loot box. Not
21 only can this help kids learn valuable monetary
22 lessons, but it might further discussion about what
23 makes a particular game so appealing. From there,
24 parents can establish a plan or even a contract with
25 kids, which can cover everything from screen time

1 limits on a particular game to purchasing sought-after
2 game items as a reward for doing well in school, say,
3 or handling certain chores.

4 I hope I've been able to shed a little light
5 on this complex topic with a quick overview of loot
6 boxes and microtransactions. Thank you for your time
7 and the opportunity to be here today. And I look
8 forward to participating in the roundtable discussion
9 on this topic and other pressing topics in gaming.

10 (Applause.)

11 MS. FRASSETTO: Thank you, Jeff.

12 Next up, we'll hear from Mike Warnecke from
13 ESA.

14 MR. WARNECKE: Good morning.

15 In my presentation today, I would like to
16 share with you what loot boxes are, how they work, why
17 they're in video games, and the steps that the video
18 game industry has taken to make sure that consumers
19 are informed and are able to make good purchase
20 decisions about their gameplay experience. And with
21 this, we hope to provide a good experience not only
22 for consumers, but also to make sure that the wider
23 consumer population is aware of the steps that the
24 video game industry is taking in that regard.

25 So who is ESA? If you go into a Target or

1 Best Buy and you look in the video game aisle, the
2 people that publish those games are our members. We
3 mostly represent the publishers of the AAA titles, the
4 very popular games you play on your console systems,
5 such as the ones on Microsoft, Sony, and Nintendo who
6 are ESA members, as well as those that publish for
7 PCs. We also represent a few publishers in the
8 "freemium" area, although that is a smaller part of
9 ESA's membership.

10 So who plays video games? As was mentioned
11 earlier today, most Americans do. In fact, about half
12 the country does and about half of adults play video
13 games. When I was growing up, one of my earliest
14 experiences in playing video games was with my brother
15 playing Sonic the Hedgehog on the Sega Genesis system.
16 And back then, a game console was essentially a box
17 with an AV cable. It didn't have internet
18 connectivity. And it was a gift you would get from
19 your parents for holidays or for a birthday, and it
20 was something you plugged into the TV. It was
21 essentially an elaborate toy, and that's what many
22 parents viewed it as. It wasn't something that a lot
23 of people played beyond a certain age.

24 But flash forward to today and it's a much
25 different situation. Today, the average gamer is 33

1 years old. And while kids are and always will be an
2 important part of the demographic of our industry,
3 they actually represent a smaller part than maybe
4 people may realize. Only about less than a quarter of
5 the game-playing population is under 18. Most of the
6 game-playing population are adults.

7 So let's talk about what loot boxes are.
8 Loot boxes are a game mechanic where players can
9 obtain virtual items for use within the game. And the
10 way it works is that the player may know the general
11 type of item, but they don't know the specific item
12 until they open the box. Now, if this sounds
13 familiar, it's because it's a mechanic that we've seen
14 before in other contexts.

15 For 75 years or more, Americans have been
16 opening up millions of packages of baseball cards to
17 put together their dream team, to get the players that
18 they root for on their home teams, and to build their
19 collections with their friends. It's a common
20 mechanic that people are very familiar with.

21 So why are loot boxes and in-game purchases
22 in games? As Sean mentioned earlier, games today are
23 not a static item anymore. They are constantly being
24 refreshed and enhanced with online services. When I
25 was a kid growing up and bought a game -- and back

1 then it was Toys "R" Us, when that was a thing --
2 whatever that game was, good or bad, it was only going
3 to be what was in that box. It was not going to be
4 updated; it was not going to be enhanced. It was only
5 what came in that box when you walked out of the
6 store.

7 That is not the case today. Today, games are
8 continually refreshed with new content, with online
9 interactive features, with new experiences. And this
10 is in response to what consumers want. When they get
11 attached to a particular game, they want to continue
12 to have new experiences with it and they want the
13 publisher to keep it fresh and exciting. And
14 microtransactions, such as loot boxes and other
15 in-game purchases, help make that possible because
16 there is a lot of back-end infrastructure to make all
17 that magic happen, so that when a consumer sits down
18 to the game, they get a wonderful engaging experience.

19 And it's important to keep in mind, as Sean
20 also mentioned, that pulling this off is really hard
21 and really expensive. If you look at other forms of
22 entertainment, such as reading a book or going to a
23 movie, there's this concept called forced perspective,
24 where you experience the world based on how the author
25 or filmmaker is directing you to experience it. And

1 that also, of course, applies in many video games.

2 But there's also another type of video game,
3 and those are free world games where you can roam and
4 explore the world all around you. And to be able to
5 pull that off is really hard because you could wander
6 from one territory to another, and you've got to
7 create a credible virtual world that's believable and
8 authentic and fun. And doing that involves a lot of
9 people and involves a lot of time.

10 In fact, the production teams for these games
11 can stretch into the hundreds of people and involve
12 computer engineers, animators, programmers,
13 historians, voiceover actors, writers. It just runs
14 the gamut. In fact, some of our member companies have
15 motion capture studios that rival that used in
16 Hollywood, as motion capture is an important part of
17 some of the high-end animations that you will see in
18 some games.

19 There's also the free-to-play market. It was
20 the summer of 2007 and I was with some of my friends
21 on the National Mall and we were sitting on the grass
22 near the Washington Monument. And one of my friends
23 turned to me and he pulled out his backpack and he
24 showed me this black rectangle. He said, Mike, have
25 you seen one of these? It was the first week that the

1 Apple iPhone had come out and none of us had seen it.
2 We were all excited. We looked at this thing with the
3 colorful icons. I don't think 12 years ago, any of us
4 sitting around there on the lawn near the Washington
5 Monument could have anticipated that free-to-play
6 would be such a huge thing as it is today.

7 It's important to note, though, that just
8 because a game is free to play doesn't mean it's free
9 to make. These games can cost millions and millions
10 of dollars to make. But the nice thing about
11 free-to-play is it gives gamers another opportunity to
12 experience gameplay.

13 There was a demographic of people who would
14 never play, who would never invest the time to figure
15 out the controllers or want to get a game rig to be
16 able to play PC games. But everyone can swipe left
17 and right. And the simple controls that are on a
18 mobile phone suddenly open up an opportunity for
19 people to experience a lot of different games.

20 But what we also discovered, too, is that
21 when people experience games, they want to be able to
22 kick the tires on it and not get caught up in buying
23 something until they have a chance to experience it.
24 So that's one reason why we have these free mobile
25 apps, where it gives you the opportunity to experience

1 that, but also, you have the chance to expand the
2 content if you decide to like it.

3 So what are some common misconceptions about
4 loot boxes? One is myth one, players must buy loot
5 boxes to play. That's not correct; they don't. Paid
6 loot boxes are optional. You can get many of the same
7 or comparable items through diligent game play or
8 through direct purchase of in-game items.

9 Myth number two, all in-game purchases are
10 loot boxes. As has been mentioned earlier, that's not
11 the case. Loot boxes are actually just one form of
12 in-game purchase.

13 And myth number three, loot boxes are unique
14 to the video game industry. As I mentioned earlier,
15 that underlying mechanic is common in baseball cards.
16 And if you go to Amazon, there are literally hundreds
17 of products that have a similar sort of underlying
18 mechanism to them.

19 So what I'd like to do in this next part of
20 the presentation is go through the mechanics of, like,
21 okay, how do you get a loot box, what's it look like,
22 and what's going on. And so what I'm going to do is
23 walk through a few examples and then, hopefully, after
24 the end of that, you'll have a better idea.

25 So loot boxes, you can acquire -- you can

1 purchase loot boxes in basically two key ways. One is
2 with money and the other is with in-game currency.
3 With money, it may be, say, you're playing a
4 free-to-play game. There's the loot box opportunity.
5 It'll be a pop-up, do you want to spend 99 cents to
6 get a loot box? You hit yes, and then it goes ahead
7 and your app store account will be debited for that
8 amount.

9 Now, another approach is with in-game
10 currency. And with this approach, the publisher
11 essentially sells a bucket of play money to the user,
12 and then the user uses that play money to acquire
13 items within the game. And there are a couple of
14 practical reasons for why it's done this way. One is,
15 it would be impractical every time someone does a 99-
16 cent or a \$1 transaction, to have that go to their
17 account because it just would be annoying to have that
18 constantly happen if you wanted to buy a few of them
19 and to deal with all that. And, also, for the
20 publisher. The transaction cost, if credit cards are
21 getting used, would be significant if every time there
22 was a small transaction like that, that that was a new
23 transaction.

24 But there's another reason, too, and that's
25 to preserve narrative integrity. When you have a

1 game, our members try to create games that are
2 engaging and that are true to their world. It would
3 be very weird -- for instance, say you had a game set
4 in ancient Egypt and you wanted to buy a chariot for a
5 big combat that was going to come up and you went to
6 the marketplace in Thebes. You would not want to be
7 buying a chariot for \$2.50 US. It would be a little
8 bit jolting and a little bit odd. So instead, the
9 publisher will make it with a historically appropriate
10 currency, such as a deben of copper, which would fit
11 in more with the narrative of the game.

12 So what I'd like to do now is walk through a
13 few examples of loot boxes in the wild, so you can see
14 what that experience would look like. So the first
15 game is MLB: The Show '19 by Sony Interactive
16 Entertainment. It takes America's favorite pastime,
17 baseball, and provides you the opportunity to manage
18 your own baseball team and all the fun that goes with
19 that, from selecting your manager to building your
20 roster to deciding what features your stadium may
21 have. And in this game, there is an opportunity to
22 get digital packs. And these digital packs allow you
23 to build out your roster. They're not the only way,
24 but they're one way.

25 And so here's an example of -- I'll show how

1 it works a little bit, and then you'll see a video
2 briefly to see the walkthrough. So we're going to
3 select this pack, and you can see it says \$ 1500 and
4 that's for Stubs, the in-game currency. So if you
5 select that, you can go ahead and then you can see on
6 the far side, you see what we call in the industry
7 drop rates, you can see the ratios or the
8 probabilities of getting certain players. And the
9 players that are more desirable, the diamond level,
10 those would be a little bit harder to get than the
11 ones who are more common.

12 Okay. And so you go ahead and select it.
13 And you can also see right next to that there's
14 another button you could push to get the odds
15 disclosure as well. So there's multiple ways of
16 getting that information.

17 It asks if you want to confirm the purchase.
18 You indicate yes. And then there you go, the digital
19 pack, you've now acquired it and it's showing you what
20 you've got, and then you can go ahead and open it.
21 And there, you see the cards you have, and the flip
22 side of that card, you can see the player's stats.

23 And, also, you can see there's an opportunity
24 there to sell it for in-game currency or go to the
25 marketplace. And what that means is, basically, one

1 of the features of the game is you can go ahead and
2 trade cards within the contours of the game, within
3 the game space, not going outside of it, to build your
4 team. And so that's a feature of this particular
5 game.

6 And now, we'll see a short video of that in
7 play.

8 (Video played.)

9 MR. WARNECKE: Okay. So this next one is
10 Forza Street, a game by Microsoft for Windows 10, and
11 it's a racing game. And as you can imagine with a
12 racing game, one of the cool features is being able to
13 acquire a vehicle or upgrade your vehicle to do new
14 things and different things and to impress your other
15 friends in the game. And so there's a mechanic in the
16 game that allows you to -- what are called spins,
17 where you can get a new car for use in the game and
18 you can use the in-game currency to acquire these
19 spins. And so we'll see an example of what that looks
20 like now.

21 (Video played.)

22 MR. WARNECKE: You can see at the end there
23 where the car, it will indicate what you're getting
24 when you get the spin or what it costs. And then here
25 we go with the selection process. And there we are.

1 I'd gladly trade my old Honda Civic for that
2 car. Maybe Microsoft can help me with that.

3 So this last example is from The Sims, which
4 is an iconic property in the video game industry.
5 It's been around for nearly two decades and it's a
6 game where you can become whoever you want to be
7 online and, basically, just go through daily life with
8 other avatars. And it allows for a lot of
9 personalization.

10 And one of the charming features of this game
11 is Izzy's Design Studio, where he will help you look
12 fabulous through developing an outfit for you. And
13 one of the ways he can do that is through new designs.
14 And, basically, this uses a similar mechanic to a loot
15 box. It's not a loot box, but it has the same
16 underlying aspect of buying an opportunity to get
17 content that you know the general type of, but not the
18 specific items of until you go forward. So here you
19 can create a new design. And if you click on the
20 question mark there, it will show you the probability
21 rates of getting various items of rarity.

22 And then we go ahead with the design. And
23 there you go. You could see the fabric and the type
24 of article of clothing, some stars to add some
25 decoration. And then that other thumbs up is for a

1 power or attribute that would apply to the clothing.
2 And if you decide you like some of the clothing but
3 you -- oh, and also, you can see the color bars in
4 there indicate the probability levels in terms of how
5 rare the item is.

6 Now, you can decide that you want to -- maybe
7 you don't like that, you want to keep the dress, but
8 you want to get some other articles or the other
9 features you want changed. You can then get another
10 design with these fashion gems and go ahead from
11 there.

12 So in the last part of my presentation, I
13 would like to talk about transparency and control and
14 what the video game industry is doing to help ensure
15 that consumers have a good gameplay purchase
16 experience and to provide them the information they
17 want as to what in-game transactions they encounter.

18 Now, a little bit later this afternoon, Pat
19 Vance from the ESRB will be going into some of this in
20 a little more detail, particularly the in-game
21 purchases label. But I think it's useful to lay out a
22 little bit of this now, given the conversations we're
23 going to be having between now and then.

24 So ESRB is the game industry's rating
25 authority. And besides having the age ratings, they

1 also provide a number of enhancements to the
2 information they provide to help parents make informed
3 purchase decisions. And last year, they rolled out
4 the in-game purchases label. And basically what this
5 is is if a game has microtransactions and if there's
6 money you spend post-game on things within the game,
7 this in-game purchases label would be disclosed on the
8 box or when you download the game. So it's a signal
9 to parents, who -- for this may be something that they
10 might be interested in.

11 Now, this ties in very well with the spending
12 control features that are on the game consoles. All
13 three of the game consoles have the ability to set
14 spending controls. And that may include, for
15 instance, setting a limit on the amount or blocking
16 purchasing altogether. In addition to the game
17 consoles, I should also note that EA's Origin platform
18 for PC games also has spending control features.

19 And one of the interesting features of the EA
20 approach is that in addition to being able to create a
21 child account, you can also create a separate account
22 for a player account, for instance, for older users,
23 if you want to set spending limits for those
24 individuals.

25 That said, we are doing more. I'm pleased to

1 announce this morning that Microsoft, Nintendo, and
2 Sony have indicated to ESA a commitment to new
3 platform policies with respect to the use of paid loot
4 boxes in games that are developed for their platform.
5 Specifically, this would apply to new games and game
6 updates that add loot box features and it would
7 require the disclosure of the relative rarity or
8 probabilities of obtaining randomized virtual items in
9 games that are available on their platforms.

10 As well, many of the leading video game
11 publishers of the Entertainment Software Association
12 have decided that they are going to implement a
13 similar approach at the publisher level to provide
14 consumers this information and to give them enhanced
15 information to make purchase decisions. And many of
16 the features of those two approaches are quite
17 similar. Again, they would apply to new games and
18 game updates and they would require the disclosure of
19 the odds or the relative probabilities.

20 Now, this approach would also be compatible
21 with the Apple and Google approach on the mobile
22 platform. And we believe that taken together, this
23 provides a comprehensive approach to ensuring that
24 consumers get the information they need so they can
25 make informed purchase decisions when it comes to paid

1 loot boxes.

2 Thank you for your time.

3 (Applause)

4 MR. WONE: Thank you, Mike.

5 Next, we'll hear from John Breyault from the
6 National Consumers League.

7 MR. BREYAULT: Good morning.

8 I'd just like to add my thanks to the Federal
9 Trade Commission for putting together today's event
10 and for inviting NCL to be a part of this event.

11 So the title of my presentation is called
12 "Making Money From GAAS, or Games As A Service." And
13 I would like to talk about consumer protection
14 priorities and issues that we'd like to see the
15 Federal Trade Commission explore.

16 So as was mentioned, I'm with the National
17 Consumers League. I handle our tech and telecom
18 advocacy portfolio. But NCL has been around for 120
19 years. And our mission focuses on everything from
20 food safety, health care, child labor. You name it,
21 NCL has probably advocated for it at some time or
22 another. And this probably dates me, but I have been
23 a gamer since my first console, which was the Atari
24 2600. And so this gives you some idea of how long
25 I've been playing games.

1 So what are we going to look at today? First
2 of all, we're going to look at, what are games as a
3 service? We're going to talk about the scale of
4 microtransactions you've been hearing a lot about from
5 my other panelists. We're going to explore some ways
6 that monetization of games as a service can become
7 predatory, explore some of the concerns we have around
8 the use of in-game currency. And then we'll turn to
9 eSports streaming and how that relates to the FTC's
10 endorsement guide. And, finally, we'll talk about
11 some questions that we hope the FTC will explore as it
12 continues to look into this matter.

13 So first off, what are games as a service?
14 This is a slide helpfully provided by Ubisoft, which
15 is one of the big game publishing houses, in their
16 earnings slides. First of all, in the past, games
17 were hit-driven and cyclical. You saw a few games
18 came out that were big hits and others that were
19 flops. But, typically, consumers would play with them
20 for a few months, and then sort of move on to the next
21 game.

22 What you have now is a recurring revenue
23 business where there are opportunities for recurring
24 purchases through microtransactions, through season
25 passes, et cetera, that you've heard about.

1 In the past, there was low user engagement.
2 The players weren't really interacting between
3 themselves, they weren't engaging on Twitch streams,
4 you didn't have eSports leagues. Today, you have high
5 user engagement where consumers are doing all of these
6 things.

7 You had a console focus. Many of us can
8 remember fondly sort of opening up on Christmas
9 morning that NES or Sega Genesis, in my case, and that
10 was how you experienced games. Well, today, the game
11 is a multiplatform business.

12 I was at a barbecue on Saturday night with
13 some friends and there was 10 kids or so playing
14 Minecraft with each other. Some of them were on the
15 console, one of them was on the PC, the others were on
16 their mobile devices, and they were all playing the
17 same game. That's emblematic of how the multiplatform
18 business model has evolved.

19 We went from being a developer-centric
20 industry, where basically you had developers have a
21 vision for a game and they spend however long they're
22 going to do to develop the game and they put it out
23 there and hope it's a hit. Today, you have a
24 player-centric model, where the games are being driven
25 by feedback from gameplay itself, from attention paid

1 by publishers and developers to the chatter around
2 these games online. And then they are using that to
3 iterate on the game after it's already been shipped.

4 You went from having an experience where you
5 basically interacted with the game itself to a
6 platform experience, where most of the interactions,
7 purchasing of payments, et cetera, are managed by the
8 platforms, the Xboxes and Playstations and Googles and
9 iOSs of the world, not necessarily the publishers.

10 And, finally, the success of games used to be
11 calculated in terms of the number of units shipped.
12 Today, they're being evaluated by the lifetime value.
13 So not only how much you pay to acquire the game, or
14 in the case of free-to-play games, not at all, but
15 then how much value is delivered over the life of the
16 game through things like microtransactions. And these
17 are measured in years, not months.

18 So let's talk a little bit about the scale of
19 microtransactions. This is some research from Juniper
20 Research, who had a very helpful paper called "In-Game
21 Gambling: The Next Cash Cow for Publishers" that came
22 out last year. But total spending on loot boxes and
23 skin gambling is forecast to go up to \$50 billion by
24 2022, and that's up by -- nearly doubling since last
25 year.

1 The chart on the right shows you breakdowns
2 in recurring investment as a percentage of total sales
3 from three of the biggest publishers out there,
4 Ubisoft, EA, and Activision Blizzard. And the yellow
5 part of those charts shows you how much is coming in
6 from player recurring investment. This is the money
7 that consumers pay after they've already acquired the
8 game through loot boxes and microtransactions and
9 other events. You can see that it makes up a very
10 substantial portion of the money that they have coming
11 in.

12 And this is just additional data supporting
13 that point. On the left, you have EA's net bookings
14 for Q4 2018. And you can see the green part of that
15 chart is the live services, the bookings they're
16 getting from microtransactions and et cetera. And you
17 can see that it's grown now for EA to 31 percent of
18 net bookings just over the past three years.
19 Similarly with Ubisoft, you can see it's the purple
20 part of that chart, which shows that these sort of
21 recurring purchases are generating about 69 percent of
22 their digital split and net bookings. And Activision
23 Blizzard, it's very similar. It's not shown here, but
24 nearly 70 percent of their FY 2018 net revenue came
25 from nonproduct sales revenue, microtransactions, DLC,

1 World of Warcraft subscriptions, et cetera.

2 Unsurprisingly, this shift away from that old
3 business model I've talked about earlier to the new
4 business model of games as a service has been
5 incredibly profitable. What you see here is the
6 percentage of EBIT margin for four of the biggest
7 publishers out there, Ubisoft, EA, Take-Two, and
8 Activision, since 2005.

9 So you can see in the first part of this
10 chart that cyclical business model I was talking
11 about. And then what you see is, in 2010, sort of a
12 shift to an unbroken line and increase in
13 profitability. Unsurprisingly, that was when one of
14 the biggest multiplayer games out there, Team Fortress
15 2, started to employ loot box mechanics in North
16 America and Europe.

17 So we've established now that it's a changing
18 industry, that this shift to games as a service has
19 been very good for the industry. So the question is,
20 when does this become predatory? So here in the next
21 few slides, I'm going to apologize because I'm
22 violating the cardinal rule of PowerPoint by putting
23 up word-dense slides. But this is research from Dr.
24 Daniel King and Professor Paul Delfabbro at the
25 University of Adelaide in Australia.

1 And I direct your attention to the
2 highlighted sections, which talks about how in-game
3 monetization schemes can become predatory. They are
4 talking about how they can often be used to disguise
5 the true long term cost of microtransactions until the
6 player has been financially and psychologically
7 committed to a game. And these monetization schemes
8 are often enabled by information asymmetry between the
9 players and the industry regarding things like game-
10 related preferences, how much money a consumer may
11 have spent in the past, their spending habits.

12 Another sign on this, again, is how player
13 data may be used to manipulate the nature and
14 presentation of purchasing offers. For example,
15 publishers in the industry often talk about having a
16 whale. This is someone who is likely to spend a
17 significant amount of money or who has spent a
18 significant amount of money on the game. And so
19 what's unclear is whether that data on how players are
20 likely to spend more money is being used to do things
21 like manipulate odds on loot box drop rates.

22 So of particular concern to us is how this
23 kind of information asymmetry is affecting younger
24 players who may be less equipped to accurately apprise
25 the value proposition of such schemes.

1 So now you may be wondering, well, so what?
2 This is the "so what" slide. It's based on research
3 from David Zendle at York St. John University, who
4 you'll be hearing from later on today. But, again,
5 the highlighted portion talks about the reason that
6 these monetization schemes can become predatory.

7 So, for example, his research has found that
8 older adolescents who spend money on loot boxes may be
9 twice as high to show measurements of problem gambling
10 and that when you are exposed to problem gambling
11 earlier in life, this can lead to potentially negative
12 consequences down the line.

13 So I'd like to turn now to a specific issue
14 that we're looking at, which is the use of in-game
15 currency. As you've heard from the other panelists,
16 in-game currency has proliferated throughout the top
17 games. In FIFA, you've got FIFA coins. In NBA 2K19,
18 you've got VC. In Overwatch, you've got credits. In
19 Fortnite, you've got V-Bucks. In Call of Duty Black
20 Ops 3, you've got Call of Duty points.

21 So the currencies obtained via gameplay or
22 purchase, our concern is that they may obscure the
23 true cost of purchasing in-game content. So does it
24 actually tell you how much you're spending in real
25 money down the line?

1 So this is a screenshot from the store in
2 Fortnite. And what I direct you to is some of the
3 common psychological tricks that you may have seen
4 before in the retail context. When something's priced
5 at \$1.99, you may not think that this is \$2 and be
6 more likely to spend money on it. This is used
7 throughout Fortnite, and I think you see this in other
8 games as well.

9 The problem here is that when you combine
10 this with things like these bonuses that are offered
11 here, it puts a lot of cognitive load on the user,
12 creating a complex exchange rate between digital money
13 and real dollars. And it can make it easy to lose
14 track of an object's real world value.

15 Sorry, let me go back. So other features
16 that I think have been mentioned a couple times in the
17 panel already that are concerning to us are ones that
18 may make it more difficult or frustrating, such as
19 time investments, if you've lost your last life, take
20 something that initially took seconds, like building a
21 new structure in a game, may stretch in the minutes or
22 hours, and it may be impossible to beat the game or
23 even advance without spending money.

24 So now, that we've talked a little bit about
25 our concerns around the use of in-game currency, I

1 want to turn really quickly to eSports streaming and
2 the FTC's endorsement guides. So as you can see from
3 the chart, the eSports market revenue has become more
4 than a billion dollar business. By 2022, it's
5 expected that it's going to go to \$1.8 billion
6 dollars. This is from Newzoo.

7 And in 2017, the FTC did bring enforcement
8 actions against two influencers who were using their
9 YouTube Gaming channel to endorse a skin trading site
10 called CS:GO Lotto without disclosing that they
11 actually owned CS:GO Lotto. So this is important to
12 look at in what has happened since.

13 The eSports market has continued to explode.
14 You see some of the biggest events, like the IEM
15 Katowice and CS:GO tournaments, who are attracting
16 tens of millions or hundreds millions of viewers. And
17 this is comparable, in some cases, to what we're
18 seeing for traditional professional sports. The NBA
19 2018 finals averaged around 17.7 million, and we're
20 starting to approach Super Bowl levels of interest.

21 And this is just some additional data on that
22 point. This chart shows the peak viewerships in July
23 for the top 10 Twitch streamers. We're talking
24 between 150,000 and 300,000 viewers of those Twitch
25 streams at any one point.

1 And this is, unsurprisingly, generating big
2 money. So these headlines speak for themselves. And
3 much of the money that is being able to fund these
4 streamers and these events is being generated through
5 money that is being spent by players in
6 microtransactions.

7 And so in our admittedly unscientific review
8 of top streamers' content for games like Apex Legends
9 and Fortnite, we rarely heard any of them disclosing
10 connections to the publishers. Even in videos where
11 essentially they were showing off that they were
12 opening loot boxes and getting reactions to that, we
13 did not see evidence where streamers were saying, I
14 was given money to buy these loot boxes by a
15 publisher. So the question is, how are they getting
16 all the money to buy these loot boxes? And is this
17 being adequately disclosed in compliance with the
18 FTC's endorsement guide?

19 So I'd like to now turn to some key questions
20 here. Admittedly, there's probably still more
21 unknowns than knowns when it comes to whether and how
22 any of the practices that I've described in this
23 presentation can or should be regulated by the FTC or
24 Congress or anyone else. But I do think that the
25 evidence that's been presented raises a lot of key

1 questions that we think is appropriate for the FTC to
2 investigate.

3 So first of all, are loot box odds being
4 manipulated to incentivize continued play or eventual
5 monetization? I think it's important to put this in
6 context against the baseball card examples that
7 several of my previous panelists have mentioned. When
8 I buy a Magic: The Gathering pack or a baseball card
9 pack at Target, my odds of getting a rookie card or a
10 rare card there are fixed. It's a physical thing.
11 But when you're opening loot boxes online, those odds
12 can be manipulated based on a variety of factors.

13 If that is indeed the case, what factors are
14 being used to influence loot box drop odds? Is it
15 things like data on how players are playing the game,
16 how many available funds they may have in their
17 account, whether they've purchased things in the past?
18 Does disclosure of the loot box drop odds influence
19 player behavior? I was very pleased to hear Michael
20 talk about the announcements about disclosing loot
21 drop box ads. I'm going to be very interested to see
22 if there's data that comes out after that about
23 whether that disclosure of such odds is influencing
24 player behavior.

25 With regards to in-game currency, I think

1 it's important to look at whether the disclosure of
2 cumulative in-game spend in a currency that consumers
3 actually understand would address some of the concerns
4 we raised around the difficult exchange rates and the
5 cognitive load that is put on consumers.

6 And, finally, I think it's important, even
7 though the FTC has taken a look at this issue to some
8 extent in the past, as the eSports marketplace
9 continues to explode -- I don't think anybody is
10 predicting that it won't -- are the leagues, the
11 publishers, and the top streamers complying with the
12 FTC's enforcement guide?

13 Thank you very much.

14 (Applause.)

15 MS. FRASSETTO: Thank you, John.

16 Next up is Renee Gittins from IGDA.

17 MS. GITTINS: Hi. So my name is Renee
18 Gittins, and I'm the Executive Director of the
19 International Game Developers Association. The IGDA
20 is the largest non-profit membership organization
21 representing game developers in the world. And our
22 mission is to support and empower game developers in
23 having fulfilling and sustainable careers.

24 I, myself, am also a game developer. I have
25 expertise in creative direction in engineering, and,

1 of course, I'm a gamer as well.

2 Like our other panelists, I want to help you
3 understand what a loot box is. Unfortunately, there's
4 actually quite a large range of possible variations of
5 what you can interpret a loot box being. Generally,
6 it is considered a consumable item, an on-use, a
7 single-use item in a video game that contains
8 randomized rewards. However, as you'll see from my
9 next few slides, there's a huge range of items and
10 mechanics that can fall under the term "loot box."

11 First, let's look at different ways to
12 acquire these loot boxes. They can be directly
13 purchased for real money. They can be potentially
14 purchased for in-game currency that is either earned
15 or bought. They can also be rewarded for
16 accomplishing feats, for playing the game, for logging
17 in regularly.

18 Once you achieve one of these loot boxes,
19 they can provide various rewards. These include
20 cosmetics that have no effect on gameplay but provide
21 visual benefits; content, such as mechanically unique
22 characters or access to game modes; consumables, which
23 are items that can be used, such as experience boosts,
24 health potions, and other usable items; upgrades that
25 change the gameplay and your ability within it, such

1 as weapons and armor; and, finally, they can also
2 contain in-game currency or duplicate items or items
3 you do not want may be traded for in-game currency.

4 Once you obtain these loot box contents,
5 games handle what you can do with them differently.
6 Some of these contents are locked to your account.
7 You can no longer sell or trade them once you acquire
8 them. Other games allow you to trade these to others,
9 either as gifts or for exchange of other items or
10 in-game currency. Some games, in fact, allow you to
11 trade some of these items for real money as well. And
12 some of them have limitations on when these items can
13 be traded, if at all.

14 When you look at these number of variations
15 -- and this was just a few that I listed -- you will
16 find that with these different types, there might be a
17 number of combinations. At first you might think
18 it's, well, a few hundred. But when you give it a
19 rough statistical analysis, it's closer to 52 million
20 different types of combinations of what could be
21 considered a loot box.

22 Here's an example of complexity in loot boxes
23 in a popular game. This game has two types of loot
24 boxes. One of these loot boxes can be acquired by
25 purchasing an in-game item that gives you access to a

1 progression. This progression has various rewards,
2 including loot boxes along the progression chain.
3 Progress on this chain can also be directly purchased.

4 This game also has a second type of loot box.
5 This loot box is only available through event
6 participation, is provided at random, and cannot be
7 earned or ground out by spending multiple hours or by
8 spending any money. Both of these loot boxes provide
9 permanent cosmetic rewards and ensure that you do not
10 receive duplicate rewards.

11 This game also allows you to sell the loot
12 that you acquire in the second box, which you cannot
13 directly purchase. However, the cosmetic items that
14 you achieve through the purchased loot box or the
15 indirectly purchased loot box are completely account-
16 bound and cannot be traded or sold to other players.
17 Both of the loot boxes do not allow you to have any
18 other method of acquiring that content.

19 This shows how in a single game, there can be
20 multiple uses of things which would be considered loot
21 boxes, even though they have different mechanics. As
22 you can see, this quickly becomes a very complicated
23 space.

24 There are many similar mechanics in games
25 that may be considered loot boxes or perhaps fall

1 under incorrect loot box definitions. As noted by
2 other panelists, loot drops, randomized rewards, are
3 very common in video games and have existed since
4 1980. In fact, random rewards for achievements in
5 games have been in existence prior to video games in
6 pen and paper games as well. And of course, we have
7 seen randomized rewards and physical items as well.

8 Now, there are monetary motivations for
9 adding loot boxes and other microtransactions. Games
10 have cost approximately the same amount for many
11 decades. The average game price has been about \$60
12 for the last two decades. And when you're looking
13 back at game prices in the 1970s, you'll see that with
14 inflation, that would cost well over \$200 today.

15 Game development costs, consumer
16 expectations, and team sizes have grown greatly. As
17 cost of living expenses have increased, game
18 developers require better payments to maintain their
19 daily lives.

20 Also, with the growth of mobile games, we
21 have seen that almost 50 percent of global game
22 revenue comes from mobile games. Consumers do not
23 generally support up-front purchases in mobile games
24 or in any other mobile apps at all. Thus, most mobile
25 apps allow for microtransactions, and that is how they

1 pay the development teams.

2 And here's a graph, as you can see, the
3 comparison of average game price over time with it
4 adjusted for inflation.

5 Implementation costs of changes to any game
6 system can be expensive. If there were to be changes
7 required for game developers, it could affect game
8 development teams, both by requiring them to spend
9 time and effort changing games, but also affecting
10 consumers that work in these established in-game
11 economies. When you've played a game and invested
12 time, money, or emotions in it, having outside changes
13 influence what you've invested in can be a disrupting
14 experience.

15 While large game developers can react rapidly
16 to required changes, small game developers suffer. In
17 fact, I know many developers who released mobile apps
18 on a very quick cadence, and then live off of the
19 backlog of those games slowly trickling in money. If
20 any changes that are made require them to change all
21 of their previous games, then that would cut off their
22 income and require months of development for them to
23 get back on track.

24 We can also note that there are current
25 protections in place to prevent children from

1 interacting with these loot boxes and other in-game
2 purchases. I know that children are a deep concern,
3 particularly for vulnerability, but I think that we've
4 done a very good job in providing protections for
5 them.

6 First, we have COPPA, the Children's Online
7 Privacy Protection Act. This prevents children from
8 under the age of 13 years old for making an account
9 which loot boxes can even be credited. Additionally,
10 online purchases and in-game purchases generally
11 require credit cards, which require you to be an
12 adult, or other 18 plus accounts, such as PayPal.
13 While there is an exception, such as gift cards, these
14 are not as popular and require other outside-of-online
15 and in-game purchases to acquire. Finally, as noted
16 by other panelists, app stores, and consoles have
17 store parent controls.

18 I would like to share some game developer
19 opinions on this subject. Game developers are a wide
20 range of people. Some of them support loot boxes and
21 some of them do not. Some of them love loot boxes as
22 gamers and some feel frustrated by them. I would like
23 to share two opinions on either end of the spectrum.
24 The first will be from someone who supports regulation
25 on loot boxes and the latter will be from someone who

1 opposes it.

2 Here's the first. "Unfortunately, it seems
3 that the industry is having trouble being ethical when
4 there's profit to be made. If someone cannot be
5 trusted to not exploit someone else, then we must
6 place down a regulation to protect others."

7 Here's the second statement. "I do not think
8 it is the government's role to regulate. It should be
9 the industry and consumers that do. It could be a
10 slippery slope that could lead to game censorship,
11 since the gaming industry has and will always be an
12 easy scapegoat."

13 In summary, game development is a complex
14 space and loot boxes and transactions can span a wide
15 range of definitions. There is also a large overlap
16 between loot boxes and established random reward game
17 mechanics that have been present even before video
18 games.

19 Monetization, including microtransactions,
20 has been driven by inflation and increasing player
21 willingness to make up-front payments, particularly on
22 mobile platforms. And there are current protections
23 that guard children from microtransactions and loot
24 box abuse.

25 Finally, game developers are worried about

1 heavy-handed regulation hurting the game industry and
2 their creativity.

3 In November 2018, the IGDA recommended and
4 continues to recommend industry self-regulation
5 combined with proper enforcement of current
6 regulations and protections. We recommended that game
7 studios confirm a commitment to not market loot boxes
8 to children, that they clearly disclose odds of
9 different rewards, and that they work to educate
10 parents on parental controls available. We are
11 proud that the industry has begun to heed these
12 recommendations.

13 I would like to note that game developers, in
14 general, are very passionate people that are working
15 on creating art. I know many game developers, and as
16 a game developer myself, I know that we are interested
17 in exploring empathy and providing emotions to our
18 game players. While there are different monetization
19 strategies, game developers in the end just want to
20 provide joyful and satisfying experiences that make
21 people experience something new in this wonderful
22 medium of games. Thank you.

23 (Applause.)

24 MR. WONE: Thank you, Renee.

25 Now, we'll hear from Omeed Dariani of the

1 Online Performers Group.

2 MR. DARIANI: Hello. So my presentation's a
3 bit different than everyone else's today. Let me tell
4 you a bit about my company and why I'm here.

5 So Online Performers Group is a company that
6 represents content creators. We represent content
7 creators across Twitch.TV, Mixer, YouTube, Facebook,
8 Caffeine. Basically, anywhere that people are playing
9 games and interacting with live content, the talent
10 that's there, we're helping them.

11 So a few of the clients that we manage are on
12 the screen. They're a very interesting group of
13 folks, including people like CohhCarnage, T-Pain --
14 who does not like to be called rapper T-Pain, by the
15 way -- the heavy metal band DragonForce, professional
16 baseball player Trevor May, and the Angry Joe Show.
17 In total, we represent about 70 content creators who
18 have over 50 million followers. And each day viewers
19 watch over 60 years of content created by these folks.
20 So these folks do a tremendous amount of work showing
21 games to people and talking about the game industry,
22 in general.

23 Some notes: We work for content creators.
24 I've worked in the game industry for a long time
25 myself, but we work for content creators exclusively.

1 We don't take money from game companies. We don't
2 accept direct compensation from game companies. Our
3 clients do. We're paid by our clients. Our main
4 goals in the industry are fighting the exploitation of
5 content creators and improving the game industry and
6 creating transparency.

7 So why are we here? So we represent content
8 creators, and in many ways, content creators represent
9 the gaming community. So content creators are a
10 fairly new phenomenon in the industry and they're
11 fans. They start as fans of games, they love games,
12 and their work is born out of that love. And because
13 of that, because of their talent and entertainment
14 value, they gather a following. They gather people
15 who are sort of like-minded and interested in what
16 they have to say. And as they develop, they often
17 become opinion leaders or critics or advocates of the
18 industry. And because of the sort of unique place
19 they sit in the game industry, they're able to speak
20 their opinion very clearly and very transparently.

21 What's really interesting to me, as someone
22 who's worked in the game industry for about 20 years,
23 is that they're making the game industry better. For
24 a long time, the game industry hasn't had a really
25 great way to connect directly with their fans.

1 There's lots of fans, lots of people consuming games.
2 But because these content creators sort of martial
3 millions of fans to one place and their fans tend to
4 agree with them, they become great advocates that can
5 speak directly to game companies.

6 So why we're here today talking about loot
7 boxes is because of some controversy surrounding them.
8 And in many ways, this controversy started with
9 content creators. Content creators, like Angry Joe,
10 who have long been critical of practices that they
11 feel are predatory or not in the best interests of the
12 gaming community, feel a very personal stake in
13 protecting and advocating for content creators.

14 Star Wars Battlefront II was a flashpoint for
15 this last year. And the outrage around that really
16 brought focus to this issue. And what's really
17 interesting to me is this isn't just some angry guy
18 shouting on the internet. People like Angry Joe were
19 able to make change. Very shortly after this video
20 and after this discussion started, EA vowed never to
21 put paid loot boxes in Star Wars Battlefront II. And
22 as you can see, this is what Joe had to say about
23 that.

24 What I think is most interesting about Joe's
25 statement is "we will be keeping an eye on these

1 practices," "giving us what we suggested." He's
2 speaking for the community. That's what he believes
3 and that's what his fans want him to do.

4 So we've got a lot of fantastic people, and I
5 thank everyone on the panel for their contributions
6 and everything wonderful that's been said and will be
7 said later today. We have great advocacy
8 organizations here, but we don't really have a group
9 representing the gaming community. And so I've been
10 asked, which is a really tall order, to represent the
11 gaming community on this panel.

12 Now, the first thing I want to say is the
13 gaming community is huge. Over half of Americans play
14 games. Virtually everyone plays games. So as you can
15 imagine, the gaming community covers every group of
16 people, every age, every socioeconomic group,
17 everything you can imagine. And as you can imagine,
18 they don't all agree. So there are a lot of different
19 viewpoints here, and throughout these slides, I'm
20 going to show you a lot of direct feedback that I've
21 gotten asking questions and talking to people, both
22 through Twitter and through email. The community
23 wants to be heard.

24 Now, the number one thing that I've heard
25 probably in my career in dealing with the community is

1 they don't feel like game companies listen to them.
2 So you can see from these Google autocompletes when
3 people are searching for Blizzard, Blizzard doesn't
4 care, Blizzard doesn't care about customers, EA
5 doesn't understand, EA doesn't care, EA doesn't
6 deserve Star Wars. Ouch. But, really, there's a lot
7 of frustration in this issue from the game community
8 and it stems from the fact that people don't believe
9 game companies listen to them. Having worked at game
10 companies, I know that game companies try to listen to
11 them, but it doesn't always feel that way.

12 The community mostly thinks loot boxes are
13 gambling. So of the feedback that I got, there was a
14 wide variety. But over and over, we had people coming
15 back to this idea that if it's not gambling, it feels
16 like gambling. So even though I think we can pretty
17 clearly say that loot boxes are not exactly the same
18 thing as entering the lottery, not the same thing as
19 sitting in front of a slot machine, they do have some
20 of the same feelings that gambling does. And so even
21 though it's not gambling, it does feel like what I'm
22 calling "gambling within a game system."

23 The community wants to keep kids safe, right?
24 People, I don't know, they like kids. And a lot of
25 the opinions here are rooted in the fact that we see

1 easy opportunities for kids to be taken advantage of.
2 And these are a couple of stories from the BBC talking
3 about exploitation of kids or kids just spending way
4 too much money in games.

5 And I think one of the real reasons that this
6 hits home is, as a parent, you can't watch every
7 minute of every show that your kid watches, you can't
8 sit there while they play every minute of every game.
9 So you're making your decisions sort of on the front
10 end. You're looking at the box, you're looking at the
11 rating, you're looking at the review, and you're
12 saying, okay, this is fine. But then the moment where
13 these sorts of stories happen is inside the game. So
14 it's at a time that the parent can't necessarily be
15 there. And obviously, there are controls for this,
16 but the sensitivity of this kind of thing happening is
17 there. So people are very concerned about that.

18 This is actually an email I received from a
19 guy in Germany. I thought it was really interesting
20 because it really talks through the entire process of
21 the pressures surrounding people. So as was mentioned
22 earlier, a lot of these microtransactions and loot
23 boxes happen in online games. Online games are both
24 competitive and collaborative. And so what he's
25 talking about here that's really interesting is the

1 sort of collaborative nature of pressure.

2 So in being in a clan or a guild, something
3 like that, he wants to do right by the guild. He
4 wants to hold up his end of the team, that sort of
5 thing. To do that, obviously, you need the best
6 equipment, you need to have everything that the highly
7 competitive people have. And, of course, a lot of
8 those things end up in loot boxes or end up in the
9 ultra premium packages.

10 So because of the scope of these, which has
11 been talked about as well, you can see how this
12 pressure comes both from wanting to be the best, but
13 also not wanting to let your friends down.

14 The community wants to get what they paid
15 for. Now, we've heard about the horse armor already,
16 but I think this illustration from Forbes really kind
17 of nails the feeling that the game industry has -- or
18 the game community has. When most of us started
19 buying games, there was this covenant, right? I buy
20 the box; I get what's in the box; that's the game.
21 Maybe there's an expansion, maybe there's something
22 like that. But, ultimately, I know what I'm paying
23 for. I don't have to go out and make an additional
24 purchase or I'm not going to be consistently
25 monetized.

1 So there's already this sort of feeling that
2 comes along with that that is pretty negative. And I
3 think that horse armor really kicked us off on the
4 wrong foot because the DLC was included on the disk in
5 some cases, which meant you were literally just paying
6 to unlock something that you already physically owned.

7 And as we can see, it's a quick progression
8 here. I know a lot of this has been covered already,
9 so I won't talk too much about it. But the way we got
10 to today wasn't overnight, right? You had these
11 microtransactions normalizing through a lot of
12 different games, through a lot of different platforms.
13 They went from sort of console and online games to
14 Facebook, social media games. Everyone remembers the
15 amount of Farmville spam that used to appear in our
16 feeds. And then when we hit social media, we have a
17 lot more refined ability to monetize people, which has
18 kind of led us here to Star Wars Battlefront II and
19 the other modern games we're talking about.

20 I definitely applaud the ESA for that
21 announcement from Sony, Microsoft, and Nintendo as
22 well. That's really exciting.

23 The community, they kind of want regulation
24 of loot boxes. So there's a lot of discussion about
25 how does this happen. One of the things that's really

1 interesting is there's a break between mobile games
2 and other video games. They're sort of regulated in
3 different spots and so far have not been very
4 consistent. So the people that are frustrated, they
5 also have concerns about government regulation, as our
6 first friend has to say here. But realistically,
7 people are looking for some more structure, they're
8 looking for some more guidance. They want there to be
9 more definition around this topic.

10 Now, what do I think? Well, we've touched on
11 this a lot, but I think that all of these things feel
12 like gambling. I've played Magic my whole life, I
13 collected baseball cards, I bought those stupid eggs,
14 every one of those things. But they are all the same
15 search, right? I'm looking for that rare thing, that
16 special thing.

17 With the exception of -- I mean, there's the
18 true surprise mechanic there with the Cracker Jacks.
19 That was the last time I felt like any of these were a
20 surprise mechanic. When I open a pack of Magic cards
21 or pack of baseball cards, I know exactly what I'm
22 looking for.

23 Now, how do we go forward from here? Well,
24 this is a pretty complicated issue, as you've seen.
25 And there are several things that are standing in the

1 way of good regulation here. The first one is that
2 the government doesn't tend to understand games and
3 technology very well. Our elected officials are old.
4 The average congressperson was born in 1961. So
5 that's years before the Atari 2600, 37 years before
6 Google was invented. For a kid who grows up today,
7 Google is just part of your life.

8 The president is six years older than Mr.
9 Potato Head, Mr. Potato Head, being the original sort
10 of loot box, the original DLC for your potato. And
11 he's 69 years older than the oldest iPhone that plays
12 Fortnite.

13 So a lot of the folks that are thinking about
14 this, considering this, it's not their generation
15 that's experiencing it and living it. And I think
16 it's really important that we start talking about that
17 as well. We have younger elected officials coming in,
18 which is wonderful. But there's definitely a long way
19 to go here.

20 So I think the biggest part in sort of
21 removing this frustration that the gaming community
22 has with government and regulation is really changing
23 the tone. Our leaders are often very critical, as
24 recently as the last few days, about video games,
25 blaming them for all sorts of social ills that studies

1 show are just not the case.

2 The other part of this that I think is really
3 concerning was just touched on by Renee, that if we
4 regulate this too severely, so much of the game
5 industry's profit is coming from this area, that
6 regulations here could have a real impact on people's
7 lives, on people's jobs. It could cause some of these
8 companies a pretty serious amount of damage. So it
9 needs to be taken very carefully. It is not a game.
10 These are people's lives.

11 Dialogue is needed because we need to change
12 the tone of this. When you have the President of the
13 United States saying that games create monsters at the
14 same time that our clients and people in the game
15 industry are raising millions of dollars to cure
16 cancer, it just strikes sort of a deaf ear and makes
17 people not feel very collaborative about this. And
18 because of that stuff, I think things like this loot
19 box workshop, panels, these kinds of discussions and
20 dialogue are really positive and really give us a
21 great opportunity to start looking at that game
22 industry properly.

23 So thank you guys for your time.

24 (Applause.)

25 MS. FRASSETTO: Thank you, Omeed, and thank

1 you to all the panelists this morning.

2 At this point, we're going to take a short
3 10-minute break before the moderated discussion. It
4 is about 11:50, so if you can be back here at noon.

5 And if you have any questions that you
6 haven't already filled out, please fill out a comment
7 card or tweet us @FTC #LootBoxFTC. Thanks.

8 (Brief break.)

9 MR. WONE: Okay. Welcome back to the
10 moderated discussion for Panel 1. We've heard some
11 interesting presentations this morning on loot boxes
12 and the microtransaction landscape. And now, we'd
13 like to discuss some of the issues that were raised
14 this morning in more depth and also take some of the
15 questions that we've received from the audience.

16 To start off, we thought we'd start with a
17 question pertaining to EA's announcement. And given
18 their intent for its members to disclose odds for loot
19 boxes, we were wondering, first, whether game
20 developers or publishers used dynamic odds in their
21 loot boxes? And if so, how those odds would be
22 disclosed?

23 MR. WARNECKE: Sure. So speaking to the
24 commitment, the commitment would apply to whatever the
25 particular loot box is. And regardless of the method

1 used to reach the odds, those odds would be disclosed.

2 What I can say on those dynamic drop rates is
3 that there are a lot of innocuous uses for those that
4 are perfectly legitimate, for instance, in a sports
5 game that's mimicked on real world sports teams, you
6 would want to have the players have continually
7 updated stats. And, for instance, if you have a
8 baseball player that had a really good month of
9 gameplay, their overall ranking is going to go up over
10 time. And as that ranking goes up, they will move
11 into higher levels of rarity. And so that is
12 perfectly acceptable.

13 In fact, if you had a sports game and you
14 didn't continually update it to reflect that, the
15 consumers would be upset by that experience. So
16 that's an appropriate use of dynamic drop rates.

17 I'm sorry. Did you have --

18 MR. WONE: I guess, given how would those
19 odds be disclosed? Does the fact that they're dynamic
20 influence how the odds are disclosed to consumers?

21 MR. WARNECKE: Whatever odds are disclosed
22 will be the current odds for that situation.

23 MS. FRASSETTO: All right. So this question
24 I'll initially open up to Jeff, but others can weigh
25 in, just because, Jeff, you discussed this in terms of

1 talking about the various types of loot boxes. So
2 with pay-to-progress or pay-to-win, do you think that
3 those are ever appropriate? And if so, what kind of
4 disclosures would you like to see to properly inform
5 consumers that they'll likely pay those costs or what
6 is the total cost of the game going to be?

7 MR. HAYNES: That gets to be a little bit
8 complicated. Pay-to-win style games, by and of
9 themselves, you're basically walking into a situation
10 where you know the floor is already somewhat skewed.
11 If somebody has more money or they are more willing to
12 get an edge over you, they will have that edge. So by
13 and of itself, you're kind of walking in at a
14 disadvantage. And that almost proliferates an arms
15 war, where it's essentially, I'm not going to have a
16 chance to compete unless I wind up getting certain
17 items or certain gear or I dedicate a ton of time.

18 Pay-to-progress, on the other hand, gets to
19 be a little bit trickier. I think when you get to
20 things like -- especially if you have any parents and
21 you've been subjected to Harry Potter Wizards Unite.
22 I know I've gone to many a park looking for inns
23 because my kid wants to cast spells and the spell
24 energy just constantly runs out, so you're always
25 running to a park.

1 And it becomes this whole situation where you
2 can't really go through all the content, but it's this
3 back and forth yo-yoing of, I only have this amount of
4 time and either I'm going to pay money to go farther
5 or I'm going to have to wait a certain amount of time
6 just to get a little bit further ahead in the game.
7 And in some cases, it's useful at least in metering
8 out what is being done.

9 So if the developers haven't created certain
10 content, they can have additional time so players
11 aren't blowing through everything that's there. And
12 then all of a sudden, they go, I want to move to
13 something different.

14 But in other cases it becomes a problem
15 because it's like, oh, pay this amount of money to get
16 an extra advantage, pay this to replenish everything
17 and go ahead again. And that's where you start
18 getting a little bit of the tax that nibbles away at
19 your bank account.

20 MR. KANE: If I may add something to that.
21 It's interesting because there's two perspectives on
22 this, and so some of the pay-to-play or play-to-win.
23 You've got games that are more individualized and then
24 games that are more multiplayer. And so I know lots
25 of people that'll play something like Candy Crush or

1 one of the other games, where really they're not
2 playing against anyone but the computer and they're
3 still deciding to pay to help solve a level or they're
4 deciding to pay to get another life or whatever they
5 might be buying in that particular game. So for them,
6 it's kind of individualized.

7 But then on the flip side when you have the
8 multiplayer games, some people in the community will
9 actually police some of these play-to-win or
10 play-to-power-up scenarios because just because you
11 have the ability to purchase that Level 99 sort of
12 invulnerability doesn't mean you know how to use it in
13 the game.

14 And then in many cases, you have kind of the
15 community of that game itself self-selecting out those
16 particular players because they feel that, yes, they
17 might be overpowered in certain ways, but don't
18 actually know how to play the game. And so those
19 overpowered things does not actually help them and
20 makes some of the gameplay less entertaining for
21 people. So I think it's an interesting dichotomy.

22 MR. HAYNES: Yeah, that's true. Although
23 there are also -- on the other hand of that, there are
24 the situations where in some games you have players
25 that will, all of a sudden, acquire different

1 characters. For instance, there was a situation
2 within Marvel Strike Force where, all of a sudden, a
3 gamerman should get a character that was basically
4 being eked out in a drop rate of about maybe one or
5 two shards per box. And all of a sudden, this
6 character had it within, say, about a month or two of
7 the game basically being released. And everybody
8 went, wait a second, how did you even do that?

9 And it became a situation where you realized
10 that character was already overpowered than virtually
11 any other character in the game. And it was a
12 circumstance of, well, who wants to challenge this
13 player? Because we already know that the game's been
14 basically broken wide open. This guy will beat you,
15 doesn't really matter. But then is there even a point
16 in challenging that? Or is it something where they're
17 going to have to restrict how they even enter into it?

18 And it becomes a situation where you realize,
19 well, maybe they've got this advantage because they
20 decided just to spend the money for it. And that
21 becomes one where, true, the community will police it,
22 but it also becomes a situation of, do we enter this
23 arms race or do we just abandon it altogether?

24 MR. WARNECKE: Something I'd like to add to
25 that, too, is that when situations like that arise,

1 game publishers are very good about monitoring

2 MR. KANE: Exactly.

3 MR. WARNECKE: -- the in-game world to make
4 sure that there's balance and are constantly making
5 corrections to ensure that the other players have a
6 good experience.

7 MR. BREYAUULT: And just to add one more
8 point, just to underline something Omeed said during
9 his presentation about the impact that multiplayer and
10 being part of a clan, for example, can have in
11 someone's willingness to spend money. I think it's
12 important for the FTC, as it looks into this issue
13 further, to examine -- I know in games that I play,
14 there's a lot of pings and nudges to join a clan or to
15 add my Facebook friends or to create basically a
16 social group within the game, to the extent to which
17 the creation of those social groups and the influences
18 to join clans may be affecting someone's willingness
19 to spend additional money on the game or not.

20 I think it's one issue that, I think, Omeed
21 raised that it's important for the FTC to look at as
22 well.

23 MS. FRASSETTO: Okay. And just as a followup
24 on that, in terms of the disclosures at the outset --
25 and this is open to anyone -- I guess, how would you

1 recommend in a game where it is sort of pay-to-win,
2 you disclose that up-front? Is it enough to just say,
3 in-game purchases as it is now or should there be more
4 of a specific, here's what it costs for XYZ purchase?

5 MR. BREYAULT: So I would say that the
6 current -- while I appreciate the efforts that ESRB
7 has done to try and make disclosures better, I don't
8 think that simply saying on a box that you have any
9 in-app purchases available adequately informs your
10 typical parent or consumer just about the level of
11 investment that goes into trying to get people to
12 spend more on the game or in the app. So I don't
13 think that necessarily just saying that up-front is
14 sufficient.

15 Some ideas that I've seen floating around
16 there which I think are worth exploration are
17 disclosing what is the average spend on this game by
18 people after they acquire it. I think that might be
19 useful in helping consumers understand, okay, chances
20 are that I'm probably going to spend \$10 on this game
21 over the life of the game, or to be really good and be
22 in the top 1 percent, we're spending thousands of
23 dollars on this game. I think that would be useful
24 information in the hands of consumers to help them
25 make a more informed decision.

1 MR. WARNECKE: Something I'd like to add to
2 that, from a parent's perspective, one way that may be
3 simpler, instead of going game by game as to what the
4 anticipated post-purchase expenditure might be, is to
5 just set the spending limit in the parental controls
6 that would apply across all games. It's just more
7 efficient to do it that way.

8 MR. BREYAULT: And there's no reason you
9 couldn't do both.

10 MR. HAYNES: Yeah, I actually would think
11 that, in some cases -- just to build off of something
12 that John said, I think -- having the label that
13 simply says in-app purchases or in-game purchases
14 doesn't fully explain what those purchases happen to
15 be. And so it might be actually worth it to have a
16 web page that actually lists whatever the content
17 might be that parents or consumers could go to to
18 actively see what the content would happen to be,
19 especially in some cases for, say, sports titles,
20 which are constantly updating with content or
21 situations based off of real game scenarios, so that
22 players can test their own skills against what
23 happened in a game.

24 So it might be a situation where it's like
25 score 50 points. Can you score it faster? Can you

1 score it with these players? And at least you have
2 more of a sense of what the in-app purchase or the
3 in-game purchase happens to be, so you always have a
4 sense of how the costs will change. Because setting a
5 limit is fine, but if you realize all of a sudden you
6 need to spend extra to maybe get a certain scenario or
7 get a certain purchase, that spending limit will
8 quickly evaporate, especially if you wind up always
9 paying for a new pack, a new player, a new stadium,
10 something else.

11 MR. KANE: Well, I think we're kind of like
12 looking at a couple different issues here. Because
13 we're talking about certain things about disclosure
14 and whether or not the -- as John said, kind of what's
15 the average player spend. Well, so the real question
16 on that is then, what's the average player? Is that a
17 player that spends or doesn't spend? Because that
18 could really change your numbers right there.

19 But secondarily, Jeff, you're talking more
20 about children or parents and them understanding more.
21 Some of the games that we're talking about here are
22 not games for children.

23 MR. HAYNES: Sure.

24 MR. KANE: Some of these games, basically --
25 we obviously have COPPA that Renee mentioned earlier.

1 Most of the companies here, if they have knowledge
2 that a child is 12 years old or younger and has an
3 account, that game will shut down that account because
4 those particular players, that particular age, is not
5 necessarily welcome within that game. And there are
6 other games we're talking about that are rated by the
7 ESRB as older, mature, that sort of thing. I know
8 kids that play those games.

9 Now, part of this goes back to the parents.
10 Parents need to have an active role in deciding what
11 their children are going to do, if we're talking about
12 children. But it seems like we're talking about all
13 of these different issues right now and everyone's
14 trying to lump them together into one thing and, in
15 certain ways, vilifying these mechanics which are
16 geared towards different types of players in different
17 types of games in different types of scenarios. And I
18 think we need to be really, really clear what point
19 we're addressing to what subgroup within that.

20 MR. HAYNES: I absolutely agree with you.
21 But I think in some cases, just to counter that, there
22 are absolutely certain games -- for instance, to use
23 the MLB: The Show reference, there are plenty of kids
24 that will play MLB: The Show. It's not to say that
25 that game is for mature audiences. It's a baseball

1 game, and so there are going to be plenty of kids that
2 want to get their favorite players, they want to get
3 their favorite packs. Just like with FIFA, you have
4 plenty of players around the world that want to get
5 their favorite football players.

6 And in many ways, even though there are the
7 COPPA regulations that basically say you can't have it
8 if you're this age with this account, it's very, very
9 difficult to also then take somebody and say, but now
10 you need to understand all of the varying little
11 idiosyncrasies when it comes to every single pack,
12 which is why I was saying having an extra page that
13 maybe explains what some of the additional costs might
14 be or what some of the extra packs are also protects
15 some of the developers because at least they could say
16 we listed that there are in-app purchases, here's
17 where you can find them.

18 But then for parents -- because parents do
19 need to have a role in this so that it's not simply a
20 situation where they establish an account, they pay
21 absolutely no attention, then all of a sudden they go,
22 how did I get \$1,000 worth of charges? At least that
23 way they know if my kid is playing baseball, I know
24 that they're playing baseball, it's a safe game. But
25 then I also know exactly what the charge might be if

1 they want to try and find their best players for their
2 particular team.

3 MR. KANE: Yeah. And again, I think the
4 disclosure is wonderful, I think what the ESA is
5 announcing is wonderful. But I always go back to the
6 point where an online shop, like Amazon, or a brick-
7 and-mortar, like Macy's -- I've known people that were
8 compulsive shoppers and they will go out and they will
9 spend their rent money on whatever item they feel like
10 they need to have. Personally, I just don't feel like
11 it's Amazon's or Macy's role to have to step in and be
12 the parental figure and tell these people, you can't
13 buy this. And I think sometimes that's the economy
14 we're dealing with, is that pressure is being put on
15 an industry to take on a role that may not be
16 something they need to take on.

17 Disclosure is wonderful and I think we all
18 need to understand what it is that we're buying. But
19 it's a matter of how you do that. It's a matter of
20 how clear it is and whether or not we're being clear
21 to the industry as a whole across the board or if
22 we're trying to create clarity for one particular
23 outlying individual. And I think we can't do the
24 latter.

25 All we can do is basically put out disclosure

1 that, in as clear sense as possible, makes people
2 understand what they're getting, what they're
3 purchasing. And if they decide to do it because they
4 love that game, then that's their right to do it. I
5 don't think that we, as an industry, needs to step
6 into that parental role, though, because some of these
7 people are not children.

8 MR. HAYNES: Yes, absolutely.

9 MR. KANE: Some of these people are our age
10 and they're spending \$1,000 on a game that they love
11 and this is their way of relaxing after a hard day's
12 work.

13 MR. HAYNES: Absolutely, I completely agree.

14 MR. WONE: Okay. We'd like to turn to ask
15 one of the questions we received from the audience,
16 and this was a question that they're directing to ESA.
17 Will the newly announced standards or policies
18 develop active strategies that parents can use to talk
19 with, educate, or monitor their children? Will it
20 include resource referrals to Gamblers Anonymous or
21 other similar public health organizations?"

22 MR. WARNECKE: So separate and apart from the
23 announcement on the drop rates disclosure, as will be
24 discussed later this afternoon, ESRB will be
25 announcing some greater educational efforts to reach

1 out to parents and inform them about parental control
2 features, including spending limits.

3 In terms of your question about -- what was
4 it, Gamblers Anonymous?

5 MR. WONE: Yes, that's what the person --

6 MR. WARNECKE: So, no, it does not include
7 any sort of hotline for that. ESA's position is that
8 loot boxes are not a form of gambling and that it
9 wouldn't be an appropriate solution to that issue.

10 MS. FRASSETTO: All right. The next question
11 is for Omeed, but, again, anyone can jump in. Someone
12 had talked earlier about online content creators and
13 are they properly disclosing their relationships to
14 the companies. So I'm curious, based on your
15 expertise, do video games pay these content creators
16 to open loot boxes? Do they pay for the loot boxes?
17 And if so, do they, at times, give them better odds
18 than the public at large and how much of that is
19 disclosed?"

20 MR. DARIANI: Yeah, that's a good question.
21 So, yes, companies do pay for that sort of thing.
22 It's pretty uncommon for it to specifically be, hey,
23 just open a bunch of loot boxes. But we've definitely
24 seen that. It happens more in sort of the eSports
25 type games.

1 I've definitely been in a room where a
2 publisher said we could do better odds on the packs
3 that this person opens for promotional purposes.
4 That's only been one time.

5 But, yeah, I think, in general, people --
6 content creators very often open the loot boxes
7 because audiences really enjoy that. It's exciting,
8 right? You don't know what's going to come out. You
9 don't know if they're going to get the rare stuff.
10 And, hey, I don't have thousands of dollars to spend
11 on buying my own loot boxes, so I can watch someone
12 else do it and sort of live vicariously through them.

13 MS. FRASSETTO: And to the disclosure point,
14 I guess, how do content creators go about disclosing
15 all of the various aspects that they're paid at all,
16 that they're paid for the loot boxes, they're getting
17 better odds, things like that?

18 MR. DARIANI: Well, so I've never heard
19 anyone disclose that they're getting better odds. So,
20 in general, content creators are supposed to abide by
21 the FTC endorsement guidelines. For our clients, we
22 are very strict about that. We provide -- obviously,
23 it's in the contracts, in the agreements, it's also in
24 their notes for the activation itself.

25 So you have a tweet, hey, a reminder to put

1 hashtag ad or mention that it's sponsored, things like
2 that. Very important to us because we want to make
3 sure that we're staying on the right side of this.

4 That said, content creators are sort of mixed
5 in compliance here. We see a lot of cases where
6 things are not disclosed properly or disclosed at all.
7 So it's certainly an area where there could be some
8 improvement. But from our perspective, it's a matter
9 of education.

10 What's really interesting about it to me is
11 that content creators are actually, much more so than
12 traditional celebrities or actors or things like that,
13 they're not ashamed to admit that they're being paid
14 for these things. In fact, it's actually a benefit to
15 them in a lot of cases because it's like, look, EA is
16 recognizing that my content has value. They're paying
17 me; they're supporting my channel. Because of the
18 work that we've done, the community that we've grown
19 together with our audience, these big companies are
20 involved now. And that, for many people, can be a
21 source of validation, a source of growth, a badge of
22 honor, that sort of thing.

23 MR. KANE: If I may on that. So we've
24 actually handled several FTC investigations into
25 influencers in this space. And I will say that -- so

1 I've had a lot of experience with the endorsement
2 guidelines. One of the things I will say, a question
3 I get quite a lot, though, is, what really is the
4 required disclosure and how do you go about doing it
5 properly?

6 And that's sometimes a problem, I think, for
7 certain content creators. They don't know whether
8 #Sponsored or #Ad is sufficient or it needs to be more.
9 And does that need to be stated on the screen when
10 they're talking about a particular game and when?
11 Because some of these streams are an hour long or
12 multi-hours long. At the beginning of that stream,
13 someone might say, I've been compensated by EA for the
14 play that I'm doing today or I've gotten this game for
15 free to play this game today.

16 MR. DARIANI: Yeah, and to build on that, not
17 only a course of several hours, but a course of days,
18 weeks, months, years.

19 MR. KANE: Exactly.

20 MR. DARIANI: So if EA gives me a copy of
21 Battlefield 9 and I disclose, like, hey, thanks, EA,
22 for giving me this copy, do I have to disclose it --
23 I mean, I have to disclose it every time I play the
24 game --

25 MR. KANE: But do you have to disclose it

1 every five minutes in a three-hour stream?

2 MR. DARIANI: Yeah.

3 MR. KANE: But what happens if I come in 10
4 minutes in and I didn't see the beginning?

5 MR. DARIANI: Yeah, we had this conversation
6 with a lawyer at the FTC. It was more of like an
7 educational, like fact-finding thing. But he asked
8 the question, which was very good, it's like, how do I
9 ensure that everyone who watches this Twitch channel
10 fully understands? And the answer that I had to give
11 him was, it's impossible. You would literally have to
12 have a platform level solution that is blocking every
13 person coming in, like an age gate, and telling them
14 that this is happening, in addition to having the
15 person talk about it constantly.

16 Because unlike a recorded video, people come
17 in and out, right? So it's not like if I watched the
18 first 30 seconds and then five minutes and then five
19 minutes, I'm going to see one of them. I could just
20 be there for a time where there's no disclosure.

21 MR. KANE: And right now, the influencer
22 can't -- like, Ninja, if he wanted to, couldn't be
23 like, I'm going to put this bar that pops up on Mixer
24 that now says, I'm getting compensated for this,
25 because I don't have control over that platform or the

1 distribution method.

2 MR. DARIANI: Yeah. And even when Twitch
3 does sponsored streams, sometimes, not always, but
4 they'll require that there's an actual badge on the
5 screen, like sponsored by EA or whatever. But that's
6 not always required and that's certainly not a
7 platform level solution. That's they send the image
8 to the broadcaster and the broadcaster puts it into
9 their broadcast.

10 MR. WONE: Okay. We're almost out of time.
11 So just a final wrap-up question to all the panelists,
12 what direction do you see the industry moving towards
13 in the future relating to loot boxes and other in-game
14 purchases and will "freemium" games with
15 microtransactions continue to be a popular model?

16 Whoever would like to go first.

17 MR. BREYAULT: From my point of view, I don't
18 see any reason why the industry would turn away from a
19 game model that is becoming increasingly profitable
20 for them. In terms of the disclosure, just to
21 underline what other folks have said, Michael's
22 announcement on ESA and loot box drop rates is
23 important, and I think it does show that this is an
24 industry, unlike other industries, where you often see
25 people like me criticizing. It's one that does seem

1 to pay attention to its users and react fairly quickly
2 to them. And so for that, I think they should be
3 applauded.

4 But at the same time, I think it's important
5 for the FTC to maintain a close eye on this. This is
6 an industry where, as has been said many times,
7 hundreds of millions of people are playing them and
8 it's generating billions of dollars in revenue. And
9 so to ensure that the industry doesn't take advantage
10 of gamers in its efforts to continue that
11 profitability is an appropriate role for the FTC to
12 take.

13 MS. GITTINS: I think that the "freemium"
14 model is a core part of the app economy, not just
15 within games. We see it in fitness apps and other
16 apps as well. And I think consumers are getting
17 really used to that. It's risk-free for them because
18 they can try out any applications prior to purchase.
19 And when consumers are introduced to games on this
20 "freemium" model, I believe that they begin to expect
21 that on consoles and the PC market as well. So I
22 think we'll continue to see growth in that area.

23 MR. DARIANI: Can you imagine if the
24 "freemium" game model existed sort of in that time
25 period where AOL was just mailing CDs to everyone like

1 every day? I mean, World of Warcraft doesn't make
2 most of its money from the \$49.99 box; it makes most
3 of its money from \$15 a month. You could very easily
4 see a situation where they're just sending those disks
5 to everyone and it's like, hey, just try this for a
6 month and see what you think. But I think download
7 speeds caught up, so that was never necessary.

8 But can you imagine going back to the '80s
9 and telling little Omeed, this game that you're
10 playing could just be free, like it's just free. It's
11 like, oh, my God, how did that even happen? So it's
12 pretty amazing that this business model exists.

13 MR. KANE: I think the industry is going to
14 continue to strive to provide better and bigger
15 experiences to the users and do it in a way that tries
16 to be at a price point that makes the most sense. And
17 I think there's going to be ebbs and flows, there's
18 going to be successes and failures because different
19 methods of monetization are going to work for the
20 industry, but maybe not work for the community. And
21 so there's going to be a learning by both sides. And
22 as technology increases and changes, we're going to be
23 seeing things differently.

24 So personally, I think that all of these
25 issues makes it certain that my grandkids are going to

1 be around still kind of questioning what's new and
2 what's going to happen. It's going to be a great
3 ride, I think, for all of us to see where we're going
4 to go.

5 MR. HAYNES: Yeah, I think it's going to be
6 really interesting, especially since we're on the cusp
7 of a new generation of hardware coming out next year.
8 And I think that there are certain models that work
9 really well. I think sports games really have a
10 pretty good grasp of the loot box mechanic when it
11 comes to certain content. But I think the game
12 industry, in some quarters, are moving away from it.
13 At E3, there were a number of companies that said no
14 loot boxes, no microtransactions in this game ever,
15 and it was this huge flag that they were planting
16 down.

17 And it was one of those circumstances where,
18 I think, some game types or some games genres, that
19 mechanic hasn't worked very well. In others, it works
20 perfectly. And I think sports, especially with it
21 being such a dynamic situation and developers trying
22 to capture that dynamism in game as realistically as
23 possible, it winds up providing that perfect marriage
24 of the two.

25 On the other hand, when it comes to mobile

1 apps, I think there's going to be a larger explosion
2 of that, with possibly the exception of whatever the
3 Google Pass or the Apple Arcade announcements will be
4 and how that will be handled. Because if it winds up
5 being a situation where you pay in for a subscription
6 to have a certain kind of experience without ads or
7 without in-app purchases, that could radically change
8 the landscape of how apps are even being handled and
9 measured with loot boxes or microtransactions going
10 forward.

11 MR. WARNECKE: Few industries innovate as
12 quickly and as frequently as the video game industry.
13 And we're constantly experimenting with new ways of
14 reaching consumers, new ways of providing them a range
15 of experiences. And as Sean mentioned, and I agree,
16 sometimes we get that right, sometimes we need to make
17 adjustments. And I think that that's always going to
18 be the case. And I think consumers want us to
19 continue to kind of push to see what new experiences
20 we can offer and what new ways they can enjoy
21 gameplay.

22 And so I can't say where the direction of the
23 industry is going to go in five or ten years, but what
24 I can say is this. It is a customer-focused industry.
25 And when gamers are upset or have concerns about a

1 particular implementation, there is an incredible
2 feedback loop to the publisher and to the industry
3 about what works, what doesn't work, what can be
4 improved. And so I imagine, regardless of what the
5 technical platform will be for the future, that
6 feedback will continue and the industry will continue
7 to be responsive to the gamers who help support us.

8 Thank you.

9 MS. FRASSETTO: All right. Thanks, everyone.
10 And thanks to the audience for a good morning panel.

11 All right. So we are running a little bit
12 late. I see it's about 12:30, so we still want to
13 give you guys about an hour for lunch. So if we can
14 reconvene for Panel 2 at 1:30, that would be great.

15 Thank you.

16 (Applause.)

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1 PANEL 2: HEAD IN THE GAME - WHAT DRIVES LOOT BOX
2 SPENDING?

3 MR. MCALVANAHA: -- will present recent
4 academic research about loot boxes.

5 This afternoon's panelists include David
6 Zendle from York St. John University, Andrey Simonov
7 from Columbia University, Adam Elmachtoub, also from
8 Columbia University, and Sarah Domoff from Central
9 Michigan University.

10 As with the prior panels, each of you will
11 have the floor for about 15 minutes, and then we will
12 move straight on to a moderated discussion.

13 We're running a little bit behind, so please
14 try and keep to your allowed time and don't get
15 offended if during the moderated discussion session if
16 I have to cut you off.

17 As a reminder, there are comment cards. If
18 you'd like to submit a question to any of the
19 panelists -- we have a paralegal -- you can raise your
20 hands, and the paralegal, Emily, will come over, and
21 she can take them, and we'll submit them.

22 Okay. Without further ado, David, let me
23 turn the podium over to you.

24 DR. ZENDLE: Okay, thank you.

25 Okay, hello there. My name is Dr. David

1 Zendle, and I'm one of the world's leading experts in
2 the potential for harm present in loot boxes,
3 something that hasn't really been covered extensively
4 so far today.

5 And if you're wondering what it looks like to
6 be one of the world's leading experts on this, this is
7 a subset of the journal articles that I've published
8 on the topic this year. They are in what you call Q1
9 journals, which only take the most scientifically
10 valid research. Please believe me when I say I'm an
11 expert about speaking from a position of authority.
12 The stuff I'm saying today is real and it is very
13 worthy of your consideration.

14 There's one clear message that I want to get
15 across today, and it stands in stark contrast to
16 everything we've heard so far, or mostly everything
17 we've heard so far. The message is this, spending
18 money on loot boxes is linked to problem gambling.
19 The more money people spend on loot boxes, the more
20 severe that problem gambling is.

21 This isn't just my research. This is an
22 effect that has been replicated numerous times across
23 the world by multiple independent labs. This is
24 something that the games industry does not engage
25 with.

1 Today, I want to talk about this link and I
2 want to talk about why you should care about it. The
3 reason you should care about it are the two words,
4 "problem gambling." Problem gambling refers to an
5 excessive and disordered engagement with gambling
6 activities that is typically outside of the gambler's
7 volitional control. It is incredibly harmful. It's
8 linked to depression and anxiety. It causes financial
9 distress, the destruction of families and, most
10 importantly perhaps, it leads to people taking their
11 own lives. Problem gambling is the reason why some
12 parents come home at night to find their children are
13 not there.

14 This is so important. It's not something we
15 should trivialize, or laugh at, or compare to baseball
16 cards. This is life or death. That's what I'm here
17 to talk about today.

18 So the reason why problem gambling is such a
19 big topic when it comes to loot boxes and why people
20 care about gambling and loot boxes is because loot
21 boxes look so much like gambling. Both when you're
22 playing on a roulette wheel or when you're opening a
23 loot box, you're wagering something that you have in
24 your hand of value now on the uncertain hope of
25 getting something of greater value later on. It's

1 that reason that loot boxes have tripped gambling
2 regulations in a couple of countries within Europe,
3 because of those formal similarities, and because of
4 those formal similarities, people have been worried
5 for a very long time that loot boxes might act as a
6 gateway to problem gambling, particularly amongst
7 younger and vulnerable populations.

8 We set out to find out more information about
9 this. We started out going to large samples of
10 gamers, big, big samples of gamers, and we found out
11 how much they were spending on loot boxes. And then
12 we measured their problem gambling severity using a
13 standard instrument from the gambling literature,
14 called the Problem Gambling Severity Index. It's very
15 commonly used, very well known for predicting real
16 world things.

17 And what we found was this. So this is the
18 first time we found it. Again, this has been
19 replicated many times across the world. This isn't a
20 new effect. We've known about this for a while.
21 You've got people who have no gambling problems and
22 they tend to not spend much money on loot boxes. And
23 then as people's gambling problems get more and more
24 severe, they spend more and more money on loot boxes.
25 And the effect associated with this is something that

1 we call clinically significant, meaning that it's
2 large enough that people should maybe take notice of
3 it. And you see it again and again and again and
4 again.

5 Now, some people might say, okay, you've got
6 a link between how much people are spending more money
7 on loot boxes and they're more severe problem
8 gamblers, does that show that loot boxes are a gateway
9 to problem gambling? That is one interpretation to
10 this effect. I'm going to go through others. But
11 it's the interpretation that fits with the theory of
12 how problem gambling develops.

13 We know that one of the main pathways to
14 problem gambling is a process of conditioning, whereby
15 the gambler comes to need and expect the excitement
16 associated with the gambling win. So what we think --
17 one of the possible explanations for this effect is a
18 situation in which people are buying a loot box,
19 getting excitement, buying a loot box, getting
20 excitement, buying a loot box, getting that reward,
21 getting that hit, going out into the real world,
22 seeing something that has many of the formal
23 characteristics of a loot box, like a slot machine,
24 and that conditioning transfers over. So therefore,
25 spending money on loot boxes, literally causes people

1 to engage in gambling, leading to problem gambling.

2 However, one thing to note about this is that
3 it's a correlation. And because of that, we can't
4 determine the direction of causality from it. We
5 won't know this direction of causality for many years,
6 by which point, one could argue, the damage has been
7 done. This might also indicate a relationship that
8 flows the opposite way, where people who already have
9 severe gambling problems spend more money on loot
10 boxes because of whatever is driving those gambling
11 problems. And that's a theoretically valid
12 explanation as well, because after all, problem
13 gambling is a state of affairs in which an individual
14 is engaging in excessive and disordered spending on
15 gambling activities that are beyond their volitional
16 control. They can't control this.

17 So you could be out spending, spending,
18 spending, spending, spending on slot machines
19 uncontrolled. And then you go home, you switch on
20 your favorite game and you see something that looks a
21 lot like a slot machine, so you start spending on
22 that, too. We don't know which of the cases is true.
23 We don't know which of these is right. But we think
24 that in either case, it's a clear cause for concern
25 and it's not something to be trivialized.

1 In one case, you have a mechanism in games
2 that many children do play, that is literally causing
3 a state of affairs which is enormously destructive.
4 And if loot boxes do cause problem gambling, we're
5 looking at an epidemic of problem gambling, the state
6 of which the world has never seen.

7 But in the other case, if that's not true,
8 and I'm totally open to that not being true, totally
9 open to the other state of affairs being the case, if
10 that's true, then you've got a system in which games
11 companies are differentially profiting from the most
12 vulnerable of their consumers. Problem gamblers
13 already have enormous issues going on in their lives.
14 They don't need to have their money taken away from
15 them through this as well.

16 So that is -- you'll notice at the top, there
17 are URL links. Those will link you to each of these
18 studies. But more than that, they'll link you to the
19 data for each of these studies.

20 I adopted a process called Open Science.
21 It's a set of practices, one of which is that I always
22 openly share all of my data. If you want to have a
23 look at the data for these studies, if you want to see
24 what it's like, it's out there. It's free for you.
25 Go have it.

1 And other people have been having it and
2 they've been finding similarly worrisome things. This
3 is a study by Aaron Drummond and Jim Sauer out of New
4 Zealand, where they sort of looked at how much money
5 problem gamblers were spending by reanalyzing our
6 data, which is available freely to anyone who wants
7 it, and they found that problem gamblers were spending
8 enormous amounts of money on loot boxes and suggested
9 that maybe setting limits might be a good idea.

10 But beyond those effects I've talked about,
11 there's one very important topic, which is children
12 and adolescents. So contrary to what you may have
13 heard, a recent study conducted by the government in
14 my country, in the UK, the UK Gambling Commission,
15 found that as many as a third of children aged 11 to
16 15 had opened a loot box, which was alarming. It's
17 alarming because we know that engagement in gambling
18 activities in childhood and adolescence is a key
19 driver of gambling problems in adulthood.

20 We don't know why children and adolescents
21 are particularly vulnerable or susceptible to the
22 development of gambling problems. Some people say
23 it's because it's a turbulent social time and they
24 find gambling as a means to cope with that. Other
25 people say, oh, there are neurodevelopmental

1 explanations. It has to do with brain plasticity.

2 But for whatever reason, they're very vulnerable.

3 So we set out to find out if the same link
4 between problem gambling and loot box spending existed
5 in adolescents as well. And guess what? It does.
6 In fact, it's much, much stronger than in adults.
7 This isn't new research. This has been out for a
8 while. So you have the same relationship replicated
9 in adolescents, but that's no surprise because this
10 replicates everywhere.

11 Another interesting thing we did was we asked
12 those adolescents why are you buying loot boxes? And
13 they gave us a number of answers, some of which you
14 might have predicted. Others of which, you might not
15 have predicted. When I read out these things, bear in
16 mind, these are older adolescents. They're aged 16 to
17 18. These are teenagers.

18 So some of them say things like gameplay
19 advantages, which you might have seen coming. I feel
20 pressured to get new gear, continue to compete with
21 the ever-changing boundaries of what's classed as good
22 gear, new gear is constantly -- is added constantly,
23 and thus, gear quickly becomes outdated. Or I enjoy
24 the game. I compete with friends. I don't want to
25 fall behind them. You cannot be competitive at NBA

1 2K19 or FIFA 19 without them. This is the sort of
2 stuff we might have predicted.

3 But we had other responses as well. And the
4 papers are out there. All these papers are freely
5 openly available. You can get access to them if you
6 want to. Lots of the adolescents said that they were
7 opening loot boxes for the fun, excitement, and
8 thrills of opening the box itself.

9 Here's a quote, bear in mind, this is a
10 minor. "Shit just feels good, man. Seeing other
11 people opening hundreds and you get a few of that
12 feels good and keeps me goin'."

13 Here's another one. "Because it's addicting
14 and thrilling reaching into the unknown." Some of
15 them talked about the gambling feeling associated with
16 loot boxes.

17 So this brings me to the subject of Kinder
18 Eggs, if you're at the UK and EU, or baseball cards,
19 if you are in the US. I used to have a lot of
20 sympathy with the argument that loot boxes were just
21 like baseball cards. I don't have any sympathy
22 anymore. And that's because whilst you might be able
23 to point to similarities between loot boxes and
24 baseball cards, you can also point to differences.
25 And I'm increasingly coming to see the baseball card

1 line as a method by which the industry, like a stage
2 magician, draws our attention towards something,
3 whilst distracting it from something else.

4 So sure there are similarities. But here's a
5 difference for you. Loot box spending is linked to
6 problem gambling. Here are other differences for you.
7 Can you imagine anybody saying that about Kinder Eggs?
8 It's a ludicrous argument. We've never determined
9 what's safe before by looking at the similarities
10 between it and something else.

11 Say I run a cinema and I serve Coca-Cola to
12 all my customers. Coca-Cola is a thick, black,
13 viscous liquid, full of energy, and I sort of got a
14 great deal on engine oil. And I said to you, oh, I
15 know what, I'm just going to swap out the Coca-Cola in
16 people's cups with engine oil because it's similar in
17 that it's also a thick, black, viscous liquid.
18 You'd have me arrested. That's never been how things
19 are done. You can't say something is safe because
20 it's similar to something else.

21 Let me move on and talk about the features of
22 loot boxes. There's some people who would tell you
23 that loot boxes that are only cosmetic, contain only
24 cosmetic items, are in some way harmless. That's a
25 common opinion you'll hear from people.

1 We were asked by the Australian government --
2 I present this research to governments quite
3 regularly. I've presented to the Australians. I've
4 presented to the UK Select Committee, in our own
5 parliament. And the Australians said, are there any
6 particular types of loot boxes that are harmless? So
7 we went out and did something called a moderation.

8 And by the way, this is the basic effect.
9 This is the problem gambling severity people who
10 engage early in unpaid openings versus who pay to
11 open, and people who pay to open loot boxes have more
12 severe problem gambling. But that's what you'd
13 expect, because that's what everyone sees whenever
14 they try and run this analysis.

15 We tried to do something else, where we tried
16 to see if certain features of loot boxes strengthened
17 relationships between spending on them and problem
18 gambling. And we essentially found that no matter
19 what kind of loot box you had, it was linked to
20 problem gambling, whether it was cosmetic or pay-to-
21 win.

22 It's an early exploratory analysis. There
23 were some small effects in there. But, generally,
24 what we seem to be seeing is that there's something
25 specific about the loot boxes.

1 That brings me to my final slide, which is
2 about the prevalence of loot boxes. Loot boxes are an
3 extraordinarily popular way of making money in games.
4 They're in a lot of games. It's quite hard to find
5 out what games have loot boxes, because they're not
6 sort of labeled very clearly. So we went through, we
7 just tried to find out how many games they were in.
8 We went through the highest-grossing Google Play games
9 in the UK. I imagine this is analogous to a situation
10 you have in the US. We found that 54 percent of those
11 top 100 -- 54 percent of that top 100 had loot boxes
12 in, the top grossing games.

13 But sort of, perhaps worryingly, 94 percent
14 of those games with loot boxes in were PEGI rated,
15 which is our rating system -- it's analogous to the
16 rating system you have over here -- were rated as
17 being suitable for 12 or above. So there are lots of
18 loot boxes in games that are played by children. And
19 there's clear evidence that there's the potential for
20 harm in them.

21 Again, we don't know if it's that the loot
22 boxes are driving problem gambling or if it's that
23 problem gamblers simply are drawn to spend more on the
24 loot boxes because something to do with them. But in
25 either case, it's extremely worrying.

1 I'm here today, I'm aware that there's a lot
2 of industry people. We could get this wrapped up. We
3 could find out which of these is the case if you would
4 work with us. There are people out here. We're not
5 mobsters. We want to work with industry. But in
6 order to answer these questions, in order to find out
7 which way the relationship goes, people need to share
8 that data with us.

9 You have terabytes of data on users'
10 interaction and user spending. That stuff is what we
11 need to find out which is happening, and it's just not
12 being shared. So please share it before someone
13 decides that the enormous self-regulatory powers that
14 you've been given are something that you're no longer
15 worthy of holding, which is a very real scenario.

16 That's me. Thank you for listening.

17 (Applause.)

18 MR. MCALVANAHA: Thank you, David.

19 Next, we'll hear from Andrey Simonov.

20 DR. SIMONOV: All right, thanks, Patrick.

21 And hello, everyone. It's a pleasure to be here.

22 So I'm Andrey. I'm on the faculty of Columbia
23 Business School and -- where is clicker? This one?

24 MR. MCALVANAHA: Yeah, that's it.

25 DR. SIMONOV: Oh, wow. Hmm, okay, let's try

1 it. All right, here we go.

2 All right, so I'm Andrey at Columbia School.
3 And the work I'll talk about today was with Tom Romano
4 from Harvard. So Tom is also in the audience here.

5 In some ways, this paper relates a lot to
6 kind of the topic of this panel and the question the
7 panel asks. And I'm really glad that David had a talk
8 about his paper or his work before us because it
9 really highlights how many different perspectives on
10 loot boxes there are out.

11 So where this paper is starting is we're
12 trying to summarize all the different views we heard
13 about loot boxes in two separate buckets. One is that
14 loot boxes are really useful for gaming, and they
15 enhance gaming. And this is that, it's voluntary to
16 use these items and people can choose them because
17 they'll go to the game and these items help you to
18 make progress in the game. So it's part of the video
19 games developers work on.

20 For companies, it's a great way to monetize
21 the games. And companies have been struggling with
22 this a lot. We heard about fixed costs involved. And
23 this is one of the forms of bundling that these ways
24 you can do pricing. So Adam will talk more about this
25 after me.

1 For consumers, it's a great chance to obtain
2 useful items in the game. So if I'm stuck on a
3 particular stage, I want to make progress, it's
4 somewhat useful to open a lottery, and with a large
5 probability I'm staying in the same spot, but there's
6 a small chance I'm just jumping to a very different
7 productivity curve. So there's the same economic
8 arguments which were about lotteries in the '60s and
9 '70s in the US. So that's one view on loot boxes.

10 A different view is that while loot boxes
11 look a lot like gambling in a lot of different
12 features -- so you have to buy some currency. It's
13 in-game currency, but it's often purchased. It's a
14 chance to obtain the item. So even though we're sad
15 that consumers could get direct utility -- so in the
16 first story it was utility for playing the game,
17 maybe consumers just play loot boxes because they get
18 some utility from a risk. Utility like indirect --
19 like utility from getting excited about the risk.
20 And this is really problematic because this is
21 the same as casinos, and it can lead to problem
22 gambling, to addiction, and to all stories like
23 this. Particularly, it is concerning for minors
24 because kids play video games a lot.

25 So what we are trying to do in this paper is

1 to really separate out these two views on loot boxes.
2 One is -- our question is, how much people play loot
3 boxes because of the in-game functional value, that
4 like the items you get will enhance this gaming
5 utility, and how much they play just for the sake of
6 playing the loot box and getting this maybe like risk
7 preferences, like some draw of behavioral utility from
8 opening a risk.

9 So that's where we start. And a second way,
10 so if we show there is some preference for loot box
11 which is direct, now we might ask, okay, how much
12 addiction there is, how much problem gambling we can
13 detect about this in the data? So is there some habit
14 formation? I play more today -- I play today and I
15 play more tomorrow because of this. How much of it is
16 moderated by the variance of loot boxes related to
17 variable schedule reinforcements? And then do people
18 open loot boxes in certain conditions, like cue-based
19 consumption?

20 Okay, so this will be an empirical paper. We
21 actually have data from a large video game company in
22 Japan and it will be able to separate this out in some
23 way. But to get us started, to get us thinking on how
24 -- like what it means to separate this question, let
25 me show you a very simplified version of the theory

1 model just to get intuition or to imagine. Given it's
2 a video game conference, we'll call it a toy model.

3 So there was a consumer who wants to play a
4 game and also open loot boxes. One period, he makes
5 two binary decisions. Do I play the game and do I
6 open the loot box? If consumer plays the game, he
7 gets the utility from the game. One is alpha G, which
8 is I just enjoy playing the game whatever. Another is
9 beta, I also enjoy the game more if I win a particular
10 stage in the game. Okay, so there is probability to
11 win. Note that it also depends on YL, which is do
12 they open the loot box or not. So that's my utility
13 of playing.

14 If the consumer opens a loot box, he or she
15 also gets utility. So it was direct utility from a
16 loot box, alpha L, which is potential as a risk
17 preference. I need to pay a price, P, and I don't
18 like to pay money, so there is marginal disutility of
19 money. That's one part of why open loot boxes. But,
20 also, if I open a loot box, there is a chance I get an
21 item which helps me to advance in the game. So with
22 some probability, my -- this probability to win
23 becomes higher because I have this new item.

24 So the goal of the paper is really to
25 separate out those two stories. And from the model,

1 we want to show do people play loot boxes because it
2 enhances the probability of winning, so it was a beta
3 factor. And if that's the story, we should see that
4 people will open loot boxes at the moment when the
5 marginal return of having this extra item is the
6 highest. In other words, if I really don't play so
7 well at this stage and an item in the loot box will
8 help me, that's the moment I want to open the loot box
9 and get the item.

10 Okay, if the second story is saying this
11 alpha L is just my preference for gambling, then it
12 shouldn't really be correlated with do I lose in the
13 game, do I win in the game. I should just be opening
14 loot boxes quite a lot in general and get this utility
15 from loot boxes. Okay, so the basic intuition what
16 we'll be looking for in the data.

17 So the data we get is from a Japanese mobile
18 video game. And to kind of simplify it, which
19 simplifies our story in some way, is that you think
20 about it as some version of Candy Crush. So there is
21 not much social interactions. People open loot boxes
22 mainly for functional value of the items, so it's not
23 -- it's not about skins. It's really about these
24 characters will help them to progress in the game. We
25 can extend analysis to social interactions, but this

1 helps us to simplify. And so we'll be able -- having
2 the data, we'll be able to measure what is the return
3 of having each character to make progress at each
4 stages of the game.

5 Okay, so let me tell you a bit more about the
6 game description to get a sense of what is the
7 context. It's a popular mobile game in Japan. It's a
8 puzzle game where you have to -- there are a lot of
9 stages you make progress in this game. Every stage is
10 what's called a battle. And when you do this battle,
11 you need to use your skill to play, but you also need
12 to use some kind of in-game characters. To acquire
13 in-game characters, you can play a lot and get them or
14 you can open loot boxes and have a chance to get a
15 good character.

16 And then characters differ in the quality.
17 Some characters are better than others, but also in
18 how they specialize. So which helps us as the game
19 progresses, stages becomes increasingly hard and it
20 requires often different quality of characters, but
21 also different specialization. So we can easily see a
22 moment where I play amazingly at stage 50, but at
23 stage 51, suddenly I get a very different set of
24 characters. And if it's a functional value of loot
25 boxes, that's the moment I would want to open them and

1 to get this thing. So it covers -- will give us some
2 indication for how it matters and different things.

3 Okay, so a bit more about the data. We got a
4 subset of individual level, very detailed data from
5 this mobile game company on how people play and how
6 people open loot boxes. We have a sample of around
7 800,000 different users. To highlight some of the
8 things we have in the data, we have different metrics
9 of player success. So one, I'll show you in a bit is
10 like what a score of the player and how many stars
11 each score gets in a round. That's a very important
12 metric for these players.

13 We can see which characters they used once
14 they played the game. So from this, we can see, well,
15 if I use a particular set of characters, how
16 successful it was. So we can measure production
17 function of having an extra character, how much extra
18 scores I will I get. It also allows us to identify
19 the moments in the game where the set of characters I
20 have now is not really satisfactory. That's the
21 moment I would want to open loot boxes for functional
22 value.

23 We see loot box realizations and distribution
24 of outcomes of loot boxes. And in this game, the -- I
25 think the regulation in Japan requires you to post

1 probabilities. So for all the loot boxes, there was a
2 probability for every character which is in the game.
3 So we see what the probability is; we see which
4 characters who you get. We know what is the actual
5 realized distribution.

6 From this, we can compute what is the
7 expected value for a player to open a loot box. So
8 because we know how I play the game, how good the
9 score is, I know what is all distribution of
10 characters in a loot box, I can measure if I open it
11 with which chance I will be better in the game or not.
12 So that's how we match the functionality of this
13 thing.

14 And then we have data on actual spending in
15 the game, both in-game currency and how they will
16 purchase this currency with real money.

17 Okay, so let me -- basically, I'll share at
18 this stage, so we're still -- the main results we're
19 still working on. So I'm not sure we're ready to
20 share the main kind of analysis of the full model and
21 everything else. But let me show you our results on
22 the moderated question which we started with.

23 So do people tend to play more -- open loot
24 boxes more at the moment when they start losing the
25 game? So as we would treat it, we have different

1 metrics of success. So maybe the success is you
2 advanced to the next stage. Maybe the success is you
3 have to pay something to keep playing the stage and
4 finally win it. Maybe success is what is the score
5 and how many stars you get at this level.

6 For different metrics we use, almost always
7 -- and this is something we're still testing, I have
8 to be a bit careful -- we find that there is strong
9 correlation between how well you've done at a stage.
10 So the worse you do at particular stage part of the
11 game, the more you'll be able to loot boxes. And even
12 though -- so there is -- we have controlled a bunch of
13 fixed facts, we try to be careful that this is the
14 right variation to use in the data, we still -- I want
15 to highlight this is still correlation evidence.
16 We're still -- there is some instruments in the data
17 we can use, but we are not ready to present results
18 with our correlation.

19 However, to highlight how it is looking at
20 this on one metric, here is a plot which shows how
21 much people open loot boxes as they play the game and
22 how well they did in this game. So here on the
23 Y-axis, on the vertical one, you have transformed
24 probability of people actually opening, engaging in a
25 loot box. And on the X, you have different scores.

1 Those three vertical lines are thresholds to get one
2 star, two stars, and three stars in this game.

3 So the people who play really not so well,
4 they also don't open loot boxes. Those are the guys
5 on the left bottom corner. As you make slightly more
6 progress and you're close to the one star threshold,
7 that's where you open loot boxes a lot. And that's --
8 I think one [indiscernible] is, you want to make
9 progress and get a better score in this game. And
10 then as people play better and better, you can see
11 downward trend in how much you open loot boxes.

12 So what this shows to you is -- and this is
13 consistent with all descriptive evidence we saw --
14 there is definitely some functional value in how
15 people open loot boxes. So people do open loot boxes
16 a lot in this game for the sake of getting a character
17 which will help you to progress.

18 The slide I wanted to finish with and kind of
19 wanted to -- maybe also actually save some time for
20 discussion later -- the slide I wanted to kind of
21 highlight here is even though we show some suggestive
22 evidence for this functional value and, in this, we
23 believe that functional value is quite important, it
24 doesn't mean that people open these loot boxes only
25 for functional value.

1 So what we're really trying to get out of
2 this paper -- and results, hopefully, we will share
3 soon -- is which share of amount of loot boxes which
4 are opened to people are really opened because of
5 functional value or are opened because of persistent
6 preference, this preference for loot boxes directly.
7 Because if it's like 95 percent of loot boxes because
8 of functional value, well, that's actually part of the
9 video game. But if 95 percent is really this extra
10 component where it doesn't have to do with how people
11 play the game, maybe we should think about it more as
12 casinos and as gambling.

13 So that's our takeaway from the work so far.
14 All right, thank you.

15 (Applause.)

16 MR. MCALVANAHA: Thank you, Andrey.

17 Now, we will hear from Adam Elmachtoub.

18 DR. ELMACHTOUB: Hi. Good morning.

19 So my name's Adam Elmachtoub. I'm from
20 Columbia Engineering. Thank you to Patrick for
21 organizing this session and for all the great speakers
22 today for their well-informed talks.

23 So today, I'm going to be talking about a
24 slightly different topic, very different angle. We're
25 actually going to take a perspective on how would I

1 actually design a loot box if I'm the publisher,
2 developer, or the gaming company. And before I really
3 get into it, I want to emphasize that we have no
4 connection to the industry at all. So this is like a
5 neutral perspective. And we also have a neutral
6 perspective on the entire issue as well. So although
7 we're just we're telling you how one would design it,
8 we're not advocating or vice versa, okay?

9 The reason why we think it's important is
10 that how can one design regulations without
11 understanding the actual economic mindset of a gaming
12 company, what they're trying to accomplish, which is,
13 make money, right? They're all for-profit companies
14 for the most part. So this paper is telling us how
15 would one optimally design and price loot boxes and
16 what are the actual outcomes for sellers and
17 consumers.

18 So this is work with Ningyuan Chen at the
19 University of Toronto, Michael Hamilton at the
20 University of Pittsburgh, and Xiao Lei, who is the
21 audience. He's was my PhD student who convinced me to
22 turn his PhD into studying video games. So this is a
23 large credit to him. All right. And the paper is
24 online if you want to see it.

25 So here the research questions, why do video

1 game companies even use loot boxes? Can we quantify
2 the optimality of such a strategy? One doesn't need
3 to use loot boxes to have a video game, so why does
4 this even exist?

5 What is the actual optimal way to design a
6 loot box? We consider many design aspects of loot
7 boxes. Someone earlier today was telling us that
8 there's millions of ways to come up with a loot box.
9 Some of those tactical decisions includes: Do you
10 allow the gamers to have duplicates of items or not?
11 What are the actual allocation probabilities you use?
12 And do you allow items to be resold to other gamers or
13 back to the platform? These are all actually very
14 important things to consider in loot boxes and affect
15 both the seller and consumer happiness.

16 And, finally, how do all these things affect
17 the consumers? So given that the seller is going to
18 do something to make them the most money, how does it
19 affect consumers, their overall happiness? So we'll
20 quantify how much they end up purchasing and what's
21 the surplus they actually get.

22 So the framework we're going to use is a
23 mathematical model to answer these questions. I'm
24 going to try to avoid math for today and just sort of
25 tell you what the results are. You can see all those

1 details in the paper online. But the core idea is
2 that what we try to model is, at the really most
3 granular level, each consumer has some specific
4 willingness to pay for each item. And there might be
5 thousands of items. And these willingness to pays are
6 going to vary by consumers and also by the items.
7 So some things you value \$1. Maybe some things you
8 value \$5. Some things you value nothing. They're
9 random, but the seller somehow has a good
10 understanding of how much these items are worth.

11 So let me give you an actual example. So
12 here are two different people. The person in blue has
13 different valuations for these six items than the
14 person in black, and you can see those six numbers
15 above their heads correspond to the six items on the
16 right hand side. And each customer is sort of having
17 different valuations for all the items. And this is
18 the core principle behind our model that we're trying
19 to capture, this heterogeneity across consumers and
20 across the items.

21 All right. So what is the seller doing in
22 our model? They're trying to maximize revenue.
23 That's always their goal. And there's two ways to
24 think about loot boxes that we look at. One is called
25 a unique loot box where consumers are always allocated

1 a new item. And the other one is a traditional loot
2 box where customers can actually potentially receive
3 duplicates. We call it traditional because it kind of
4 dates back to the idea of baseball cards where you can
5 end up with duplicates. And unique, again, is called
6 unique, because you always get a unique item.

7 And the way we model consumers is that they
8 essentially just keep purchasing loot boxes until they
9 no longer perceive any value from them. And that's
10 the central core principle behind our model.

11 So I think it's best to now just show you
12 some examples. So here's just two games, one where
13 there's a unique box, one where there's a traditional
14 box.

15 And here's an actual picture of how the model
16 works. So back to this person over here, he has these
17 -- there's these six items that they're willing to pay
18 for and you can see how much you're going to pay for
19 these six items above his head. And let's say we're
20 selling loot boxes for \$2.99 each. So the way this
21 model works is the customer thinks that they're going
22 to get one of these items at random. So with the
23 probability one out of six, they'll get each of the
24 items. So on average, they value this loot box at
25 \$4.50 by taking the average of those six items. And

1 that's more than \$2.99. So in their head, they think,
2 yes, I'm going to buy this because I value the loot
3 box more than \$2.99.

4 So they buy the loot box. They receive an
5 item. And now, because they have the item, now that
6 item is worth zero. They don't want to get it again.
7 So now the value of the next loot box decreases and
8 becomes \$3, which is still bigger than \$2.99, so they
9 purchase another one. But guess what? They got the
10 same thing. So they still value that same loot box
11 again at \$3, so they end up buying again because they
12 just received something that was worthless.

13 So they buy again. Now they have two items
14 and their value goes down. And now, their value for a
15 loot box is \$2, which is less than \$2.99. So now they
16 stop buying. And this is just one example of our
17 model. So in this case, the customer bought three
18 loot boxes and stopped.

19 All right. So our goal is to basically
20 theoretically describe which strategies are best and
21 how does it affect seller and consumer behavior? So
22 actually, I'm going to take a quick poll. If you're a
23 gaming company, and maybe people here representing the
24 gaming industry, do you think it's better to sell
25 unique boxes or traditional boxes? So anyone can

1 actually take a vote here. So if you think a unique
2 box makes more money, raise your hand. If you think a
3 traditional box makes more money, raise your hand.
4 So around 80 percent of people said the traditional
5 box.

6 Now, let's think about it from the consumer
7 side. Do you think if you're a consumer, do you
8 prefer a unique box or traditional box? So if you're
9 a consumer, raise your hand if you prefer the unique
10 box. Okay. Raise your hand if you prefer a
11 traditional box if you're a consumer. So it actually
12 went the other way. So around 80 percent of people
13 think consumers would prefer the unique box.

14 Actually, our research is going to show the
15 opposite of both those things. So what we end up with
16 is something very counterintuitive.

17 So first of all, we show that unique boxes
18 are actually optimal for the seller and traditional
19 boxes only make around a third as much revenue as
20 unique boxes. And what's happening is that,
21 basically, you can charge more for a unique box
22 because it's more valuable. You're guaranteed a new
23 item. And this, in turn, leads to more revenue.

24 And in both cases, the customers end up
25 purchasing roughly the same amount of number of loot

1 boxes, except that a unique box is going to earn more
2 revenue than a traditional box because it has a higher
3 price. But in both cases, customers end up buying the
4 same number of boxes.

5 Now, what that means is for the customer, if
6 you're buying traditional boxes, you're going to end
7 up with less items overall because you have all these
8 duplicates. Now, the flip side is, though, that given
9 that traditional boxes actually had a lower price,
10 consumers are actually happier in the long run because
11 it turns out, the prices are a lot lower when you sell
12 traditional boxes. So we find that consumer surplus,
13 which is the sort of classical economic notion of
14 consumer happiness, is a lot higher when you sell
15 traditional boxes than unique boxes. Actually, you
16 can show when you sell unique boxes, consumers are
17 left with almost no surplus.

18 And, again, the driving force here is that
19 the prices are so high when you sell unique boxes,
20 that essentially leaves nothing for the consumers.
21 But for traditional boxes, you price low enough where
22 some value goes to the company and some value goes to
23 the seller. So we end up with this sort of very
24 counterintuitive situation where, actually, it's
25 better for customers to receive duplicates because the

1 prices come down a lot.

2 Now, what happens if I allow a resale market,
3 which is the gaming company can completely control
4 this. They can allow you to resell or not. It
5 depends. And, naturally, you might think that if I'm
6 a gamer, I want to be able to resell stuff. That
7 gives me more flexibility. But, once again, actually
8 we find that it doesn't really help. We actually see
9 that, at most, it can increase surplus by 1 percent,
10 and most of the time, it decreases surplus, which is
11 again surprising and, again, the driving force is that
12 companies will actually end up charging higher prices,
13 which hurts you overall. So although resale sounds
14 like a good idea, it also allows prices to go up,
15 which is not good for the gamer. Good for the seller.

16 So let's talk about allocation probabilities.
17 So this is a very important topic. And I think a lot
18 of people talked about it this morning, about being
19 transparent. So here's just an example of one company
20 being explicit about the probabilities, and we saw
21 several examples this morning as well.

22 So if you're the seller, what is actually the
23 optimal strategy for you? It turns out, actually, the
24 optimal thing to do is to do the simplest thing, which
25 is just allocate uniformly at random, which also, in

1 this case, may be good for consumers because they can
2 understand this strategy. Simply, if there is 1,000
3 items, allocate each item with probability one one-
4 thousandth, regardless of how much these items vary in
5 quality. So for example, let's say 1 percent of your
6 items are the best kind, legendary, which is the
7 example I was looking at before. Then you should
8 allocate legendary items with 1 percent probability.
9 So if 10 out of the 1,000 items are legendary, then
10 you should allocate a legendary item with a chance of
11 10 in 1000.

12 So this is the simplest possible policy and
13 it turns out to be the optimal one. So this is, in
14 some sense, good news for both the seller and the
15 gamer. The simplest strategy is not only best for
16 revenue, but it's also the easiest for the customers
17 to understand.

18 Now, here's the caveat, and this is where
19 regulation becomes really important. What happens if
20 the seller lies about the probabilities? This is
21 something that's impossible for any one user to keep
22 track of, especially if you have a 1 percent chance of
23 winning something. It's reasonable to not get it 15
24 times and think that's just bad luck. There's no way
25 for an individual to monitor if their allocation

1 probabilities are really being true or not.

2 So it turns out if the seller publishes some
3 list of probabilities and lies about them, the seller
4 can actually make a significant more -- significantly
5 more amount of money, more revenue. So there is
6 benefit to lying. Since there is benefit to lying,
7 there must be regulation around this. Otherwise,
8 people will make money. They're for-profit companies.

9 And this is why Apple and Google have already
10 made such rules in their platforms to make sure that
11 these allocation probabilities are announced. And we
12 already had the news this morning, that these
13 allocation probabilities should be announced.

14 But what I'm saying is that in addition to
15 them being public, they all should also be monitored
16 to actually make sure you're following these
17 probabilities. So we need to keep track of this. And
18 not only on the aggregate level, but also on the
19 consumer individual level. So it's even possible to
20 make more money where in the aggregate you're
21 following the probabilities. If you see what
22 everyone's getting, the probabilities all look
23 correct. But for individuals, the probabilities may
24 not be correct. So it's possible to gain more revenue
25 by extorting specific individuals. So even monitoring

1 at the individual level is necessary over time.

2 So to wrap up, I don't think one can design
3 regulations and policies without really understanding
4 the economic or business mindset of a company. So
5 we're proposing, basically, the first model to do
6 this, and there's many sort of caveats, of course, but
7 I think there's an important direction to study. So
8 we show that unique boxes are best for companies, but,
9 actually, traditional boxes are possibly better for
10 consumers.

11 Allowing a resale market may seem like a good
12 idea for consumers, but actually we show it has
13 minimal value; in most cases, negative value. So
14 that's important to understand.

15 We show that allocation probabilities don't
16 have to be overthought. Actually, the simplest thing
17 to do is just allocate randomly. And that's actually
18 best for everyone.

19 And, finally, be sure that there is benefit
20 from lying about these probabilities. So this is a
21 specific case where regulation is needed. If loot
22 boxes are allowed to stay as a legal sort of way of
23 selling items, then at least we need to regulate these
24 kind of allocation probabilities.

25 Thank you very much.

1 (Applause.)

2 MR. MCALVANAHA: Thank you, Adam.

3 Now, we will hear from Sarah Domoff.

4 DR. DOMOFF: All right, thank you for having
5 me. And I'm glad to be presenting alongside such
6 esteemed researchers on this panel. I'll be speaking
7 about children and gaming and some current issues that
8 I have encountered clinically and then also in the
9 research.

10 So I will be presenting some gaming trends
11 among children, parent child interactions around
12 gaming, unique concerns related to current games, and
13 problematic gaming, defining it for you, and helping
14 you understand when does gaming interfere with a
15 child's functioning.

16 So in terms of gaming trends, we know that
17 screen time is really high for children and
18 adolescents. And, actually, the amount of time
19 children use mobile devices has tripled in the past
20 few years. At the forefront of many parents' and
21 children's minds this past year has been Fortnite.
22 And it remains a popular game, with 45 percent of
23 children and 61 percent of teens ever playing it.

24 When we consider how games impact children,
25 it's important to consider the content and the context

1 of gaming or other types of screen media use. So when
2 I speak of context, I'm talking about when children
3 can play different games. And with mobile games,
4 children can play games at any time and any place.
5 And, indeed, a quarter of teens indoors playing
6 Fortnite in class.

7 But besides nationwide studies on screen
8 media use among children, there really has been
9 limited research conducted on preteens and younger
10 children and their gaming experiences. And so there's
11 definitely a gap in the research that my team and I
12 hope to address.

13 What I can tell you a little bit more about
14 are parent-child interactions around gaming. Now,
15 unfortunately, approximately three-quarters of parents
16 and children have never played Fortnite with each
17 other. Although they may play on their own, there
18 isn't interaction around different mobile games, for
19 example, one being Fortnite.

20 In my research, we conducted a naturalistic
21 study looking at how do parents and children interact
22 around different types of screen media. So children
23 wore audio recording devices and we transcribed and
24 described parent-child communication interactions
25 around different types of screen media. In this

1 study, we found that there's very limited interaction
2 between parents and children around media and mobile
3 devices.

4 So we have heard earlier today that parents
5 have a lot of interaction and power to kind of control
6 some of these concerns related to games, but, right
7 now, things are getting in the way. There are
8 barriers to parents and children interacting around
9 gaming. And this is really problematic because recent
10 research supports setting limits around gaming and
11 that parent-child communication about gaming could be
12 really important for older children and adolescents.

13 So we definitely want more of this, but for
14 some reason, I think one of the big things being the
15 rise of mobile games, makes it very challenging for
16 that to happen. And, indeed, parents' beliefs about
17 games associate with parenting around gaming. So that
18 definitely is an area that we want to pursue more and
19 really research into, what can we do to help parents
20 engage with their children more around gaming.

21 So in terms of unique concerns, at my clinic
22 at Central Michigan University, we really focus on
23 helping clinicians, teachers, other individuals
24 important in children's lives, communicate and make
25 decisions around media use screen time. And one thing

1 that we hear time and again, is that gaming is
2 embedded in social interactions among children. So
3 sometimes this can be really good. You connect with
4 your friends and peers on games. And other times it
5 can be conflictual. And we're seeing it kind of
6 trickle into the school -- the school zone. Children
7 are developmentally vulnerable to gaming risks, and we
8 heard about this today.

9 And then, finally, one thing that I've
10 encountered is parent-child conflict around gaming and
11 problematic gaming. I want to define for you what
12 problematic gaming is and tell you what the current
13 status is on it being a diagnosable condition. Here
14 in the States, we have DSM-5. In Section 3, which is
15 "Conditions for Future Study," internet gaming
16 disorder is listed. These symptoms include
17 preoccupation, withdrawal, unsuccessful attempts to
18 cut back, loss of interest in other activities,
19 continued excessive use despite psychosocial problems,
20 among others.

21 In order to get -- let me put it back for
22 people so they can write it down. In order to be
23 considered to have a problem with gaming or disordered
24 gaming, there has to be dysfunction in someone's life.
25 So it's not just enjoying playing video games or being

1 really enthusiastic or wanting to be a professional
2 gamer. It interferes with the child or adolescents
3 functioning.

4 Recently, the World Health Organization has
5 made gaming disorder an actual diagnosis with the
6 ICD-11 code up there. Symptoms include impaired
7 control over gaming, increased priority given to
8 gaming to the extent that gaming takes precedence over
9 other life interests and daily activities, and then
10 continuation or escalation of gaming despite the
11 occurrence of negative consequences.

12 So it's very important to point out here that
13 it's not about the number of hours that you game.
14 It's not about frequency or passion. It's about
15 actual dysfunction. This must be severe enough to
16 lead to significant impairment in important areas of
17 functioning. So, for example, not sleeping, not going
18 to work, not going to school, losing relationships.
19 So it's really important to clarify what's a clinical
20 issue with gaming versus enjoyment.

21 Now, back several years ago when I was doing
22 my clinical post-doc, I'm a clinical psychologist and
23 work with children and families, there weren't
24 measures out there to capture concerns related to
25 media use. And so that led to the development of the

1 Problematic Media Use Measure, using DSM-5 criteria to
2 identify children at risk for problematic media use
3 including gaming.

4 And what's really important to point out
5 here, is that this measure predicts psychosocial
6 functioning over and above the amount of screen media
7 use. And so, again, I'm trying to shift this
8 conversation away from just tell me how many hours is
9 allowed to what are some symptoms or engagement with
10 different types of screen media that would indicate
11 that there's a problem that should be addressed. And
12 so that's a very different approach to understanding
13 when does it become problematic. We don't necessarily
14 care as much about the number of hours, although that
15 will correspond or correlate with problematic gaming.

16 So this measure worked equally well for boys
17 and girls, and it's been tested in children ages 4 to
18 13 years of age. It's a parent report. We just
19 create a self-report version of this. And really this
20 came out of the need from clinicians to have a
21 screener so they could address concerns related to
22 media use or gaming in well-child visits or in other
23 clinical arenas.

24 I want to spend the rest of my time talking
25 about some of the work that I pursue at the Center For

1 Children, Families, and Communities at CMU. And this
2 really stems from a need from providers, school
3 personnel, and parents in communities around the
4 country regarding how do I manage -- around screen
5 media use; how do we handle or make systemic change
6 when screens are in schools and so forth.

7 So at this center, we seek to address screen
8 media-related concerns, including problematic gaming,
9 cyber victimization, media parenting skills. But,
10 importantly, a large part of what we do is we provide
11 training to providers to help them screen for
12 problematic media use and give them tools for managing
13 conflict in the home.

14 Again, with mobile gaming and mobile devices,
15 they can go anywhere. And so when it comes to school
16 policy, there is not one consistent school policy
17 across all schools in a state, for example. And so a
18 lot of times the schools are seeking guidance around
19 should we set limits on access to mobile devices
20 during the school day. With mobile games, it may be
21 embedded into interactions during the school day, and
22 so if there are conflicts related to performance on a
23 mobile game, that may trickle over into the real life
24 and real world.

25 And then, additionally, what we also focus

1 on, is developing interventions that treat screen
2 media-related concerns, so helping parents manage
3 screen time using harm reduction approaches.

4 So if you'd like more information, I have my
5 contact information up here. I wanted to leave enough
6 time for discussion, but then, also, there's a lot of
7 research that I wasn't able to talk about today
8 related to other types of screen media and concerns,
9 and I'd be happy to share that with you if you're
10 interested.

11 (Applause.)

12 MR. MCALVANAHA: Thank you, Sarah.

13 Okay, now we have time for a Q&A. We'll have
14 about 15 minutes for this. So I'll start off with the
15 first question. This will be posed to as many people
16 as feel comfortable answering it. How can you
17 determine if a person is not just a risk taker,
18 meaning they are more likely to buy loot boxes,
19 excessively gamble, and/or use drugs? Is this getting
20 at some correlation with risk aversion? Is it a
21 definition issue of can you separate out risk aversion
22 from loot boxes?

23 DR. SIMONOV: I mean, I guess that in the
24 framework which I talked about, it's really all part
25 of this alpha L as the persistent preference for loot

1 box. And I guess one way to separate it out is just
2 ideally what you want to find is some shifters which
3 will affect your -- will not affect the risk
4 preference characteristic of risk of the loot box, but
5 will affect how much people are exposed to the loot
6 boxes, like in which environments they use them. It
7 requires a lot of data and the right variation in the
8 data, I guess.

9 And then it's often -- I think in-game, if
10 you have -- if you can separate it out, was it in a
11 model, economic model list of things, that's great.
12 It's harder to have extra data on how consumers --
13 what happens to them later in their lives, because
14 it's really hard to attribute what happens to people
15 later on to a particular thing which happened to them
16 in this game.

17 MR. MCALVANAHA: This is a question from
18 Twitter for Drs. Zendle and Elmachtoub. Did you
19 consider aesthetic design in your research?

20 DR. ZENDLE: So to some extent, yes. So what
21 are the interest -- there are lots of -- we've got a
22 paper that's just sort of coming out in a journal
23 called Computer and Human Behavior, where we looked at
24 different features of loot boxes and whether any of
25 those loot boxes were particularly strongly linked to

1 problem gambling.

2 When it comes to aesthetics, the one thing we
3 did look at was near-miss effects. So near misses are
4 a common thing you get in gambling devices and loot
5 boxes mirror gambling devices in lots of important
6 ways. So there is the fact where, say, you're playing
7 Fruit Machine or something and you almost get a win.
8 You're just one fruit out. You may be more likely to
9 play again because you've got that near miss, or
10 perhaps in the gamblers mind, a near win. Many loot
11 boxes have a similar mechanism.

12 It's not clear if they're imitating slot
13 machines directly or whether it's some sort of
14 convergent evolution, where you've got a sort of
15 rotating disc of options going round and then you sort
16 of -- you might just miss out on something really good
17 that you like, then you get something less good. So
18 we looked to see if those types of loot boxes were
19 both strongly linked to problem gambling.

20 We found like tiny effects, like little tiny
21 things, nothing that we'd consider important or
22 trustworthy. Generally, it seems that regardless of
23 these features, that link to problem gambling exists.

24 DR. ELMACHTOUB: Well, I guess it's good that
25 I let you answer for us, because we ignored that

1 effect and now you justified it for us.

2 (Laughter.)

3 DR. ZENDLE: Yes.

4 MR. MCALVANAHA: Another question from the
5 audience. Does the literature support the idea that
6 loot boxes are different from baseball cards or Kinder
7 Eggs or has that simply not been studied?

8 DR. ZENDLE: Oh, that's actually a good
9 question. So I was wondering if I would get this,
10 because -- so we've got this link between problem
11 gambling and loot box spending. But you might engage
12 in an argument where you say, ah-ha, but perhaps
13 buying Kinder eggs is also linked to problem gambling.

14 Now, logically, that doesn't sort of fly as
15 well as loot boxes does, because loot boxes look so
16 much more like gambling, and there's this sort of
17 distribution of value in them which you just don't
18 find in a Kinder Egg. There are many formal
19 distinctions. We thought, oh, just to ironclad
20 things, we'll go and run that study.

21 So we went and we asked about 900 people
22 about collectible card game spending to see if that
23 was linked to problem gambling. And it just wasn't.
24 Like, you know, there's something special about loot
25 boxes. We haven't published that study yet, but if

1 anybody would like to have access to the data from it,
2 I'm very willing to share any of the data from this.
3 And since it's a question that people are asking, I'll
4 make it a priority to get it published.

5 I do think we're pre-printing, where as soon
6 as I finish the manuscript, I make it publicly
7 available so people don't have to wait for it to go
8 through the general process. So if this is something
9 people care about, they can have that data within a
10 week if they like and the paper.

11 DR. ELMACHTOUB: Yeah, one thing though it's
12 important to recognize, there's no friction costs for
13 buying loot boxes. There's a huge friction cost for
14 buying a physical item. And that's why we don't have
15 that cost in our model. So when you buy something --
16 even if you buy it from Amazon, you still have to wait
17 to receive it. And by that point, your thrill may
18 have disappeared a little bit.

19 DR. ZENDLE: Yeah, that's a really neat
20 point. I remember when we were talking to the
21 Australian Senate about this, they sort of said, what
22 are the differences between loot boxes and trading
23 card games in the real world. We said, well, there
24 are loads and we don't really know which are the
25 important ones. But, certainly, one of the things

1 that seems important is the velocity and the volume
2 with which you can make loot box purchases.

3 I mean, you can't go to a shop and just buy
4 Kinder Egg, Kinder Egg, Kinder Egg, Kinder Egg, Kinder
5 Egg, Kinder Egg, Kinder Egg, Kinder Egg, but that's
6 what we see people do with loot boxes.

7 MR. MCALVANAHAH: This question's from the
8 audience, so potentially to everybody. Are there
9 common graphical or audio elements presented during
10 the opening of a loot box, such as a flashing screen,
11 or lights, or louder music, that increases the
12 potential for spending on loot boxes?

13 Stumped them.

14 DR. ZENDLE: I'm not aware of any research
15 which shows that that's the case or not.

16 MR. MCALVANAHAH: This question's for Andrey
17 Simonov. What control variables were in your study?
18 Is there something to control for the popularity of
19 the game or the rarity of the items or any unique
20 traditional style boxes?

21 DR. SIMONOV: Yes. So all the analysis was
22 done within the game, so there is no need for control
23 for the game. There is -- so for the descriptive
24 items I showed, there was controls for stages, for
25 player fixed effects, what kind of items people had.

1 So at this stage, what we -- this is all against
2 [indiscernible] relational. We have the right
3 variance. We just didn't clean enough results to be
4 ready to share the results of causal estimates. But,
5 well, basically, those correlations hold whatever the
6 fixed effects will include, basically.

7 MR. MCALVANAH: Do you see any difference
8 between purely cosmetic loot boxes or some of the more
9 pay-to-win loot boxes for any of the research you
10 presented for implications for addiction or for the
11 pricing or for usage? That's open to everyone.

12 DR. SIMONOV: I mean, for what we presented,
13 one -- there's two things to keep in mind here. One
14 is we kind of -- in this particular game, there is no
15 value for having cosmetic value of items. There is
16 little social interaction, so we can't focus on this
17 functionality as probability of winning.

18 About pay-to-win, so this is also a
19 pay-to-win game in a sense of you need to get those
20 items to progress. But important fact is you compete
21 with a machine. You don't really compete with other
22 players. And I think that the role of play-to-win
23 items is extremely different if I am paying to get an
24 item that the other guy can get as well and now it's
25 like a prisoner's dilemma because I want to play the

1 game well, but also this guy has the same.

2

3 And I think in any games with interaction
4 between players, even items which have a functional
5 value, it can get very problematic because gaming
6 companies have a design to do it. In our case, we
7 don't have this problem because you really compete
8 with the machine. But I would keep this distinction
9 in mind for different games.

10 DR. ZENDLE: I think you can see, also,
11 different motivations for purchasing -- it might seem
12 obvious -- items from loot boxes that give you some
13 sort of advantage in meeting the ludic challenges of
14 the games and ones that give you some cosmetic value.
15 When we look to our data, when we asked people why,
16 these adolescents, why are you buying these loot
17 boxes, lots of people said, I just want to fit in with
18 my friends.

19 And so I think one thing that we've all got
20 to be aware of is that games aren't coin-operated
21 arcade machines anymore. They're vibrant social
22 worlds. And just because your motivation for
23 purchasing something isn't to do with literally
24 winning the game doesn't mean that it's valueless.
25 There's a lot of value in looking a certain way in

1 many of these games. And lots of times, people play
2 these games not to win them, but to hang out with
3 people.

4 MR. MCALVANAHA: So there had been some
5 mention early today of video game developers
6 potentially using dynamic odds for loot boxes. Does
7 that have any implication for addiction and variable
8 reinforcements or for the optimal pricing of that or
9 usage?

10 DR. ELMACHTOUB: So I think that with regard
11 to dynamic odds, I think that would be a nightmare to
12 regulate. Because as the odds are changing, you can
13 never, with like just a couple samples, see if you're
14 truly adhering to such odds. So that's something that
15 I think would really be something to worry about in
16 terms of -- just in terms of making sure that people
17 are sticking to these odds, even if they are dynamic.

18 And the unique thing -- another unique thing
19 about loot boxes versus baseball cards is that
20 companies can see your inventory. That's a
21 fundamental difference. So being able to take
22 advantage of that would obviously be beneficial for
23 the seller and allow them to exploit more. But also
24 be bad for consumers because they -- it would be very,
25 very difficult for them to understand their optimal

1 purchasing strategies in the long run of the game. It
2 would be very hard to anticipate how much money they
3 will need to succeed in the game if everything is
4 updating dynamically.

5 DR. ZENDLE: I'd like to agree with Adam's
6 comments there. They're well-taken.

7 I'd also like to point out that this isn't a
8 theoretical future. These are things that being
9 patented by companies as we speak. There's a new
10 paper that's out in this journal, Computers And Human
11 Behavior, which is one of the best journals for this
12 stuff, by a researcher called Dan King. You can find
13 it online if you like. And he approaches this issue
14 in an interesting way in that he just does a Google
15 patent search. And the things that people are
16 patenting are unusual and might surprise you, or they
17 might worry you.

18 MR. MCALVANAHA: And you, Sarah?

19 DR. DOMOFF: What was that?

20 MR. MCALVANAHA: Did you have any comments?

21 DR. DOMOFF: I just think it's -- I'm going
22 to bring a point that may not be entirely related to
23 this, but it's really challenging for parents to
24 navigate all of the details of the variety of games
25 that kids are playing and it takes a lot of effort and

1 time. And I find myself, and other clinicians and
2 other individuals who work with children, have to
3 spend a lot of time to kind of figure out what are
4 these protections that we should tell parents about
5 because it's just not clearly labeled.

6 And regardless of whether regulations are
7 coming forth, I think we definitely need better
8 documentation about what parents should consider,
9 whether from within the industry or from consumer
10 groups, such as Common Sense Media, because it's just
11 really complicated and there are just so many games
12 for parents to keep up with it. It's a real
13 challenge.

14 DR. ZENDLE: I'd like to follow up on what
15 was just said by saying that, in fact, many of the
16 games -- many of the companies for which we see these,
17 there are sort of patterns for these new types of loot
18 boxes being registered are companies that make mobile
19 games for children. So I know Kabam was mentioned
20 again and again and again during this paper. That's
21 the company that makes Marvel's Contest of Champions.
22 That's a game where you can play with your favorite
23 Marvel superheroes against each other.

24 I think the industry needs to take a really
25 long look at itself and see what is it doing. I hear

1 these internal discussions by the industry say, of
2 course, we behaving totally ethically. But from the
3 outside, it really doesn't look like that, and it
4 really doesn't look like that to researchers, and it
5 doesn't look like that to policy makers, and it
6 doesn't look like that's regulators. And in my home
7 country, the UK, we're talking very seriously about
8 should you be able to self-regulate? Have you
9 demonstrated that responsibility? And lots of people
10 think that you haven't.

11 MR. MCALVANAHA: Okay, that concludes the
12 second panel. Thank you all very much.

13 I think we'll take a 10-minute break.
14 Yeah, we'll shoot for a 10 minute break. And it's
15 2:35 now, so let's aim to be back here at 2:45,
16 please. Thank you all.

17 (Applause.)

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1 PANEL 3: A LEVEL PLAYING FIELD - WHAT'S FAIR GAME?

2 MS. JOHNSON: Good afternoon. I am still
3 Mary Johnson, and this is William Ducklow. And,
4 together, we're going to be moderating today's final
5 panel on self-regulatory initiatives and consumer
6 education.

7 MR. DUCKLOW: So joining Mary and I on the
8 final panel today are the following, Pat Vance,
9 President of the Entertainment Software Rating Board;
10 Keith Whyte, the Executive Director of the National
11 Council On Problem Gambling; Anna Laitin, Director of
12 Financial Policy with Consumer Reports; and, finally,
13 Ariel Fox Johnson, Senior Counsel for Policy and
14 Privacy with Common Sense Media.

15 Please feel free to refer to the speaker bios
16 that are available outside for more background
17 information.

18 MS. JOHNSON: So I thank all of you for being
19 here. We're in the homestretch here of the day. And
20 as with the prior panels, you'll each have 15 minutes
21 at the podium. And thank you to everyone for staying
22 on time. This has been moving very smoothly, and we
23 really appreciate that.

24 So after the formal presentations, then we'll
25 move to a moderated discussion.

1 Please feel free to take the podium, Pat.
2 Thank you so much.

3 MS. VANCE: Great. Well, thank you very
4 much, Mary and Will. It's great to be here.

5 We're going to -- I'm going to start my
6 presentation just talking a little bit about who the
7 ESRB is. We are celebrating our 25th anniversary this
8 year. We were established by the industry as a
9 self-regulatory body. You're probably most familiar
10 with our rating system. We assign ratings to video
11 games and mobile apps to ensure that consumers, but
12 especially parents, have the information they need to
13 make an informed purchase decision.

14 We also enforce a very robust set of
15 marketing guidelines that the industry has adopted
16 that relate to how ratings are displayed across boxes,
17 in ads, as well as how product can be marketed,
18 particularly mature-rated product.

19 And then, last but definitely not least, we
20 have our ESRB Privacy Certified Program, which is a
21 privacy seal certification that is one of the first
22 COPPA safe harbors sanctioned by the FTC. So those
23 are our key activities.

24 When it comes to our ratings, we have a
25 three-part rating system. We have age rating

1 categories that suggest age appropriateness. We have
2 content descriptors. We use approximately 30
3 different content descriptors that indicate why a
4 particular age rating was assigned to that particular
5 game or app. And then our newest and third component
6 of the rating, is what we call interactive elements.
7 I'll talk a little bit more about them as we get into
8 the presentation.

9 ESRB ratings are available for games and apps
10 across a variety of different devices and platforms.
11 They are available for all boxed games sold in the
12 United States. They're available on many digitally-
13 delivered games, mobile apps, virtual reality,
14 augmented reality, and mixed reality games and apps as
15 well. So we've had universal adoption among major
16 retailers, as well as the major game platforms from
17 virtually the beginning of the ESRB rating system.

18 In part, thanks to being around for 25 years,
19 87 percent of parents of kids who play video games say
20 that they're aware of the ESRB rating system. And of
21 that 87 percent, 77 percent say that they regularly
22 use the ratings. In other words, that they're
23 checking the most, if not all the time.

24 Now, despite the fact that interactive
25 elements is the newest part of our system, 70 percent

1 of parents say that they're aware of the interactive
2 elements. And of those parents, 79 percent say they
3 regularly check them.

4 Now, all of the interactive elements are
5 important, but this is a ranking, and in the context
6 of the conversation today, I thought it was important
7 that although in-game purchases is an important
8 component to parents, 75 percent of parents say that
9 the in-game purchase notice is either extremely or
10 very important in helping them decide which games are
11 appropriate for the kids to play.

12 If you look at this chart, our shares
13 location interactive element, 82 percent of parents
14 indicated that that was extremely or very important to
15 them, followed by users interact, and followed by
16 unrestricted internet access. So all are important,
17 but this is a general ranking. So it's important in
18 the context of the conversation today to appreciate
19 that there are many different aspects of disclosures
20 that are important to parents.

21 Now, parents consult many different sources
22 when they're trying to make a decision about what's
23 appropriate for their children and families, Not just
24 the ESRB rating information, but they're playing the
25 game themselves. And I think we're finding that

1 increasingly to be the case as new generations of
2 parents have kids, and they grew up with playing
3 games.

4 Parents are also checking out the genre as a
5 good indicator of whether or not a particular game is
6 appropriate for their children. They're conducting
7 internet searches. They're looking at the
8 descriptions on the game boxes and on the detail page
9 when they download a game. And they're also
10 consulting user reviews.

11 Now, the Family Online Safety Institute
12 released a study last year that suggests that parents
13 are actively engaged in having conversations with
14 their kids about online safety and the use of
15 technology in the home. Ninety-one percent of parents
16 set household rules. That's a really important
17 statistic for us to understand because it's not just
18 about one solution or one tool. It's about parents
19 being actively engaged.

20 The ESRB provides a family discussion guide
21 on our website to actually start that conversation.
22 Sixty-four percent of parents indicate that they
23 frequently discuss online safety with their children.
24 And our own research suggests that 7 out of 10 parents
25 have actually prevented their child from playing a

1 game because of one of the interactive elements that
2 were assigned to the game.

3 Now, ESRB ratings are integrated with the
4 parental controls that are available across different
5 game devices. So here you'll see the Xbox,
6 Playstation, and Nintendo parental controls, which
7 allow you to block games by their ESRB rating. And
8 you can do the same thing in the Google Play Store.

9 Now, we put together this little video to
10 give you a brief glimpse of how parental controls
11 enable parents to manage the gameplay in their homes.

12 (Video played.)

13 SPEAKER: Playing video games as a family is
14 a great way to spend time together. And it's never
15 been easier for parents to manage what, how, when, and
16 with whom their children play, even when they're not
17 around.

18 Parental controls are available for all
19 current game consoles, handhelds, PCs, smartphones,
20 and tablets. Each device has settings that can limit
21 and manage the experiences that your children have,
22 and they take just a few minutes to set up. On some
23 devices, you can remotely set controls from your
24 mobile phone or your computer. So whenever you want
25 to add a restriction or change a setting, you can be

1 assured that your children enjoy playing games within
2 the parameters that you approve.

3 There are four important ways to control how
4 your kids play video games. You can control in-game
5 purchases or block them altogether, and the account
6 holder will always be notified whenever a purchase has
7 been made. Parents can also limit play and screen
8 time. Some devices allow you to set specific time
9 limits for every day of the week. You can also block
10 games based on their age rating and you can restrict
11 online communication. Some devices allow you to
12 approve with whom your child plays online or block
13 other players, even by specific game.

14 Above all, remember to keep on having fun
15 playing video games with your kids and talk to your
16 kids about the games they like to play. There is no
17 better way to make sure your child has the best
18 experience possible playing video games than staying
19 involved.

20 Visit parentaltools.org to access parental
21 control guides and a family discussion guide to help
22 start the conversation with your kids.

23 (Video concluded.)

24 MS. VANCE: So there are obviously a lot of
25 functionality in parental controls, but are parents

1 using them? And based on our latest research, 72
2 percent of parents have indicated that they have
3 activated or enabled parental controls on their
4 computer at home, their mobile device, or their game
5 console. And not surprisingly, the propensity for
6 them to do that is higher for parents with kids of
7 younger ages than older ages.

8 So again, all of the functions and parental
9 controls are important to parents. But if you look at
10 what they're actually doing with parental controls,
11 our research says that the number one function they're
12 actually enabling is the manage in-game spending
13 function. So two-thirds of parents indicated -- two-
14 thirds of parents who were using parental controls
15 indicated that they had activated the manage the
16 in-game spending limits.

17 Sixty-four percent indicated that they were
18 restricting access to social media using parental
19 controls. Sixty-one percent had indicated that they
20 were -- they had blocked games based on ESRB ratings.
21 And fifty-two percent indicated that they had set time
22 restrictions, followed by 50 percent indicating that
23 they had managed online communications.

24 So parents are familiar with parental
25 controls. They're using them and they're using them

1 in a variety of different ways.

2 Last year, we began looking at loot boxes
3 specifically. We conducted research among parents,
4 and we discovered that a large majority of parents
5 don't know what a loot box is. In fact, only 32
6 percent of parents indicated that they knew what a
7 loot box was, but when we presented several different
8 options for them in terms of a definition for loot
9 boxes, they were able to select the correct definition
10 only -- less than a one-third of the time.

11 Once we told them what a loot box was, by far
12 the biggest concern that they expressed they would
13 have would be the ability for their children to spend
14 money, much more so than the randomized nature of loot
15 boxes or the impact that they may have on the amount
16 of time that their child plays games. We repeated
17 this research earlier this year and found very similar
18 results. Although there is slightly higher awareness
19 in use -- awareness and understanding of what loot
20 boxes are among parents, the actual concern they
21 expressed about spending was even higher than the
22 first time we surveyed parents.

23 So this is important to understand in terms
24 of how we're presenting disclosures. Our rating
25 system's primary target audience are parents. Parents

1 need to understand what it is that we're providing and
2 we need to provide it in a way that they understand,
3 that's concise and that they can digest at a fairly
4 quick glance.

5 So we started assigning in-game purchases to
6 physical video games back in April 2018. We had begun
7 -- we had already begun doing something similar in
8 mobile and digital games, but it wasn't until early
9 last year where we began actually assigning the
10 in-game purchase descriptor to physical video games.
11 And, today, 18 percent of all rating assignments for
12 physical video games include that notice.

13 Now, that notice spans not just loot boxes.
14 It spans all types of in-game spending. As our
15 research indicated, parents are concerned about
16 in-game spending of all kinds, not just loot boxes.
17 And so when you see an in-game purchase notice on a
18 game, it indicates that there are -- there's the
19 ability to make a purchase using cash, whether you're
20 buying virtual currency, or whether you're buying a
21 subscription, or a season pass, or a loot box, or some
22 other in-game transaction.

23 But disclosures aren't enough. We want to
24 make sure that parents know that when they see that
25 in-game purchase notice, if they want it limit -- if

1 they want to limit their child's ability to spend
2 money, they know how to do it. So we launched
3 parentaltools.org last year, which gives very easy
4 access to parents to instructions on how to set up
5 parental controls depending on which device they have
6 in the home. And we created an animated video that's
7 a very simple way to sort of describe what parental
8 controls can do.

9 And, to date, almost a half a million views
10 have been generated for the video, almost 100,000 page
11 views, and we've been writing articles and blogs and
12 making an effort to make sure that parents understand
13 what in-game purchases enable, as well as the parental
14 controls that are available on different devices.

15 Now, we've just recently refreshed
16 parentaltools.org and added an additional
17 functionality to the website, which allows parents to
18 first check, well, what do I want to do with parental
19 controls, and then get specifically to that place in
20 the instructions for that device that they have in
21 their home so that they know how to control spending,
22 control time, control by age rating, or restrict
23 communication.

24 We also have just partnered with GameStop and
25 are talking to other retailers, so that this holiday

1 season whenever a parent purchases -- or any consumer
2 for that matter, purchases a new console, that it
3 comes with an insert that reminds them to set parental
4 controls and directs their attention to
5 parentaltools.org so that they know how to do that.
6 And we're going to be complementing that program with
7 an online ad banner campaign targeting parents.

8 We also just released a new blog on our
9 website, esrb.org, that is entitled "What Parents Need
10 To Know About Loot Boxes and Other In-game Purchases,"
11 which really tries to break down what's a very
12 complicated concept. And as you heard earlier today,
13 loot boxes come in all different forms, in all
14 different contexts. And so we tried to really
15 simplify it for parents and also make sure that they
16 understand what other types of in-game purchases are
17 available. And we'll continue to create new articles
18 and new blogs that help parents navigate games.

19 So in summary, I just want to tell you that
20 you can be confident that any game that gets
21 published, regardless of the device, will have some
22 descriptor that will indicate that there are in-game
23 purchases; that parents have very low awareness of
24 what a loot box is, but that their main concern is
25 spending, and we are addressing that by not just

1 having disclosures available for games, but also
2 making sure that they have the tools and parental
3 controls to manage the money and time that their child
4 spends playing video games.

5 We'll continue to support parents like we
6 have for the last 25 years with disclosures, with
7 enhancing the system whenever it's warranted, having
8 educational materials available to parents, and
9 addressing their concerns as we go.

10 So thank you very much.

11 (Applause.)

12 MR. DUCKLOW: Thank you, Pat.

13 Next, we have Anna Laitin.

14 MS. LAITIN: Hi. Good afternoon, everybody.
15 My name's Anna Laitin. I'm the Director of Financial
16 Policy at Consumer Reports.

17 First, a little bit about Consumer Reports
18 and why I'm here. We're an 80-year-old independent,
19 nonprofit member organization. We work side by side
20 with consumers for truth, transparency, and fairness
21 in the marketplace. Most of you know us for rating
22 cars and mattresses, but we also do work on a wide
23 range of issues.

24 We approached this workshop -- we don't have
25 -- we haven't historically done a lot of work on video

1 games, so we approached this workshop from a
2 perspective of looking at larger marketplace trends
3 first. And a couple of things we've been spending a
4 lot of time on lately, drip pricing, hidden fees, the
5 obfuscation of the true cost of a product or service.
6 This is something the Federal Trade Commission has
7 spent a lot of time on from a 2012 workshop on drip
8 pricing to the workshop earlier this summer on online
9 event ticketing.

10 It's very hard for consumers to know what
11 they're getting, what it's going to cost. Shopping
12 has become more complicated and more confusing. And
13 then the manipulation of consumer psychology,
14 monetizing user experiences and dark patterns on
15 websites that get people to do things that maybe
16 wasn't exactly what they intended to do when they
17 started.

18 So how does that apply to the gaming
19 marketplace? Well, obviously, the increased
20 monetization of play. That's what we're talking about
21 here. You've got the downloadable content, those one-
22 time purchases, and then the microtransactions, the
23 loot boxes we're all talking about today, repeat
24 purchases, consumables, often very quick purchases
25 made often in quick succession, and manipulative user

1 experiences. So subtle tactics that influence
2 consumer behavior and nudge them to purchase these
3 loot boxes.

4 What are loot boxes? I put together these
5 slides not knowing exactly what was to be talked about
6 in the morning, so there's a little bit of repetition
7 here. I'll move pretty quickly.

8 In the FTC's announcement, the description is
9 here. We see as the key things for us, the rewards
10 are seemingly random, paid for with real money or
11 in-game currency, sometimes impact gameplay, and the
12 contents are generally not transferable.

13 So in terms of transparency, this is a
14 screenshot from Counterstrike Global Offensive.
15 Consumers are unaware of what they're actually
16 purchasing. The odds of winning a specific item are
17 not disclosed. This particular loot box, there's a
18 lot of options, including one full, surprise, rare,
19 special item.

20 In-game currency and pricing can really hide
21 the true cost. This one from Fire Emblem Heroes, it's
22 very hard to see on these slides, but it costs five
23 orbs to summon a character, four each to summon the
24 next three, and three orbs to summon the last. So 20
25 orbs spent on loot boxes. But how much is an orb?

1 That price isn't linear. So to figure out how much it
2 costs to summon 20 characters is not a simple matter
3 to figure out. This is very much finding ways to hide
4 the fact you're spending real money on these
5 characters.

6 And the ratings, we applaud ESRB for the work
7 they've done, but as the previous presentation showed,
8 there's a label for in-game purchases and that can
9 mean a huge range of things. That's everything from
10 you can buy a new character when it's released to we
11 have surprise loot boxes, a whole wide range. And I
12 know when I look at a game, there's a lot more detail
13 that consumers need to really understand how they
14 might be presented with the option to spend money.

15 And, similarly, labeling for mobile games
16 provides limited information. This one says in-app
17 purchases. And then in information, you actually can
18 get some good information about how much things cost.
19 But, again, you've got that same obfuscation.

20 This one for Clash Royale, you can get a -- I
21 can't even read it on my own piece of paper -- a pouch
22 of gems for \$4.99 or a wagon of gems for \$49.99. Is a
23 pouch 10 times smaller than a wagon? What are you
24 actually buying? And it's, again, taking the money
25 away from the actual what you're buying.

1 So loot boxes, just in conclusion, are not
2 transparent. Consumers aren't sure of what they're
3 getting; odds of winning items -- although the
4 announcement this morning may move to change that --
5 the cost is hidden; and those loot box mechanics are
6 insufficiently labeled.

7 And another thing I'll mention that came up a
8 lot today is how quickly the decision to buy a loot
9 box can be made. This is a speedy process, very
10 different from going back to the store and buying
11 another set of baseball cards if you didn't get what
12 you wanted.

13 Then on this issue of dark patterns, this is
14 something that Consumer Reports has looked at quite a
15 bit. And it's interesting. It's tactics to nudge
16 consumer starts taking actions. Grinding, making the
17 alternative to buying a loot box, doing a lot of
18 relatively pointless work for a very, very, very long
19 time, making it extremely costly on a personal level
20 to not spend that money.

21 Appointment dynamics, dynamics that build the
22 habit of playing, using loss aversion, getting people
23 to keep going, keep going, keep going; and get bonuses
24 for playing every day.

25 And pay-to-win, as was discussed quite a lot

1 this morning. Playable without microtransactions, but
2 if you're not willing to spend money, you're not going
3 to do as well as your opponents or your friends, or
4 you're not going to help out your group.

5 This problem is both deep and broad. There
6 have been a lot of press reports about gamers spending
7 far more than they intend on loot boxes, people
8 spending thousands of dollars. We've all heard about
9 the parents whose kids racked up huge charges before
10 they figured out what was going on.

11 These are actually two separate stories of
12 people who discovered they'd spent more than \$10,000
13 on microtransactions. I raised this story with my son
14 who plays FIFA 19 the hard way without any allowance
15 to spend any money, and I showed him the cost of the
16 loot boxes and his eyes bugged out. People can spend
17 obviously a lot, a lot of money.

18 And then a growing population of game players
19 exposed to loot boxes and manipulative content. So I
20 think this was discussed earlier today, we're not just
21 talking about young gamers who play all the time. We
22 are now a society of gamers, whether you're playing on
23 your mobile phone while commuting, whether you're
24 sitting in your house playing games for hours, it's a
25 lot of people. Sixty-five percent of American adults

1 now play video games and seventy-five percent of
2 households have at least one gamer. So this is not an
3 isolated problem set to those young, sort of
4 stereotypical gamers.

5 And then this is intentional in these games.
6 There's a column written by the CEO of Tribeflame
7 called "Let's Go Whaling: A Guide To Monetization
8 Through In-app Purchases." The whole idea of this
9 column is about getting people to spend as much money
10 as they can and make it so that you're accustomed to
11 it, you're -- this last line to me, you're just a tap
12 away from spending. This is how the games are
13 constructed. This is where the money is made, and
14 consumers aren't necessarily aware of that.

15 And I'm relatively short because so much of
16 what I talked about came up earlier.

17 Thank you.

18 (Applause.)

19 MS. JOHNSON: Thank you, Anna.

20 And now, we'll hear from Keith Whyte.

21 MR. WHYTE: Hi, everyone. And thanks to FTC
22 and my fellow panelists and everyone today for this
23 really informative discussion.

24 I'm Keith Whyte, the Executive Director of
25 the National Council On Problem Gambling. I've been

1 working on gambling addiction issues for 25 years now.
2 And as a brief note, I'd like to wish my son, Ian, a
3 happy 14th birthday today. When he's not playing
4 drums, guitar, bass, or piano, he's often gaming. And
5 he wanted me to tell you that loot boxes in Fortnite
6 are occasionally annoying, mainly because he doesn't
7 get the gun he wants. Nothing to do with gambling.

8 So just a little bit about us and why we're
9 here, because we do have a unique perspective on this,
10 I think. We're the national advocates for programs
11 and services for problem gamblers and their families.
12 We were founded in 1972 and are neutral on legalized
13 gambling. And that is very important because it
14 allows us to work in partnership with government,
15 gaming industry, counselors, regulators, researchers,
16 and recovering gamblers. And we're happy to work with
17 groups like ESA and their member companies as well if
18 they're interested.

19 Many of the world's largest casino and slot
20 machine companies are members of the National Council,
21 and, again, we're not anti-gambling, nor are we
22 anti-loot boxes. However, we're here to share our
23 experience because many features of loot boxes are
24 similar to those of slot machines, and we've got about
25 five decades of experience working on consumer

1 protection issues in the gambling space.

2 Both our experience and the evidence show
3 that some features of loot boxes are absolutely
4 associated with gambling problems among players. My
5 presentation was just going to be everything that
6 David said, but I think I have to do a little bit more
7 than that. But, yes, many of the panelists have
8 discussed some of the issues we've been looking at as
9 well. And, indeed, a number of countries do regulate
10 loot boxes as gambling, or certain types of loot boxes
11 as gambling.

12 But it's clear that whether or not loot boxes
13 meet criteria for a gambling device in a particular
14 jurisdiction and whether or not parents recognize or
15 understand the risks, additional consumer protection
16 issues -- protection features must be put in place to
17 protect vulnerable players from developing gambling
18 problems. Loot boxes and slots can powerfully
19 influence player behavior in ways that lead to
20 entertainment for most, great excitement for some, and
21 excessive play and even addiction for a few. Players
22 with gambling problems likely provide a
23 disproportionate percentage of the, quite frankly,
24 massive profits from slot machines and from loot
25 boxes.

1 To my knowledge -- oops, I think I'm going
2 the wrong way. To my knowledge, every study published
3 to date on the connection between loot boxes and
4 gambling has found an association. You've heard from
5 Dr. Zendle and others on that today. And, in fact,
6 given everything we know about the similarities
7 between boxes and slot machines, it would actually be
8 astounding and surprising were there not such a
9 connection. They are, in many ways, so closely
10 related.

11 We know that one of the reasons that, of
12 course, as Dr. Zendle said, problem gambling is an
13 issue is because it can lead to massive and
14 significant negative impacts. And I'd like to focus a
15 little bit, as we've talked today, about the types of
16 groups that we're most concerned with. Obviously,
17 anyone who plays a slot machine or anyone who pays to
18 play a loot box may be at some risk, but we know that
19 there are groups with higher risk. And those
20 certainly include males, youth, and some groups that
21 have not been talked about a lot today, veterans. We
22 know veterans have much higher rates of gambling
23 problems.

24 And we believe, again, there is likely a
25 bidirectional effect. People who are vulnerable for

1 gambling addiction or who have gambling problems may
2 be more likely to pay-and-play and develop problems
3 with loot boxes. And those who play loot boxes may
4 well be on their way to developing gambling problems
5 due to their loot box play. These are very, very
6 complex associations. Obviously, a lot more research
7 needs to be done. And, again, the industry can play
8 an enormously helpful role in providing data to help
9 all of us make more informed decisions about some of
10 these risks.

11 So based on our experience working with
12 government and the gambling industry to protect
13 players, we've got sort of four buckets of solutions
14 if you will, a number of which have already been
15 discussed, so I won't spend a lot of time on them.
16 And we have much more detailed information in our
17 written submission, which is, of course, available on
18 our website, and we have we have some copies here as
19 well.

20 So first, in the gambling industry, we look a
21 lot about creating informed consumers. And we've
22 talked a lot about -- today, about making and building
23 transparency. And I think one of the challenges to
24 this industry and one of the ways that you can
25 actually do much better than the gambling side, is if

1 you're spending \$250 million to develop a game and
2 you've got some of the world's best, most creative
3 talent, let's find a way to make this information in
4 disclosures entertaining and interactive and exciting.

5

6 You know, build it into gameplay. Reward players for
7 doing some pro-social behavior, like finding out what
8 really the odds are in this game.

9 I would hate to see it look like what a pay
10 table looks like for a slot machine, which is you know
11 2.5, zillions of numbers in there, and without a
12 degree in higher math, you're utterly unable to
13 understand this. But there are ways to make this
14 transparency quite effective, especially when you're
15 trying to communicate with younger customers or
16 parents who are not technically well-equipped.

17 You know, obviously, we talk a lot about, in
18 the gambling space, about consumer education
19 protection. I think, last but not least, we would
20 suggest a rating of most games with loot boxes is M
21 for mature, because, ironically, if many of the
22 parental controls are based on existing ESRB ratings,
23 then most games with loot boxes, including some of the
24 ones we're most concerned about, are rated as T for
25 teen.

1 And so if you're a parent who's basing your
2 parental controls on what the ESRB rating is, if the
3 ESRB rating is as we would think artificially low,
4 then that might not trigger the appropriate level of
5 parental controls.

6 We, also, in the addiction prevention world,
7 or in the gambling world, we know that some addiction
8 in some people you can never prevent from developing a
9 problem, right? We must make all the efforts we can
10 to prevent, but just as we have learned from decades
11 of experience with drug and alcohol abuse and other
12 things, so while parental controls are important, we
13 need to go beyond that.

14 And one of the things that we do a lot in the
15 gambling industry is we recognize the role of parents,
16 we recognize the role of industry self-verification,
17 but we absolutely believe that there has to be third-
18 party objective regulation. Sometimes that could take
19 the role of the -- sometimes that could be the role of
20 the FTC. Other times it can be the role of third-
21 party groups, like ourselves or others, perhaps some
22 of these panelists.

23 And one other thing on this that's, I think,
24 important when we talk about certification and
25 verification, nobody in the gambling industry would

1 ever trust a slot machine manufacturer to self-certify
2 that their machines -- the odds and randomness of
3 their machines is as -- that their machines perform as
4 they say. So we use independent testing labs. That's
5 what the state of Nevada and New Jersey -- that's what
6 everybody uses to verify that the odds are as they are
7 stated. And they often find machines that don't
8 perform adequately. It's an important consumer
9 protection feature.

10 And so if the industry is going to provide us
11 information on odds and randomness, take a lesson from
12 the gambling side, you got to get it done
13 independently. It's not going to be effective if
14 you're just telling us, oh, trust me, this game, these
15 items drop at this rate, especially without any means
16 to independently verify it.

17 So we try and prevent as many problems as we
18 can. Those who slip through the net are going to need
19 help. And so one of the things that we will be
20 launching very soon is responsibleplay.org to help
21 people who have questions, and perhaps problems, find
22 a place to go.

23 As Dr. Domoff talked about, there's a number
24 of flavors, if you will, of addiction that are
25 implicated in this discussion. There's straight-up

1 gambling addiction. There's, of course, gaming
2 addiction, which she went through with the clinical
3 criteria. And there's internet addiction. These are
4 all separate, they're distinct, but quite closely-
5 related issues. And what we'd like to do with
6 responsibleplay.org is help people come take these
7 various self-tests and then find where they perhaps
8 need to be.

9 Some people who have problems with loot boxes
10 are probably people who have gambling addiction. Some
11 people that have problems with loot boxes may well be
12 gaming addicts. Some people may be internet addicts;
13 some people may have other problems. And so we want
14 to be sort of a gateway, an information referral
15 resource, where folks can come and then get steered to
16 the appropriate help for their condition or issue.

17 And, again, another tip from the gambling
18 side is self-exclusion. So one of the most effective
19 ways to help someone, who may have a problem with
20 their gambling or with their gaming use, is to allow
21 them to self-exclude themselves. And in an
22 environment where transactions are monitored, you can
23 use self-exclusion through payment mechanisms, because
24 while people may have many different accounts and play
25 many different games across many different providers

1 and platforms, they're probably using that one credit
2 card or at least a common bank account. And so
3 payment level blocking can be very effective,
4 buttressing and adding to existing platform level
5 controls and others.

6 Self-exclusion also places a priority -- or
7 that places the emphasis on the gambler or the gamer
8 and not necessarily the operator. But operators must
9 have an affirmative duty to honor self-exclusion. So
10 self-exclusion is not effective at all when you can
11 walk right through it. So there's got to be, again,
12 that partnership between people who exclude and
13 companies that are going to participate in that
14 program, because the worst thing you can do is set up
15 an exclusion program and then not honor it. And that
16 will bring the worst of both worlds.

17 So last but not least, we talk a lot about
18 evidence, and we believe it's incumbent upon the
19 industry to help by providing identified data to
20 independent objective researchers to help all
21 stakeholders validate concerns and develop solutions.
22 If the video game industry disputes our concerns, they
23 should make publicly available the massive amounts of
24 data they have on player participation and spend on
25 loot boxes that they collect.

1 As Dr. Zendle said, we'd be happy to be
2 wrong. We don't think we are. Again, we've looked at
3 -- looking through the gambling lens and with 50 years
4 of experience on this issue, we think there's clearly
5 both cause for alarm and a link between people who
6 pay-to-play loot boxes and people who develop gambling
7 problems.

8 But the only way we're going to really find
9 out who exactly is at risk, and thus how we can create
10 solutions, is to really dig into this information. So
11 we don't want to identify people by name, so
12 deidentification of data is critical. But we think
13 there are ways to help provide that information to
14 qualified third-party researchers, which will help all
15 of us figure out their true -- some of the true
16 concerns.

17 So in conclusion, with great profits come
18 great responsibility, right? We call on the video
19 game industry to dedicate a portion of loot box
20 revenues to a public health trust fund that supports
21 independent prevention, education, treatment,
22 recovery, and research initiatives. ESA and its
23 member companies can play a constructive and
24 productive role, just as some casinos and lotteries
25 embrace responsive gambling as the most ethical and

1 economical way to address the harm their products
2 cause.

3 It's clear that paying for loot boxes is
4 linked with gambling problems, and that some gamers
5 are at higher risk for addiction due to their age,
6 gender, or even military service. We know from
7 decades of experience with slot machines and gambling
8 companies that educational awareness campaigns,
9 coupled with strong responsible gambling or consumer
10 protection policies and programs, can help reduce, but
11 never eliminate, the risk of problems.

12 But for these measures to be effective, it
13 will take true commitment of leadership from ESA,
14 ESRB, and every developer and publisher worldwide,
15 because if you have even one company that chooses not
16 to participate, that opts out, that doesn't comply
17 with standards, the whole system, the foundation of
18 the entire system is undermined.

19 In the five decades in gambling, we've
20 learned that self-regulation alone is never enough.
21 It must have an enforceable consumer protection
22 framework and be accompanied by external oversight,
23 research, monitoring, and verification by independent
24 groups. So there's a three-legged stool, there's room
25 for industry, for regulators, and for advocates.

1 We look forward to working with anyone who
2 has a sincere interest in preventing addiction and
3 protecting players.

4 Thank you very much.

5 (Applause.)

6 MR. DUCKLOW: Thank you, Keith.

7 Ariel, you have the podium.

8 MS. FOX JOHNSON: So good afternoon. I think
9 I'm the last presentation, so thanks all for still
10 being here and awake. And, also, thank you to the FTC
11 for hosting this workshop today.

12 I'm Ariel Fox Johnson, Senior Counsel for
13 Policy and Privacy at Common Sense Media.

14 So as you've hopefully already heard this
15 morning when my colleague Jeff Haynes was on the
16 stage, Common Sense Media is committed to helping kids
17 and families navigate an ever-changing world of media
18 and technology. And over the years, that's grown from
19 helping parents pick out what TV shows might be
20 appropriate for their children to now helping them
21 understand how to protect their privacy and their
22 pocketbooks as kids are discovering new opportunities
23 and facing new risks online and in games.

24 A lot has been said so far today about how
25 children and youth are particularly vulnerable. And

1 I'm pleased about that, that I won't be the only one.
2 I want to just talk a little bit more about what kids
3 and families know with respect to loot boxes and
4 in-app purchases. And spoiler alert, they don't know
5 a lot. So let's also talk about how we can improve
6 the situation.

7 So as you've heard today, this isn't just a
8 kid's issue, but kids are particularly vulnerable.
9 There are a number of different reasons why. First,
10 kids can have trouble distinguishing play money versus
11 real money, and games do not make it easy for them by,
12 as discussed, not always listing things in real dollar
13 terms. It's hard for kids and adults to figure out
14 that things can cost real money.

15 Second, even if information is listed
16 providing real dollar amounts, digital transactions
17 can make it difficult for people to understand that
18 they're spending money. There is very little
19 friction. It's hard to comprehend if you're making a
20 purchase, if you're just clicking online or talking to
21 a smart device, a lot harder than if you were handing
22 over cash. Additionally, the use of microtransactions
23 can compound this problem. To a kid 99 cents, \$2.99
24 doesn't sound like a lot, and they don't think about
25 the fact that they're going to make that purchase 70

1 times.

2 When talking about teens, there are
3 neuroscience and other issues to consider.
4 Neuroscientists have looked at how teens brains are
5 different. They're still developing, and this has
6 been talked about a little bit earlier today. Their
7 prefrontal cortex is not in the same shape as an
8 adult's, and they're more likely to do the immediate
9 and risky thing to get a reward and less likely to
10 consider long-term consequences. In this space, that
11 means that they're more likely to spend money, and as
12 we've heard, some of them think it feels good.

13 This is just an example of even how when
14 dollars are presented to a purchaser, it can be very
15 hard to read how much they cost and hard for a child
16 to make a smart decision.

17 In addition to cognitive and comprehension
18 issues, there are also social and emotional issues at
19 play. And companies can take advantage of this.
20 Older kids want to compete with their friends. And
21 we've seen that some gaming companies are filing
22 patents that would take advantage of this desire to
23 compete, contemplating pitting a junior player with a
24 more senior player in an effort to get the junior
25 player to spend more money.

1 Younger kids, they want to make people happy.
2 They don't want to disappoint their friends, their
3 family, and this also includes their favorite
4 characters. And what I now hope is an infamous
5 example that you've all heard of, and if not you'll
6 hear of it now, is Strawberry Shortcake insisting that
7 children who are trying to play her game and make
8 treats, purchase certain costly kitchen tool items.
9 And if they don't, she'll berate the player.

10 There are other children's games in which a
11 character will cry if the child doesn't make the
12 purchases recommended. I think it bears noting here
13 that host selling like this is prohibited on TV. And
14 here you have not only the host selling, but the host
15 getting angry or upset with a child if they're not
16 making a purchase immediately.

17 Kids can also fall prey to the same type of
18 selling techniques that adults can. So here, if they
19 can read, they may go for the best value item. If
20 they're pre-literate, they may just like the pink
21 color.

22 I think it's important to consider kids
23 purchasing techniques in the broader context of their
24 gaming experience. From our Common Sense research, we
25 know that some kids are spending a good chunk of time

1 playing video games each day. While a minority of
2 teens and tweens, according to our research, are
3 playing video console games on a given day, I think
4 the numbers are much higher for mobile probably, only
5 27 percent of teens play console games. Those who do
6 average over two hours. Among gamer teens and tweens,
7 they're spending over two hours a day on video games.
8 And those who consider themselves mobile gamers, spend
9 almost as much time.

10 As you've heard today, there are real and
11 growing concerns about addiction on games and via
12 other techniques, not just in-app purchases, but
13 buzzing and dinging and randomized notifications, snap
14 streaks, autoplay, and other features that tech
15 companies are using to keep us hooked, and Common
16 Sense is focused on these broader issues as well.

17 If you add that to the thrill and excitement
18 of not knowing what you're going to get when you open
19 up a loot box, then it's really no surprise that, as
20 you heard, the American Psychological Association, the
21 World Health Organization, have identified internet
22 gaming disorder and hazardous gaming as public health
23 issues that merit further attention.

24 So we do hear a lot of concerns from parents
25 at Common Sense about their kids spending too much

1 time online and on games and we also hear questions
2 about in-app purchasing. We hear less, as you heard
3 from the ESRB, about loot boxes. I think a large
4 reason for this is that parents are in the dark. They
5 barely understand in-app purchases in general, let
6 alone specific mechanisms like loot boxes.

7 Why are they so in the dark? Well, one
8 reason, again, disclosures can be ineffective, in
9 small and tiny print, and you have to click further to
10 see the costs of actual purchases and items.
11 Additionally, parents might not realize that a kid has
12 access to their credit card. They don't know that
13 it's already linked to their online account because
14 they used it for unrelated purchase. They don't know
15 that their kid can access it in their purse and they
16 might not know to worry about that if they don't
17 realize that the game has in-app purchases to begin
18 with.

19 While they may get statements, in some
20 instances, such as in Facebook gaming, a number of
21 parents weren't getting any statements at all. And
22 when they do get statements, they'll have sort of
23 vague descriptors, like Facebook or Amazon, in amounts
24 of cents. It could be hard for a parent to tell that
25 that's an in-app purchase or if it's maybe your

1 monthly iCloud storage.

2 When we talk to parents, they have very basic
3 questions. How do we turn off in-app purchases? How
4 do you find out if a game has them? How do you find
5 out if a game requires them to play? They feel lost.
6 And for parents of kids who've already racked up huge
7 in-app purchases, they feel angry. I think at this
8 point it's sort of -- you've heard multiple times
9 about people spending thousands of dollars in these
10 games whether they liked it or not. And I have a
11 family member who was telling me this weekend about
12 spending thousands of dollars on in-app purchases.

13 One example here, is four kids, all under 10,
14 spent 550 pounds trying to get their favorite football
15 or soccer player. The parents only realized when
16 their bank card was declined. They were playing a
17 game that was recommended as appropriate for ages 3
18 and up.

19 When parents find out that their kids have
20 made these purchases, they respond in sort of a
21 variety of predictable ways. One, they try to get
22 their money back, and a lot of these games have
23 chargeback rates that would be considered fraudulent
24 in other industries. Also, some of these parents turn
25 to the courts. And, indeed, in a lot of the examples

1 I mentioned in the last slide, they are about parents
2 who've sued.

3 Almost all of the major platforms have faced
4 FTC actions in settlement due to deceptive in-app
5 purchases and disclosures. So Google and Apple
6 settled with the FTC, and then Amazon, who first went
7 to court. They're now required to disclose in-app
8 purchases in games. Though, as noted, these purchase
9 -- these disclosures can be woefully inadequate for
10 parents.

11 Common Sense and other advocates have also
12 asked the FTC to hold Facebook to the same standard
13 more recently. That issue has not been resolved, and
14 we're concerned that the claim has been extinguished
15 by the recent settlement. So current practices don't
16 seem to be serving kids and families, and we've heard
17 that there are some steps to improve those today, but
18 we think there need to be more.

19 Thus far in the US, most efforts have focused
20 on transparency. App stores, self-regulatory groups
21 are indicating in-app purchases. Now, there's also
22 Google and Apple and, today, others who will be
23 disclosing odds, drop rates on loot boxes. Common
24 Sense, in our reviews, tries to give information to
25 parents about in-app purchases, as well as the prices

1 of those purchases when we can.

2 We also note when in-app purchases are so
3 pervasive or manipulative that they might disrupt
4 gameplay or a child's experience, and that's what we
5 call commercialism in a game.

6 We think companies can and should do more,
7 however. One useful guide here is a UNICEF paper on
8 child rights and online gaming that just came out this
9 spring. It sets out key principles that all game
10 companies could follow to serve children. Companies
11 should help children understand the commercial aspects
12 of games and speak to them in a voice that they and
13 their parents can understand. And I love the idea of
14 companies and their developers being creative and
15 making this something that players and parents want to
16 read and spend time on.

17 Companies should clearly label advertising
18 and other commercial content. And they should make
19 sure that children fully understand all purchases
20 before they pay for them and not later when their mom
21 asks how they racked up huge charges. Companies
22 should also be inclusive in their game design. They
23 should make them so that all children can play them
24 and understand and have the expectation that children
25 make the games in a way that they did not intend, and

1 they may play games, even if the product was not
2 designed for them.

3 Common Sense would like to see companies
4 eliminate features that manipulate kids into spending
5 more money or time than they or their parents were
6 intending. We also think that platforms should take
7 more responsibility. They are the gateways and they
8 can do more to flag particularly problematic titles,
9 as well as help ensure that parental controls are the
10 default setting.

11 As you've heard today, loot boxes are a
12 global concern. They are a concern for many
13 regulators, though there's not always consensus on
14 what to do about this. Belgium and the Netherlands
15 have said that some types of loot boxes constitute
16 gambling, and game studios have responded by pulling
17 out or modifying their games.

18 The UK has found that some similar practices
19 were not gambling. In China and South Korea, there
20 are rules that require game companies to disclose the
21 odds. This seems like a positive step forward, but
22 some of the odd disclosures that we have seen include
23 ranges of winning certain items that are so broad,
24 like say 5 to 60 percent, that it seems to barely
25 constitute a disclosure at all.

1 So as we move forward and talk about
2 disclosing drop rates and odds of winning, I think
3 it's important that we maybe look closely at what's
4 being disclosed.

5 In addition, European regulators, Washington
6 State Gambling Commission have also signed joint
7 statement expressing concern.

8 In the US, obviously, legislators and
9 regulators are also taking notice. Senator Hassan
10 asked for the FTC to investigate loot boxes and make
11 efforts like today's workshop, to educate parents and
12 the public about potential addiction and other
13 negative impacts. And Senator Hawley, along with
14 Senators Blumenthal and Markey, has introduced
15 legislation to ban loot boxes and pay-to-win
16 monetization practices for those under 18.

17 There are also broader bipartisan efforts,
18 like the Camera Research Bill, that would study the
19 effects of technology and media, including video
20 games, on kids. And at the state level, we've seen a
21 number of efforts, including one Hawaii legislator
22 who's made repeated efforts to ban loot boxes for
23 those under 18 and require odd disclosures and
24 recently gotten passed a commission to study this
25 aspect of the gaming industry in his state.

1 This is still an emerging issue for
2 many parents and it's one which many are still
3 unfortunately not aware of. But as it faces increased
4 attention, we're hopeful that efforts from all sides
5 will lead to a better experience for kids and families
6 in the future.

7 Thank you.

8 (Applause.)

9 MR. DUCKLOW: Thank you, Ariel.

10 So we're going to jump into some Q&A now.
11 And none of the following questions are directed at
12 any particular panelists, so please feel free to jump
13 in.

14 The first question that I think we're curious
15 to hear the panelists response to is, this issue of
16 disclosure of odds, this has come up throughout the
17 entire day. In fact, we actually had an announcement
18 by ESA earlier this morning that additional platforms
19 are bringing this online, joining Google and Apple to
20 kind of make this certainly a trend. What are
21 panelist's reaction to this idea of disclosure of odds
22 as kind of being the way forward here?

23 MR. WHYTE: I'll start out and say we've got
24 a lot of experience with this in the gambling world,
25 and it is not harmful, but unlikely to be effective.

1 Most people don't understand odds and randomness in
2 the most simple dimensions, especially when you're
3 talking about dynamic odds. It's almost impossible
4 for people to figure that out.

5 And you have to look at the people you're
6 disclosing to. If it's a young person or someone
7 who's vulnerable to gambling addiction, they're going
8 to understand that information completely differently
9 than a rational or well-informed or non-addicted
10 consumer.

11 So again, from the gambling addiction space,
12 there's been few studies that have found much impact
13 on odds and randomness disclosure around slot
14 machines. It doesn't hurt. It doesn't lead to
15 negative perception, except in some ways if you --
16 there are ways to talk about odds and randomness
17 within gambling that can actually encourage or lead
18 people into false beliefs. But, by and large, I think
19 that information is okay. It's valuable; it's true;
20 it's factual and should be disclosed.

21 But I think the next step is to make -- is to
22 find ways to make it sticky and entertaining for
23 consumers and to make such disclosures impactful. And
24 so I think there's a whole lot we can do to try and
25 find ways to communicate those odds to people in ways

1 that they're going to understand and be able to make
2 more informed decisions. That's the ultimate point.

3 The point of disclosure is to help improve
4 and change consumer behavior. The disclosure itself
5 is not the point. It needs to lead to something. And
6 that, of course, can be measured and evaluated, and
7 there could be a feedback loop to find better and
8 better ways to do it.

9 MS. FOX JOHNSON: Yeah, I would second that.
10 Say, I don't think a kid is going to make a
11 significantly better decision with certain odd
12 disclosures. And while it's a good step, it can't be
13 a step that replaces sort of more meaningful change.

14 MR. WHYTE: Well, and the other thing I'll
15 say just real quick, is that look at Powerball. Your
16 odds are 246 million to 1. Does that stop anybody
17 from buying Powerball tickets? No. Some people love
18 to chase long odds. That's part of the thrill.
19 That's, frankly, part of the addiction for some
20 people.

21 So again, not a magic bullet. A good first
22 step, but it's a first step towards a lot of change in
23 behavior, and that's a much bigger challenge.

24 MS. LAITIN: Yeah, I'll jump in and agree
25 with all of that and say from first inclination, it's

1 a good step, but there's a lot of questions about when
2 that disclosure happens and how. If the disclosure
3 only happens at the time you buy the game, and then
4 it's weeks, months later when you're actually playing
5 and encountering the loot box, and how do you have any
6 recollection of that at that time, is that a
7 meaningful disclosure?

8 And it's something -- Keith was talking about
9 different ways of doing disclosures. I think finding
10 a way that people can really understand what's going
11 on and that creativity is great, but we have to
12 remember that these games are looking to have people
13 play these loot boxes. And so finding that line, you
14 can be creative in the disclosure, but the reality is
15 they want people to buy these. And so is there a need
16 to disclose in a way that creates some friction, slows
17 people down, makes them think, and that may, of
18 course, stop them from playing the little boxes, which
19 takes away revenue?

20 MS. VANCE: I think you have to trust that
21 the industry is serious about making the commitment
22 that they announced this morning. They have their own
23 customers to serve. And they've made a commitment to
24 make disclosures easy to access and to be
25 understandable.

1 And as we learned earlier this morning, loot
2 boxes vary game to game, loot box to loot box, and if
3 there is no one silver bullet for disclosures, there's
4 no one standard, I think we have to leave it to
5 individual game developers to develop the right type
6 of disclosures for their game and for their customers.

7 I also think it's different disclosures for
8 different audiences. I mean, what you would disclose
9 for a parent -- like we just created a blog that helps
10 parents understand what drop rates mean, but it's
11 complicated. And instead of -- I think to make a
12 parent comfortable, we're better off focusing on a
13 generalized disclosure up-front that this game enables
14 in-game spending, and then point to parental controls
15 that allow them to limit the amount of spending that
16 their child can enable.

17 MS. JOHNSON: Just picking up on that point
18 about the disclosure of in-game purchases, we've heard
19 today that some feel that that disclosure isn't
20 prominent or detailed enough. Are there thoughts for
21 ways to -- I guess, how would you respond to that?
22 And then, also, are there thoughts of other ways to
23 improve upon that to make that more impactful for
24 consumers?

25 MS. VANCE: You're talking about the in-game

1 purchases notice?

2 MS. JOHNSON: Yes.

3 MS. VANCE: I mean, I walked everybody
4 through the rationale for making that decision, and
5 that was the right decision based on our research. So
6 it was informed based on what we were hearing from
7 parents.

8 Our rating system, at least the up-front
9 information that we provide prior to purchase, needs
10 to be really easy to digest. Otherwise, it's going to
11 get ignored. And so we really try to make our
12 information concise, easy to digest. We cannot throw
13 a lot of information at parents. They just -- their
14 eyes glaze over.

15 But if they want to go deeper -- for an
16 example, we offer rating summaries on our website and
17 through our mobile app, so that if a parent wants to
18 know what do we mean by suggestive themes, or, you
19 know, okay, it's teen-rated, but I have a 10-year-old,
20 and I really want to make a decision, I want to
21 understand more about the context of the content that
22 we've called out, they can go to our rating summary
23 and read a paragraph or two giving them far more
24 information, far more examples.

25 But we can't expect -- A, we can't expect

1 that to be on the box. We can't expect that
2 information to be up on a mobile screen when you have
3 this amount of real estate. We have to give different
4 layers of information depending on how parents want to
5 digest it and what parents are looking for.

6 But, look, the drop rates is really to serve
7 the gamers. The drop rates are really to provide
8 clarity about the relative rarity and probability of
9 getting certain items in a loot box. And I think
10 whether -- I think most gamers would understand what
11 that means. If they've been playing a game for years,
12 they know what those stars mean, they know what the
13 different terms are that are being used, whether it's
14 legendary or rare or epic. And the drop rates, I
15 think, they understand based on the context of the
16 game that they're very familiar with. So I don't
17 think we should underestimate gamers' ability to
18 figure it out.

19 MR. WHYTE: I think that -- just to add to
20 that a little bit, I think sort of implicit in the
21 question is focusing on point of sale. And that's
22 akin to when someone sits down to a slot machine or a
23 blackjack table saying, oh, hey, here's a plaque. You
24 may lose your money and this is a random game. Or
25 like if you go to a bar, you expect your bottle of

1 beer.

2 It's not going to -- so it can't tell you --
3 point of sale is a very, very limited time for all
4 sorts of reasons to provide this kind of information.
5 And it really -- the true way to approach this, as
6 with any other public health issue, is through large-
7 based awareness campaigns. ESA is starting in that
8 direction. I think there needs to be others.

9 It's almost impossible. We can't push all
10 consumer protection at point of sale or point of
11 purchase. That is, there is a time. I mean, there's
12 things we can do there, but it's got to be throughout
13 the lifespan. I mean, if we're not talking to kids in
14 schools about this, those measures are not going to be
15 -- again, they're not going to hurt, but they're
16 likely -- they're not likely to be very effective.
17 It's got to be multilayered, multifaceted, multi-year
18 approaches all across the lifespan.

19 MS. LAITIN: And I'll add to that analogy. I
20 think it's not sitting down at the slot machine. I
21 think it's entering the hotel in Vegas and it says,
22 you may end up spending money here, possibly at a
23 restaurant, maybe at a show, or maybe you'll be at the
24 slot machines.

25 MR. WHYTE: That's right.

1 MS. LAITIN: And that's what's so hard about
2 that "contains in-app purchases." As a parent, I look
3 at that. I don't know if that's loot boxes or you can
4 buy another world sometime later. It could be
5 anything in between. And so to get that level of
6 specificity when consumers are at the point or when
7 players are at a point where they're accessing that
8 stuff, that's a different moment.

9 The point of purchase is really, really
10 important, and I'm thrilled that that's there, but
11 it's not doing enough of the job.

12 MR. DUCKLOW: So Keith had mentioned the idea
13 of dynamic odds. And one of the specific types of
14 dynamic odds that we saw come up in comments is the
15 idea that you could actually guarantee a specific item
16 or a specific rare item to pop up after a certain
17 number of loot boxes. I'm curious what the panel's
18 reaction is to that idea. Does that increase clarity
19 for gamers or could it actually counterintuitively
20 increase the number of loot boxes that they purchase?

21 MR. WHYTE: I think it absolutely depends on
22 the gamer, right? If you're a kid, if you're, again,
23 vulnerable to addiction, there's lots of people that
24 can perceive those as absolutely exhortations to play.
25 The gambling world, you only have to admit you've lost

1 when you stop playing. So anything you can beg,
2 borrow, or steal to stay in action, you're always one
3 bet away from winning everything back.

4 If you believe or you know or you think you
5 know that additional play or additional spend is going
6 to guarantee you an item, and why would you stop
7 anyway, but especially if you're addicted, especially
8 if you're risk for addiction, especially X, X, X, X.
9 Other players, recreational players, nonproblematic
10 players, adults, you know, may be able to see -- may
11 be able understand the dynamic odds better. And,
12 again, that's one of things that makes this hard.
13 You're talking 165 million people, but you know some
14 of them are people who either have problems or are
15 likely to develop problems, and you know for them,
16 their judgment is, by definition, impaired.

17 They are worse at understanding odds and
18 randomness than others. They have cognitive
19 distortions. They have illusions of control.
20 And providing information, dynamic odds, in such a way
21 to make them think that persistence is going to allow
22 them to win that epically rare item can be disastrous.
23 That can absolutely be a pathway to gambling problems
24 if the problem is not already there.

25 So again, it's hard to answer, I mean, a lot

1 of it depends on the player, in our opinion, because
2 we've seen this happen in the gambling addiction space
3 with devastating consequences for some. And we
4 predict that would be the same within this loot box
5 space.

6 MS. FOX JOHNSON: I think this also just sort
7 of speaks to the recurring theme we've heard today
8 about the need for more research, and different
9 individuals respond differently, and how can we
10 support that.

11 MS. JOHNSON: So --

12 MS. VANCE: Can I just -- can I just add one
13 thing?

14 MS. JOHNSON: Oh, please.

15 MS. VANCE: There's is a theme that, you
16 know, incentives are bad. Rewards are bad. Games are
17 all about rewards and incentives, and that's what
18 makes them fun and that's what makes them compelling
19 forms of entertainment.

20 So I want us to be careful about how we frame
21 the conversation. Providing an incentive isn't, on
22 its own, a bad thing. It provides challenge, it
23 provides progression, you know, encouragement to
24 progress through a game. So I think it's important to
25 not tar all types of incentives as somehow bad.

1 MS. JOHNSON: Oh, that's a good -- oh, go
2 ahead. Did you want to --

3 MS. LAITIN: No.

4 MS. JOHNSON: I was saying that's a good
5 segue into sort of another question, which is what
6 about just offering randomized loot boxes for free,
7 essentially, you know, and only available through
8 gameplay, and then instead having specific virtual
9 items or bundles or passes available for purchase,
10 sort of á la carte? Would that solve the problem?

11 MR. WHYTE: Not all of it. From a
12 psychological model of addiction, no. Whether or not
13 a reward is monetary or not, whether or not how you
14 pay for it, those things or not -- are slightly
15 salient in addiction, but not entirely. So it
16 wouldn't -- making loot boxes free would not remove
17 the risk that some people will become habituated and
18 conditioned to them and will play them obsessively.

19 We see this in the social casino space all
20 the time. Free-to-play social casinos have quite high
21 rates of people who will play 'til extinction, and get
22 a billion chips, and then they'll spend days and hours
23 playing all those chips to extinction again, so they
24 can go buy more free chips to continue to play, even
25 though they know they will never win anything of

1 value.

2 So, no, it won't solve -- it might solve some
3 people, but it won't solve the truly vulnerable people
4 for gambling problems. It would be great if it was
5 that easy. I'd be out of a job, but gambling
6 addiction is a little bit more sticky than simply
7 price.

8 MS. VANCE: I mean, I do think that would
9 obviously change a lot of the economics. You may find
10 the up-front cost of games to be higher. You may find
11 it has a huge impact on the free-to-play market,
12 particularly in the mobile market. These independent
13 developers, in particular, need revenue streams to
14 monetize, to cover the cost of development. So I
15 think it obviously would have huge impact on the
16 economics of the business, which I think you need to
17 be careful about.

18 Plus, many loot boxes are free and they're
19 optional. So you don't have to buy a loot box to play
20 through a game.

21 MS. LAITIN: I think it's interesting that
22 you say how much it would change the economics if
23 people could buy the things they're currently winning
24 in loot boxes. I don't -- I have no studies, no
25 knowledge, but it would be interesting to see how that

1 played out and how much the reliance on loot boxes is
2 necessary for the economic viability of these.

3 Because, again, if we're talking about
4 warnings and disclosure and making sure people are
5 aware, and if paid loot boxes are necessary for these
6 games to continue to exist, that alone is something
7 that parents and others should be very aware of, that
8 these games can't exist without these and that the
9 games are relying on people taking the chance here in
10 order for them to continue to exist.

11 MS. JOHNSON: A followup, do you think there
12 should be any kind of cap on the amount of in-app
13 purchases for children and adolescents? So for
14 example, you know, you may see bundles that are \$99.99
15 or range anywhere from like \$2.99 to almost \$100.
16 Would it make any sense to limit the price cap for
17 loot box -- I mean, sorry, for in-app purchases for
18 games that are marketed to children and adolescents?

19 MS. FOX JOHNSON: So I think it would make
20 sense to limit or eliminate potentials for spending in
21 games that are marketed to children and adolescents.
22 I do worry that if we say, you know, if you have a
23 loot box, or you have an in-app purchases, you have to
24 rate your game for adults that that might be seen as a
25 get-out-of-jail-free card for people who have games

1 that are, in fact, really appealing to 10-year-olds.
2 And so I think you have to sort of consider it
3 carefully.

4 But I think that parents would feel a lot
5 more comfort if they knew that there were limits for
6 their kids spending for certain age range games.

7 MS. VANCE: Based on our research, almost
8 seven out of ten parents have rules that their kids
9 can't make any in-game spends. So we believe that
10 parents need to be parents and set their parental
11 controls and be informed with the disclosures that
12 we're making, including the in-game purchase
13 disclosures, but other information that we're putting
14 on the box and on the product detail page.

15 I think parents need to be informed, which is
16 why we're doing a lot to try to educate parents and
17 make sure that they're aware, not just of the
18 disclosures, but also the parental controls, and leave
19 it up to them to set the parental controls at whatever
20 levels that they think is appropriate. But based on
21 our research, the majority of parents are not allowing
22 their children to make any expenditures.

23 MS. JOHNSON: And then we've gotten a couple
24 of questions from the audience. This one is for ESRB.
25 And the question is, has ESRB found that there's any

1 effect of household income or socioeconomic status on
2 use of parental controls by parents?

3 MS. VANCE: We've not studied that issue, but
4 I don't know if anybody else here has.

5 MS. WHYTE: No.

6 MS. FOX JOHNSON: No.

7 MS. JOHNSON: And let's see, another one.
8 This one is, why not define the type of purchase?
9 Consumers do care about whether they will be hit with
10 constant money grabs versus rare or occasional full
11 game add-ons or subscriptions to pay online.

12 So I think this goes to the issue of adding
13 more detail to the type of purchase up-front. I don't
14 know if you have anything more to add than what we
15 spoke about earlier with regard to that.

16 MS. VANCE: I mean, obviously, I'd refer you
17 back to the comments I made earlier. But I would also
18 just say that I think that you have to look at what
19 problem are you solving. I don't think the choice to
20 purchase a game, it would be dependent on that
21 information. I think that information is really
22 relevant. Once you're in there playing the game, the
23 most relevant information, at least that we know, for
24 parents -- from our research with parents, is that
25 they want to know that there's some ability to spend

1 money inside. And then once they bring that game
2 home, hopefully, they'll likely set their parental
3 controls.

4 But that level of detail, I think might be
5 helpful. But it's helpful only after somebody has
6 made a decision to purchase a particular game. The
7 reason why they're purchasing that game is because
8 there's great word of mouth, it's great game design,
9 based on a brand that I know my kid loves. There are
10 a whole host of reasons. Price point. I mean, there
11 are a whole host of reasons why a parent might make a
12 decision to purchase a video game. So I'm not sure
13 that particular information is relevant for that up-
14 front purchase decision, but might be helpful further
15 down the line.

16 MS. FOX JOHNSON: I guess I would just add
17 that, in many instances, especially when we're talking
18 about mobile, the parents aren't really purchasing a
19 game. They're clicking "download" and handing over
20 their phone to their kids. And I think one of the
21 things that we've heard from parents at Common Sense,
22 is that they do want to know if in-app purchases are
23 -- you know, is it a rare, or occasional, or even
24 cosmetic. We heard today that maybe that doesn't have
25 as big an effect as we thought.

1 Or is it something where it's like every time
2 your child wants to advance to the next level, like in
3 the Thomas the Tank game, they are going to have to
4 spend money. Because a parent might make a very
5 different choice, even though both could be listed as
6 having in-app purchases.

7 MR. WHYTE: And just to echo that, as Renee
8 and others have said, I mean, loot boxes, this covers
9 just a massive amount of territory. And at some
10 point, yes, providing information on better -- to help
11 everybody better understand the risks -- I mean, I
12 think there's much more risks in some types of loot
13 boxes and much less risk in others. It's still risk,
14 but helping weight that is important. But, yeah,
15 really hard.

16 And I don't know that we really know. And I
17 think, again, it's a call -- as Ariel said and as
18 David said and others, it's a call for more research
19 to help us understand features that are more harmful
20 versus less harmful, help us understand relative risk,
21 and then communicating that relative risk, because
22 risk is not seen equally amongst users. And there's
23 -- and it's a great question. When and where, where's
24 the most effective way to provide that information and
25 to whom? In some cases, it's the users. In some

1 cases, it's the broad public. In other cases -- and
2 sometimes it may need to be tailored very specifically
3 to specific groups.

4 And I think we're only just at the beginning
5 stages of understanding this as not a technology
6 problem or a game problem, but as a public health
7 issue. And if you look at it through a public health
8 lens, I think that points to, again, broader
9 prevention, educational initiatives, more of a public
10 conversation around this, and then layered with lots
11 of different tools for lots of different audiences,
12 delivered at lots of different times. Point of sale
13 being one, but not the only, and probably not even the
14 primary.

15 Just as you wouldn't expect your first lesson
16 about alcohol or driving drunk to be delivered when
17 you walk into the bar, when you walk in the hotel in
18 Vegas. That starts really early and continues
19 throughout your life, because the risk changes as
20 people change and mature.

21 And we haven't even talked about seniors, but
22 we've talked a little bit about cognitive development
23 and neurocognitive development. But there's a lot of
24 evidence to suggest that seniors may be at higher risk
25 for negative consequences in some of these things as

1 well, and it's not just kids.

2 MR. DUCKLOW: So I think the final two
3 questions we have today are more broad. First off,
4 simply put, can the concerns that we've discussed
5 today regarding loot boxes and other types of in-game
6 transactions, can those be addressed effectively
7 through industry self-regulation, or is some type of
8 legislative action required? And then beyond that,
9 what might cause the calculus of that answer to change
10 in the future?

11 MR. WHYTE: So from our perspective from 50
12 years of working in the gambling industry,
13 self-regulation alone, no. It cannot be effective,
14 especially when there's so much profit involved and
15 there's so little understanding of both risk and
16 rewards across this global ecosystem.

17 So, yeah, we were comfortable with the three-
18 legged stool on the gambling side. Industry
19 self-regulation plays a really, really important role,
20 and we partner with a number of gambling companies
21 directly. But we also partner with regulators in this
22 space, like the FTC. And as an objective,
23 independent, nonprofit advocacy organization, we're
24 the third leg of that stool. We play a big role in
25 helping keep the industry honest. It's, you know,

1 trust, but verify.

2 And my counterparts to the left and right
3 probably will also play a role. And so, that's the
4 approach that we would suggest based on, again, our
5 experience with the gambling industry.

6 MS. LAITIN: I'll echo that. I think there's
7 a lot that industry self-regulation can do. And I
8 think ESRB has taken some really important steps. But
9 the chance of this being solved entirely by
10 self-regulation, given the broad nature of the
11 industry, given the size of the problem, and given the
12 concerns that have been expressed today, I think there
13 will be a need for more than just that.

14 MS. VANCE: Obviously, I think
15 self-regulation has worked very well, and the Federal
16 Trade Commission has looked at our industry over the
17 years and has written in their reports to Congress
18 that we have the strongest self-regulatory code and
19 high compliance with that code. I think we've proven
20 ourselves over the last 25 years that we can do an
21 effective job self-regulating and addressing
22 particularly parents' concerns.

23 But I would just add one more thing. This is
24 an incredibly fast-paced industry. We move really
25 fast and our self-regulatory system moves very fast

1 along with it. When we need to make changes to the
2 rating system, we do. When we need to make changes to
3 the marketing guidelines, we do. We are continually
4 adapting and evolving as the industry evolves.

5 I don't think regulators can keep up with the
6 industry, and I really fear that should regulations
7 come to pass, by the time they're passed, they'll be
8 obsolete or they'll be completely impractical. This
9 is a really complicated and very fast-moving industry.

10 MS. FOX JOHNSON: And I guess I would just
11 say that, I don't think that self-regulation can keep
12 up with the entire industry either. So I think
13 everyone has to play a role.

14 MS. JOHNSON: So last question. Let's say
15 we're all going to get together again in five years.
16 What do you think the key consumer issues would be at
17 that point related to microtransactions? Are we still
18 going to be talking about loot boxes at all? So what
19 are your predictions?

20 MR. WHYTE: No.

21 MS. VANCE: No.

22 (Laughter.)

23 MR. WHYTE: Yeah, well, if David and I are
24 right, then we're going to see a spike in gambling
25 addiction. And so, yeah, I think we'll still be

1 talking about them, unless we really all team up to
2 take aggressive action. And that -- I don't know. I
3 wouldn't give it odds, but I think there's some good
4 -- there's some good bones there. So there's some
5 framework that we could build on if everybody really
6 wanted to come together.

7 MS. LAITIN: I think we'll still be talking
8 about transparency, consumer confusion, parental
9 misunderstanding of how things work, kids being ahead
10 of their parents. I don't know if we'll be talking
11 about loot boxes, in particular. But as I started my
12 presentation, this is part of -- this is not something
13 that's specific to video games. The marketplace is
14 getting more complicated. Pricing is getting less
15 transparent. Purchasing is becoming more
16 frictionless, leading to various different problems
17 and some fabulous solutions.

18 So we'll be talking about similar concepts,
19 but I have no idea what it will look like.

20 MS. FOX JOHNSON: Yeah, I agree. I think the
21 technology might shift a little bit, but a lot of the
22 concerns will probably remain the same.

23 MR. WHYTE: That's true.

24 MS. JOHNSON: Well, I want to thank all of
25 you for participating on this panel and everyone who

1 has been here today. I'm going to turn the podium
2 over to Mary Engle to give some closing remarks.

3 Thanks so much.

4 (Applause.)

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1 CLOSING REMARKS

2 MS. ENGLE: Okay, good afternoon, everybody.
3 I am Mary Engle. I'm the Associate Director for
4 Advertising Practices here at the FTC. Thank you all
5 for hanging out to the bitter end, and I promise I'll
6 be brief.

7 First of all, I would like to thank all of
8 the panelists who appeared today, for the time they
9 took preparing for their presentations and for
10 presenting their research and the insights they
11 provided today. I've found it really interesting and
12 very helpful.

13 I'm just going to try to kind of quickly
14 provide an overview of what we heard today. I think,
15 first of all, we heard that loot boxes are just one
16 type of in-game transaction and that there are many
17 different flavors and varieties of loot boxes.

18 Loot boxes do have a number of benefits.
19 They enhance gameplay. They make it possible to play
20 games for free. They help to keep game prices low,
21 pretty much the same price over time despite
22 inflation. But despite these benefits, we've also
23 heard concerns about them, about their potential for
24 addictive behavior and the evidence of correlation
25 with problem gambling behavior.

1 We heard concerns expressed about whether
2 game companies are engaging in predatory behavior by
3 using knowledge of an individual's particular game
4 play to maximize the likelihood that consumers will
5 buy a loot box and whether this increases the
6 likelihood of addiction.

7 We heard concerns about dark patterns being
8 used with games, things like grinding, appointment
9 dynamics and pay-to-win, and other techniques that
10 might increase the likelihood that consumers will
11 actually buy loot boxes instead of just playing
12 without buying them.

13 We heard concerns that it is difficult for
14 people, both adults and children, to know actually
15 how much money they're spending because of the way
16 the pricing is presented in the games. And we heard
17 that problem gamblers spend a lot of money on loot
18 boxes, and that holds true, even more so, for
19 adolescents.

20 There were some analogies to baseball cards
21 and whether this is a relevant analogy was debated.
22 It was pointed out that perhaps not because loot box
23 purchases are more frictionless and are not correlated
24 with problem gambling -- that baseball cards are not.

25 We heard about research showing that people

1 buy loot boxes for their functional value, but that
2 that is not inconsistent with their also being linked
3 to problem gambling.

4 We've heard that the gaming community is very
5 diverse, and actually that 65 percent or so of
6 Americans do play video games. But the gaming
7 community has mixed feelings about loot boxes. They
8 mostly feel like that they are like gambling and are
9 concerned about how easy it is for kids to spend money
10 and how hard it is for parents to control this.

11 Gamers also have mixed feelings about
12 government regulation because they don't trust the
13 government to get it right and are concerned about the
14 impact any such regulation would have on jobs in the
15 industry. So they suggest instead perhaps guidance
16 and best practices being provided.

17 We heard a lot of concerns about loot boxes
18 for children, in particular, and a discussion of
19 research showing that parents have very limited
20 interaction with their kids regarding their mobile
21 devices, concerns about internet gaming disorder,
22 where gaming interferes with a person's daily
23 functioning in terms of work, school or interaction,
24 with relationships, not just in terms of time spent
25 playing games.

1 And we heard about the various parental
2 controls that the industry does provide for consumer
3 -- for parents to control how much time or how much
4 money their children spend on games, and as well as
5 the educational information that the ESRB provides.

6 And, yet, we also heard that it is very
7 challenging for parents to navigate all of these
8 controls and all the different ways and platforms that
9 children may play games, and that there's -- more
10 parental education is needed. More guidance could be
11 provided on these issues.

12 There was also a suggestion that there needs
13 to be more research and public health evidence to
14 understand the extent of any problem in this area with
15 respect to gambling or addictive behavior and to help
16 develop solutions.

17 We heard ESA announce a new initiative to
18 disclose the relative rarity and odds of winning
19 virtual items. That would be put into effect for new
20 games and game updates. This news was generally
21 welcomed, but considered as a good first step and not
22 a panacea to the problem.

23 There were concerns for people with gambling
24 problems, that odds aren't going to really matter to
25 them and certainly whether children would understand

1 that or care about them. There was some discussion
2 about also that the odds of winning would need to be
3 independently verified because the companies have
4 incentive to lie about what the odds of winning are.
5 They'll make more money if they do that.

6 There was also some discussion about how
7 meaningful that disclosure is really and whether --
8 you know, at what point the disclosure would be most
9 helpful to consumers. That point of sale is good, but
10 how about down the road when people are long into
11 gameplay? And also a discussion of really disclosures
12 to parents or other adult players versus disclosures
13 to children, and those being two different kinds of
14 things.

15 Finally, there was some discussion about
16 whether self-regulation would be enough here or
17 whether legislation would be needed. And we heard a
18 variety of speakers here, yes and yes on both of
19 those.

20 So the FTC is going to be taking this all in.
21 We heard a lot of really valuable viewpoints today.
22 People are also submitting comments online and we'll
23 be reviewing those as well. So I know we have a lot
24 to look forward to.

25 And I want to thank everyone, again, for

1 coming today and, again, to our panelists for
2 participating.

3 (Applause.)

4 (The workshop was concluded.)

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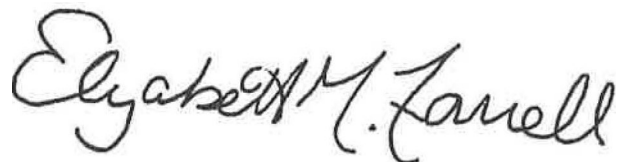
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DATE: 7/17/2020



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