INSIDE THE GAME: UNLOCKING THE CONSUMER ISSUES
SURROUNDING LOOT BOXES
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INSIDE THE GAME: UNLOCKING THE CONSUMER ISSUES SURROUNDING LOOT BOXES

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

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

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

If you received a lanyard with a plastic FTC event security badge, please return your badge to security when you leave for the day. We do reuse
1 those for multiple events.
2
3 So now some important emergency procedures.
4 If an emergency occurs that requires evacuation of the
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13 leave this conference center but remain in the
14 building, please follow the instructions provided over
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16 suspicious activity, please alert building security.

17 Now a little bit about photos and recordings.
18 Please be advised, this event may be photographed and
19 it is being webcast and recorded. So by participating
20 in this event, you’re agreeing that your image and
21 anything you say or submit may be posted indefinitely
22 at FTC.gov or on one of the Commission’s publicly
23 available social media sites.
24
25 Please also note that the microphones in this
26 room on the stage are live. They will remain live
27 throughout the day, even during breaks.
We certainly hope that you will have questions for panelists during the day. So please feel free to submit written questions for the panelists during the Q&A segments of each panel. Question cards are available in the hallway on the information table immediately outside the conference room. Also, FTC volunteers will be walking around the room with question cards. So if you need a blank card or you have a written question to submit, just raise your hand and an FTC volunteer will assist.

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

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

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

Finally, thank you to everyone who helped put together this event. That includes the staff of the Bureau of Consumer Protection’s Division of Advertising Practices, Division of Financial Practices, Division of Litigation Technology and Analysis, and Division of Consumer and Business
Education. It also includes staff of the Bureau of Economics and FTC’s event planning team, Office of Public Affairs, media team, and security management team.

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

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

(Appause.)
WELCOME AND OPENING REMARKS

MR. SMITH: Thank you, Mary.

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

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

So everyone -- children and adults -- plays
video games. There’s a video game out there for
almost any interest, from action and adventure to
sports and strategy. The video game landscape has
changed dramatically over the last several years.
Games today offer rich graphics, sophisticated
storylines, and can be accessed through mobile devices, computers, and console systems. By one estimate, more than half of game players play on more than one platform, with mobile being the most common.

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

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

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

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

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

The FTC has a long history of looking at consumer issues involving the video game marketplace.
We’ve issued several reports on marketing violent entertainment to children; we’ve published guidance for parents about video games and kids; and we’ve carefully examined cases in which there is a potential for consumer injury. Video game microtransactions raise important consumer issues and ones that we look forward to discussing today.

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

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

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

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

Our final panel of the day will examine what role self-regulatory initiatives and consumer education can play in addressing concerns about loot boxes and microtransactions. You will hear from the organization that establishes ratings for video games, two consumer groups, and an organization that focuses on problem gambling. They will discuss video game ratings, tools that consumers can use to restrict or monitor in-game purchases, ways to improve consumer
understanding and awareness, and suggestions for industry best practices.

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

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

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

Thank you very much.

(Applause.)
PANEL 1: TREASURE OR TRIFLE? A MACRO LOOK AT MICROTRANSACTIONS

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

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

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

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

MS. FRASSETTO: Good morning, everyone.

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

Next to him is Jeff Haynes, Senior Editor of
Video Games and Websites at Common Sense Media.

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

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

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

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

And Sean will be starting us off this morning.

MR. KANE: Thank you.

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

So in a way, this is what I call somewhat my mandatory waffle slide. I’m here today really to speak about my own opinions. I’ve worked in the video gaming industry for over 15 years. I represent more than 100 video game companies, and those companies range from literally one or two people that are
creating apps for the app store all the way up to the largest video game publishers and developers in the world.

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

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

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

At the time, they really had no idea what they created and how it was going to really change popular culture. But once it was created, someone began to start to market it and they began to try to figure out, how can we build an industry around this.
Initially, the industry really wasn’t home-based. I’m old enough to remember arcades. I spent many, many, many an hour and many a quarter playing games like Pacman and Galaga, and I did it fondly because there was a social aspect of it, there was an entertainment aspect of it. And these particular arcades were a place that people went to have community with like-minded individuals. And we played on very low tech games, and we pumped billions and billions of quarters into this industry. If you look back on it and you adjusted for today’s inflation, it’s almost $10 billion was pumped in by the end of the 1970s.

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

I will mention a few of them and I’ll be shocked if people remember some of these. But there was the Fairchild Channel F, which came out in 1976; RCA Studio 11, that’s 1977; Bally Astrocade, 1977; my favorite and the one that I spent too many hours on, the Atari 2600, also 1977; the Magnavox Odyssey came
out in ‘78; Intelevision, 1980; and ColecoVision 1982. So the shift became from the concept of an arcade, a place that you would go to see these games, to the home.

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

Now, in the ‘90s, we saw things shift even further because the technology increased, the bandwidth started to populate, and we got to a point where we could -- you didn’t necessarily have to go buy that disk, buy that cartridge. You can basically start, in a way, downloading certain games.
And it was really a wonderful opportunity for hobbyists, people that liked games but wanted to actually create their own games. In fact, there are certain popular games that are out there today that really were launched as modifications to other existing games.

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

Now, we get to the 2000s. This was interesting because PC games started to deal more with multiplayer issues. We started initially just with the LAN culture, which basically meant people were coming together and they were all plugging into a local network and they were all playing together in one space. Now, that changed and expanded to also internet-based multiplayer. So people didn’t have to
be in the same place. They could still be playing, they could still be socializing.

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

We also then launched into the arrival of really online multiplayer games. I think World of Warcraft is a great example of that. That was probably one of the first that most people, even those who weren’t gamers, weren’t in the gaming culture, really had heard of. In that particular case, they would still sell an original, the initial game, and then there was expansion packs or subscription models that survived out of that. And that’s how the monetization was going for those mostly online multiplayer games. And it was really the debut of a subscription model, people deciding that I’m going to play this game almost daily.
Prior to that, there were games that charged by the minute when you were playing or by the hour. That model changed and people started to realize, well, I can pay one set fee and play as much as I want over the course of a month or two months. I know people that have been playing World of Warcraft still for almost 15 years, and they have friends in the game and they have people that they consider family in the game, which are part of their guilds or their clans.

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

Some of the other panelists are going to really get into what the nature of some of these microtransactions are. So I’m not going to delve too much into them because I don’t want to steal their
thunder. But, basically, what some of it was there were things like power-ups, there were things like extra lives mechanisms. If there were cool-down timers built into the games, these were ways to bypass them.

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

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

But, now, we have games that are much more interactive and so that consistent connection is necessary. These games have actually started to offer digital assets. These can be consumables and
nonconsumables. As the name would suggest, consumables are limited time, maybe one use. They’re something that you can use; once you use it, it is gone. Nonconsumable items, as was already mentioned, you have skins, you have different cosmetics, things that once you acquire, your characters, your avatars continue to use them. It allows for customization.

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

But one of the things that’s also come out of this now is loot boxes, and that’s one of the reasons we’re here to talk about. Loot boxes are interesting because loot boxes are not just things that are paid for; loot boxes can be earned in-game as well. Most games have different sorts of currencies, currencies that are earned and then currencies that can be purchased. And in many games, loot boxes can be accessed using either one of those currencies.
Now, the content of a loot box -- in some respects, they talked about surprise. That’s a little bit of a misnomer. Not all loot boxes have a surprise element to them. There are definitely loot boxes where players have a very good sense, if not complete knowledge, of what’s inside that loot box when they decide to open it. So certain games do have an element of them where there is an aspect of the unknown involving the loot box. But many other games make this known.

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

One of the first, I think, games that really had that was Valve’s game Dota 2. Back in 2013, they
released something called “The Compendium,” which provided unique in-game content and kind of features. So that was one of the first times we’ve seen these things. So we’re looking at this now -- it’s already been in the industry for over 6 years.

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

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

But with that, the cost of games has skyrocketed. Over the last 15 years, your average AAA game, the cost has risen from, say, maybe $20 to $30 million to over $100 million, and in some cases, over
$200 million. Because the cost of developing a game with hundreds if not thousands of hours of play and then marketing that game is immense. We put together a slide chart just showing some of the costs of some of the top movies recently and putting them up against some of the top games, the most expensive games, to at least give a level of understanding.

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

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

But, really, in the last 13 years or so, the price of games has not changed. The cost has gone up by about 1,000 percent, but the price of games has
remained steady, which is why microtransactions has populated in the industry quite a lot. “Freemium” games, games as a service, they went out there to stop piracy, but they also went out there to try to help bridge the gap between the cost of games and the sales price of games.

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

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

And it also provides parental oversight
because, to the extent that people don’t realize it, every one of the consoles has parental locks. If parents choose, they can learn more about the consoles, they can learn more about the games their kids are playing, and they can make decisions on what games children should play and whether or not they should spend in it.

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

MR. WONE: Thank you, Sean.

Next, we’ll hear from Jeff Haynes.

(Applause.)

MR. HAYNES: Good morning, ladies and gentlemen. My name is Jeff Haynes and I’m the Senior Editor of Video Games at Common Sense Media. It’s an honor to be here today to talk about loot boxes, microtransactions, and advocating for consumers trying to navigate this digital landscape of games and apps. This is something that my writers and I deal with on a daily basis when we’re evaluating the latest products that are released, so it’s great to be able to share some of the expertise and insights on this digital
content, which might seem a little odd or confusing to
some non-gamers. But don’t worry because it’s a
little confusing at times to some gamers as well.
So to try to reduce this confusion, let’s try
to unpack loot boxes, shall we? So what are loot
boxes? The simplest definition that could be used is
that they’re containers of randomized digital content
that hold items of varying degrees of in-game value.
That could cover everything from weapons and items to
virtual cash, customizable costumes, game characters,
and much more. The rarity or associated value of each
item within a loot box will vary from game to game and
even from mode to mode. So that can make them
somewhat unique. It’s also one of the reasons why
they’re known by many different names, like loot
crates, price crates, booster packs, lock boxes, and
many more.

These are frequently earned rewards that are
provided to gamers for their in-game play, and they
often provide bonuses based on victories or
particularly skilled moves demonstrated during a
match. Loot boxes can also be purchased by gamers
with in-game currency or with real money through
in-game stores.
Now, unlike most video game genres, the current concept of loot boxes, as they’re thought of today, is still somewhat relatively new, having really developed over the past 15 years or so. They’re descended from treasure chests that were typically found in role-playing games, like Diablo, or massively multiplayer online games, like World of Warcraft, and even earlier, things like Dungeons and Dragons. As players will complete quests, defeat bosses, or accomplish certain tasks, they’d be rewarded with chests that players could use to enhance and improve their in-game character.

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

But while loot boxes spread across multiple genres, not all of them were handled very well.
Unfortunately, poorly-implemented boxes raised a lot of user complaints and issues because some players felt that they had already paid for a game and were getting gimmicky play or were being squeezed for additional content that they had already paid for, meaning that over a few years, a lot of complaints were being levied in forums and other locations.

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

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

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

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

The second category are mode specific loot
boxes. Now, these are usually tied to specific
sections of games, like fantasy sports team management
modes, and often use baseball card pack presentations
to govern the provided content. By opening these
packs, gamers acquire characters or athletes, gear,
and items of varying quality. These can be used to
build their teams or squads into the best possible
lineup to play against online opponents or computer-controlled teams. Duplicate items can be saved and used in later matches or sold for in-game credits in the game’s auction house.

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

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

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

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

So let’s quickly explore what these are. Microtransactions are, in their most basic sense, optional virtual goods or downloadable content that
can be added to any game for a nominal fee. These
include expansion levels, new characters, enemies,
game modes, and bonus items. One of the earliest
examples of a microtransaction dates back to 2006,
where The Elder Scrolls IV: Oblivion offered gamers
the chance to buy horse armor for in-game steeds for
$2.50. Nowadays, this content can be sold separately
or even packaged together in bundles of like-themed
content, such as costumes for characters or bonus
materials to give players a head start in their
titles.

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

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

The one area where this gets a little bit
dicey is when some games charge a little extra to
unlock content that’s already on a game disk or
included in a downloadable title. Some fighting
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.

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

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

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

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

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

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

Finally, there are the pay-to-win
microtransactions, which is a variation of the free-
to-play, or “freemium,” concept. The most successful
games that use this approach, like Clash of Clans,
Game of War, or Mobile Strike, tend to have very easy
mechanics, which help to get players into the game
experience quickly. These include detailed tutorials,
colorful characters, and simple controls. The
difficulty level ramps up at a relatively slow pace,
so players understand how the game play works and how
to succeed.

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

Players who are hardcore fans of a game that
are willing to collect everything that is offered,
players that have deep pockets or are willing to get
themselves in financial trouble, and players looking
for an unfair edge will always exploit these options
instead of relying upon skill.
Plus, these games frequently start by offering limited content for free and charging for more. Developers try to squeeze players, in some cases, as much as they can, while limiting access to new characters, content, or items in some cases. They might also restrict access to players who haven’t chosen to buy certain items for certain game modes.

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

It’s also worth noting that free games seem to have most of the most problematic microtransactions and loot boxes. So easily, paying for games can help minimize some of these concerns. Being a paid customer also gives consumers a better position when
it comes to complaining to companies. Both EA and Warner Brothers wound up changing their microtransaction formats in certain titles after players who bought those games had problems with some of the microtransaction and loot box mechanics.

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

Finally, parents can talk to their kids about why they feel that they have to have a certain item or want to spend money on a particular loot box. Not only can this help kids learn valuable monetary lessons, but it might further discussion about what makes a particular game so appealing. From there, parents can establish a plan or even a contract with kids, which can cover everything from screen time...
limits on a particular game to purchasing sought-after
game items as a reward for doing well in school, say,
or handling certain chores.

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

(Applause.)

MS. FRASSETTO: Thank you, Jeff.

Next up, we’ll hear from Mike Warnecke from
ESA.

MR. WARNECKE: Good morning.

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

So who is ESA? If you go into a Target or
Best Buy and you look in the video game aisle, the people that publish those games are our members. We mostly represent the publishers of the AAA titles, the very popular games you play on your console systems, such as the ones on Microsoft, Sony, and Nintendo who are ESA members, as well as those that publish for PCs. We also represent a few publishers in the "freemium" area, although that is a smaller part of ESA’s membership.

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

But flash forward to today and it’s a much different situation. Today, the average gamer is 33
years old. And while kids are and always will be an
important part of the demographic of our industry,
they actually represent a smaller part than maybe
people may realize. Only about less than a quarter of
the game-playing population is under 18. Most of the
game-playing population are adults.

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

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

So why are loot boxes and in-game purchases
in games? As Sean mentioned earlier, games today are
not a static item anymore. They are constantly being
refreshed and enhanced with online services. When I
was a kid growing up and bought a game -- and back
then it was Toys "R" Us, when that was a thing --
whatever that game was, good or bad, it was only going
to be what was in that box. It was not going to be
updated; it was not going to be enhanced. It was only
what came in that box when you walked out of the
store.

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

And it’s important to keep in mind, as Sean
also mentioned, that pulling this off is really hard
and really expensive. If you look at other forms of
entertainment, such as reading a book or going to a
movie, there’s this concept called forced perspective,
where you experience the world based on how the author
or filmmaker is directing you to experience it. And
that also, of course, applies in many video games.

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

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

There’s also the free-to-play market. It was the summer of 2007 and I was with some of my friends on the National Mall and we were sitting on the grass near the Washington Monument. And one of my friends turned to me and he pulled out his backpack and he showed me this black rectangle. He said, Mike, have you seen one of these? It was the first week that the
Apple iPhone had come out and none of us had seen it. We were all excited. We looked at this thing with the colorful icons. I don’t think 12 years ago, any of us sitting around there on the lawn near the Washington Monument could have anticipated that free-to-play would be such a huge thing as it is today.

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

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

But what we also discovered, too, is that when people experience games, they want to be able to kick the tires on it and not get caught up in buying something until they have a chance to experience it. So that’s one reason why we have these free mobile apps, where it gives you the opportunity to experience
that, but also, you have the chance to expand the
content if you decide to like it.

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

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

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

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

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. 

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

   But there’s another reason, too, and that’s 
23. to preserve narrative integrity. When you have a
A game, our members try to create games that are engaging and that are true to their world. It would be very weird -- for instance, say you had a game set in ancient Egypt and you wanted to buy a chariot for a big combat that was going to come up and you went to the marketplace in Thebes. You would not want to be buying a chariot for $2.50 US. It would be a little bit jolting and a little bit odd. So instead, the publisher will make it with a historically appropriate currency, such as a deben of copper, which would fit in more with the narrative of the game.

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

And so here’s an example of -- I’ll show how
it works a little bit, and then you’ll see a video briefly to see the walkthrough. So we’re going to select this pack, and you can see it says S 1500 and that’s for Stubs, the in-game currency. So if you select that, you can go ahead and then you can see on the far side, you see what we call in the industry drop rates, you can see the ratios or the probabilities of getting certain players. And the players that are more desirable, the diamond level, those would be a little bit harder to get than the ones who are more common.

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

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

And, also, you can see there’s an opportunity there to sell it for in-game currency or go to the marketplace. And what that means is, basically, one
of the features of the game is you can go ahead and trade cards within the contours of the game, within the game space, not going outside of it, to build your team. And so that’s a feature of this particular game.

And now, we’ll see a short video of that in play.

(Video played.)

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

(Video played.)

MR. WARNECKE: You can see at the end there where the car, it will indicate what you’re getting when you get the spin or what it costs. And then here we go with the selection process. And there we are.
I’d gladly trade my old Honda Civic for that car. Maybe Microsoft can help me with that.

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

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

And then we go ahead with the design. And there you go. You could see the fabric and the type of article of clothing, some stars to add some 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
also provide a number of enhancements to the information they provide to help parents make informed purchase decisions. And last year, they rolled out the in-game purchases label. And basically what this is is if a game has microtransactions and if there’s money you spend post-game on things within the game, this in-game purchases label would be disclosed on the box or when you download the game. So it’s a signal to parents, who -- for this may be something that they might be interested in.

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

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

That said, we are doing more. I’m pleased to
announce this morning that Microsoft, Nintendo, and
Sony have indicated to ESA a commitment to new
platform policies with respect to the use of paid loot
boxes in games that are developed for their platform.
Specifically, this would apply to new games and game
updates that add loot box features and it would
require the disclosure of the relative rarity or
probabilities of obtaining randomized virtual items in
games that are available on their platforms.

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

Now, this approach would also be compatible
with the Apple and Google approach on the mobile
platform. And we believe that taken together, this
provides a comprehensive approach to ensuring that
consumers get the information they need so they can
make informed purchase decisions when it comes to paid
Thank you for your time.

(Applause)

MR. WONE: Thank you, Mike.

Next, we’ll hear from John Breyault from the National Consumers League.

MR. BREYVAULT: Good morning.

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

So the title of my presentation is called “Making Money From GAAS, or Games As A Service.” And I would like to talk about consumer protection priorities and issues that we’d like to see the Federal Trade Commission explore.

So as was mentioned, I’m with the National Consumers League. I handle our tech and telecom advocacy portfolio. But NCL has been around for 120 years. And our mission focuses on everything from food safety, health care, child labor. You name it, NCL has probably advocated for it at some time or another. And this probably dates me, but I have been a gamer since my first console, which was the Atari 2600. And so this gives you some idea of how long I’ve been playing games.
So what are we going to look at today? First of all, we’re going to look at, what are games as a service? We’re going to talk about the scale of microtransactions you’ve been hearing a lot about from my other panelists. We’re going to explore some ways that monetization of games as a service can become predatory, explore some of the concerns we have around the use of in-game currency. And then we’ll turn to eSports streaming and how that relates to the FTC’s endorsement guide. And, finally, we’ll talk about some questions that we hope the FTC will explore as it continues to look into this matter.

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

What you have now is a recurring revenue business where there are opportunities for recurring purchases through microtransactions, through season passes, et cetera, that you’ve heard about.
In the past, there was low user engagement. The players weren’t really interacting between themselves, they weren’t engaging on Twitch streams, you didn’t have eSports leagues. Today, you have high user engagement where consumers are doing all of these things.

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

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

We went from being a developer-centric industry, where basically you had developers have a vision for a game and they spend however long they’re going to do to develop the game and they put it out there and hope it’s a hit. Today, you have a player-centric model, where the games are being driven by feedback from gameplay itself, from attention paid
by publishers and developers to the chatter around these games online. And then they are using that to iterate on the game after it’s already been shipped. You went from having an experience where you basically interacted with the game itself to a platform experience, where most of the interactions, purchasing of payments, et cetera, are managed by the platforms, the Xboxes and Playstations and Googles and iOSs of the world, not necessarily the publishers.

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

So let’s talk a little bit about the scale of microtransactions. This is some research from Juniper Research, who had a very helpful paper called “In-Game Gambling: The Next Cash Cow for Publishers” that came out last year. But total spending on loot boxes and skin gambling is forecast to go up to $50 billion by 2022, and that’s up by -- nearly doubling since last year.
The chart on the right shows you breakdowns in recurring investment as a percentage of total sales from three of the biggest publishers out there, Ubisoft, EA, and Activision Blizzard. And the yellow part of those charts shows you how much is coming in from player recurring investment. This is the money that consumers pay after they've already acquired the game through loot boxes and microtransactions and other events. You can see that it makes up a very substantial portion of the money that they have coming in.

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

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

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

So we’ve established now that it’s a changing industry, that this shift to games as a service has been very good for the industry. So the question is, when does this become predatory? So here in the next few slides, I’m going to apologize because I’m violating the cardinal rule of PowerPoint by putting up word-dense slides. But this is research from Dr. Daniel King and Professor Paul Delfabbro at the University of Adelaide in Australia.
And I direct your attention to the highlighted sections, which talks about how in-game monetization schemes can become predatory. They are talking about how they can often be used to disguise the true long term cost of microtransactions until the player has been financially and psychologically committed to a game. And these monetization schemes are often enabled by information asymmetry between the players and the industry regarding things like game-related preferences, how much money a consumer may have spent in the past, their spending habits.

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

So of particular concern to us is how this kind of information asymmetry is affecting younger players who may be less equipped to accurately apprise the value proposition of such schemes.
So now you may be wondering, well, so what?

This is the “so what” slide. It’s based on research from David Zendle at York St. John University, who you’ll be hearing from later on today. But, again, the highlighted portion talks about the reason that these monetization schemes can become predatory.

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

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

So the currencies obtained via gameplay or purchase, our concern is that they may obscure the true cost of purchasing in-game content. So does it actually tell you how much you’re spending in real money down the line?
So this is a screenshot from the store in Fortnite. And what I direct you to is some of the common psychological tricks that you may have seen before in the retail context. When something’s priced at $1.99, you may not think that this is $2 and be more likely to spend money on it. This is used throughout Fortnite, and I think you see this in other games as well.

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

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

So now, that we’ve talked a little bit about our concerns around the use of in-game currency, I
I want to turn really quickly to eSports streaming and the FTC’s endorsement guides. So as you can see from the chart, the eSports market revenue has become more than a billion dollar business. By 2022, it’s expected that it’s going to go to $1.8 billion dollars. This is from Newzoo.

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

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

And this is just some additional data on that point. This chart shows the peak viewerships in July for the top 10 Twitch streamers. We’re talking between 150,000 and 300,000 viewers of those Twitch streams at any one point.
And this is, unsurprisingly, generating big money. So these headlines speak for themselves. And much of the money that is being able to fund these streamers and these events is being generated through money that is being spent by players in microtransactions.

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

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

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

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

With regards to in-game currency, I think
it’s important to look at whether the disclosure of cumulative in-game spend in a currency that consumers actually understand would address some of the concerns we raised around the difficult exchange rates and the cognitive load that is put on consumers.

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

Thank you very much.

(Appause.)

MS. FRASSETTO: Thank you, John.

Next up is Renee Gittins from IGDA.

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

I, myself, am also a game developer. I have expertise in creative direction in engineering, and,
of course, I’m a gamer as well. Like our other panelists, I want to help you understand what a loot box is. Unfortunately, there’s actually quite a large range of possible variations of what you can interpret a loot box being. Generally, it is considered a consumable item, an on-use, a single-use item in a video game that contains randomized rewards. However, as you’ll see from my next few slides, there’s a huge range of items and mechanics that can fall under the term “loot box.”

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

Once you achieve one of these loot boxes, they can provide various rewards. These include cosmetics that have no effect on gameplay but provide visual benefits; content, such as mechanically unique characters or access to game modes; consumables, which are items that can be used, such as experience boosts, health potions, and other usable items; upgrades that change the gameplay and your ability within it, such
as weapons and armor; and, finally, they can also contain in-game currency or duplicate items or items you do not want may be traded for in-game currency. Once you obtain these loot box contents, games handle what you can do with them differently. Some of these contents are locked to your account. You can no longer sell or trade them once you acquire them. Other games allow you to trade these to others, either as gifts or for exchange of other items or in-game currency. Some games, in fact, allow you to trade some of these items for real money as well. And some of them have limitations on when these items can be traded, if at all.

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

Here’s an example of complexity in loot boxes in a popular game. This game has two types of loot boxes. One of these loot boxes can be acquired by purchasing an in-game item that gives you access to a
progression. This progression has various rewards, including loot boxes along the progression chain. Progress on this chain can also be directly purchased.

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

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

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

There are many similar mechanics in games that may be considered loot boxes or perhaps fall
under incorrect loot box definitions. As noted by other panelists, loot drops, randomized rewards, are very common in video games and have existed since 1980. In fact, random rewards for achievements in games have been in existence prior to video games in pen and paper games as well. And of course, we have seen randomized rewards and physical items as well.

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

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

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

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

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

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

We can also note that there are current protections in place to prevent children from
interacting with these loot boxes and other in-game purchases. I know that children are a deep concern, particularly for vulnerability, but I think that we’ve done a very good job in providing protections for them.

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

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

Here’s the first. “Unfortunately, it seems that the industry is having trouble being ethical when there’s profit to be made. If someone cannot be trusted to not exploit someone else, then we must place down a regulation to protect others.”

Here’s the second statement. “I do not think it is the government’s role to regulate. It should be the industry and consumers that do. It could be a slippery slope that could lead to game censorship, since the gaming industry has and will always be an easy scapegoat.”

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

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

Finally, game developers are worried about
heavy-handed regulation hurting the game industry and their creativity.

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

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

(Applause.)

MR. WONE: Thank you, Renee.

Now, we’ll hear from Omeed Dariani of the
Online Performers Group.

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

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

So a few of the clients that we manage are on the screen. They’re a very interesting group of folks, including people like CohhCarnage, T-Pain -- who does not like to be called rapper T-Pain, by the way -- the heavy metal band DragonForce, professional baseball player Trevor May, and the Angry Joe Show.

In total, we represent about 70 content creators who have over 50 million followers. And each day viewers watch over 60 years of content created by these folks. So these folks do a tremendous amount of work showing games to people and talking about the game industry, in general.

Some notes: We work for content creators. I’ve worked in the game industry for a long time myself, but we work for content creators exclusively.
We don’t take money from game companies. We don’t accept direct compensation from game companies. Our clients do. We’re paid by our clients. Our main goals in the industry are fighting the exploitation of content creators and improving the game industry and creating transparency.

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

What’s really interesting to me, as someone who’s worked in the game industry for about 20 years, is that they’re making the game industry better. For a long time, the game industry hasn’t had a really great way to connect directly with their fans.
There’s lots of fans, lots of people consuming games. But because these content creators sort of martial millions of fans to one place and their fans tend to agree with them, they become great advocates that can speak directly to game companies.

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

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

What I think is most interesting about Joe’s statement is “we will be keeping an eye on these
practices," "giving us what we suggested." He’s speaking for the community. That’s what he believes and that’s what his fans want him to do.

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

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

Now, the number one thing that I’ve heard probably in my career in dealing with the community is
they don’t feel like game companies listen to them.
So you can see from these Google autocompletes when people are searching for Blizzard, Blizzard doesn’t care, Blizzard doesn’t care about customers, EA doesn’t understand, EA doesn’t care, EA doesn’t deserve Star Wars. Ouch. But, really, there’s a lot of frustration in this issue from the game community and it stems from the fact that people don’t believe game companies listen to them. Having worked at game companies, I know that game companies try to listen to them, but it doesn’t always feel that way.

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

The community wants to keep kids safe, right? People, I don’t know, they like kids. And a lot of the opinions here are rooted in the fact that we see
easy opportunities for kids to be taken advantage of.
And these are a couple of stories from the BBC talking
about exploitation of kids or kids just spending way
too much money in games.

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

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

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

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

The community wants to get what they paid for. Now, we’ve heard about the horse armor already, but I think this illustration from Forbes really kind of nails the feeling that the game industry has -- or the game community has. When most of us started buying games, there was this covenant, right? I buy the box; I get what’s in the box; that’s the game. Maybe there’s an expansion, maybe there’s something like that. But, ultimately, I know what I’m paying for. I don’t have to go out and make an additional purchase or I’m not going to be consistently monetized.
So there’s already this sort of feeling that comes along with that that is pretty negative. And I think that horse armor really kicked us off on the wrong foot because the DLC was included on the disk in some cases, which meant you were literally just paying to unlock something that you already physically owned.

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

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

The community, they kind of want regulation of loot boxes. So there’s a lot of discussion about how does this happen. One of the things that’s really
interesting is there’s a break between mobile games
and other video games. They’re sort of regulated in
different spots and so far have not been very
consistent. So the people that are frustrated, they
also have concerns about government regulation, as our
first friend has to say here. But realistically,
people are looking for some more structure, they’re
looking for some more guidance. They want there to be
more definition around this topic.

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

With the exception of -- I mean, there’s the
ture surprise mechanic there with the Cracker Jacks.
That was the last time I felt like any of these were a
prise mechanic. When I open a pack of Magic cards
or pack of baseball cards, I know exactly what I’m
looking for.

Now, how do we go forward from here? Well,
this is a pretty complicated issue, as you’ve seen.
And there are several things that are standing in the
way of good regulation here. The first one is that
the government doesn’t tend to understand games and
technology very well. Our elected officials are old.
The average congressperson was born in 1961. So
that’s years before the Atari 2600, 37 years before
Google was invented. For a kid who grows up today,
Google is just part of your life.
The president is six years older than Mr.
Potato Head, Mr. Potato Head, being the original sort
of loot box, the original DLC for your potato. And
he’s 69 years older than the oldest iPhone that plays
Fortnite.
So a lot of the folks that are thinking about
this, considering this, it’s not their generation
that’s experiencing it and living it. And I think
it’s really important that we start talking about that
as well. We have younger elected officials coming in,
which is wonderful. But there’s definitely a long way
to go here.
So I think the biggest part in sort of
removing this frustration that the gaming community
has with government and regulation is really changing
the tone. Our leaders are often very critical, as
recently as the last few days, about video games,
show are just not the case.

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

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

So thank you guys for your time.

(Applause.)

MS. FRASSETTO: Thank you, Omeed, and thank
you to all the panelists this morning.

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

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

(Brief break.)

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

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

MR. WARNECKE: Sure. So speaking to the commitment, the commitment would apply to whatever the particular loot box is. And regardless of the method
used to reach the odds, those odds would be disclosed. What I can say on those dynamic drop rates is that there are a lot of innocuous uses for those that are perfectly legitimate, for instance, in a sports game that’s mimicked on real world sports teams, you would want to have the players have continually updated stats. And, for instance, if you have a baseball player that had a really good month of gameplay, their overall ranking is going to go up over time. And as that ranking goes up, they will move into higher levels of rarity. And so that is perfectly acceptable.

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

I’m sorry. Did you have --

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

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

MS. FRASSETTO: All right. So this question I’ll initially open up to Jeff, but others can weigh in, just because, Jeff, you discussed this in terms of
talking about the various types of loot boxes. So
with pay-to-progress or pay-to-win, do you think that
those are ever appropriate? And if so, what kind of
disclosures would you like to see to properly inform
consumers that they’ll likely pay those costs or what
is the total cost of the game going to be?

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

Pay-to-progress, on the other hand, gets to
be a little bit trickier. I think when you get to
things like -- especially if you have any parents and
you’ve been subjected to Harry Potter Wizards Unite.
I know I’ve gone to many a park looking for inns
because my kid wants to cast spells and the spell
energy just constantly runs out, so you’re always
running to a park.
And it becomes this whole situation where you can’t really go through all the content, but it’s this back and forth yo-yoing of, I only have this amount of time and either I’m going to pay money to go farther or I’m going to have to wait a certain amount of time just to get a little bit further ahead in the game. And in some cases, it’s useful at least in metering out what is being done.

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

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

MR. KANE: If I may add something to that. It’s interesting because there’s two perspectives on this, and so some of the pay-to-play or play-to-win. You’ve got games that are more individualized and then games that are more multiplayer. And so I know lots of people that’ll play something like Candy Crush or
one of the other games, where really they’re not
playing against anyone but the computer and they’re
still deciding to pay to help solve a level or they’re
deciding to pay to get another life or whatever they
might be buying in that particular game. So for them,
it’s kind of individualized.

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

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

MR. HAYNES: Yeah, that’s true. Although
there are also -- on the other hand of that, there are
the situations where in some games you have players
that will, all of a sudden, acquire different
characters. For instance, there was a situation within Marvel Strike Force where, all of a sudden, a gamerman should get a character that was basically being eked out in a drop rate of about maybe one or two shards per box. And all of a sudden, this character had it within, say, about a month or two of the game basically being released. And everybody went, wait a second, how did you even do that?

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

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

MR. WARNECKE: Something I’d like to add to that, too, is that when situations like that arise,
game publishers are very good about monitoring

MR. KANE: Exactly.

MR. WARNECKE: -- the in-game world to make

sure that there’s balance and are constantly making

corrections to ensure that the other players have a

good experience.

MR. BREYAULT: And just to add one more

point, just to underline something Omeed said during

his presentation about the impact that multiplayer and

being part of a clan, for example, can have in

someone’s willingness to spend money. I think it’s

important for the FTC, as it looks into this issue

further, to examine -- I know in games that I play,

there’s a lot of pings and nudges to join a clan or to

add my Facebook friends or to create basically a

social group within the game, to the extent to which

the creation of those social groups and the influences

to join clans may be affecting someone’s willingness

to spend additional money on the game or not.

I think it’s one issue that, I think, Omeed

raised that it’s important for the FTC to look at as

well.

MS. FRASSETTO: Okay. And just as a followup

on that, in terms of the disclosures at the outset --

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

16 Some ideas that I’ve seen floating around
17 there which I think are worth exploration are
18 disclosing what is the average spend on this game by
19 people after they acquire it. I think that might be
20 useful in helping consumers understand, okay, chances
21 are that I’m probably going to spend $10 on this game
22 over the life of the game, or to be really good and be
23 in the top 1 percent, we’re spending thousands of
24 dollars on this game. I think that would be useful
25 information in the hands of consumers to help them
26 make a more informed decision.
MR. WARNECKE: Something I’d like to add to that, from a parent’s perspective, one way that may be simpler, instead of going game by game as to what the anticipated post-purchase expenditure might be, is to just set the spending limit in the parental controls that would apply across all games. It’s just more efficient to do it that way.

MR. BREYVAULT: And there’s no reason you couldn’t do both.

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

So it might be a situation where it’s like score 50 points. Can you score it faster? Can you
score it with these players? And at least you have
more of a sense of what the in-app purchase or the
in-game purchase happens to be, so you always have a
sense of how the costs will change. Because setting a
limit is fine, but if you realize all of a sudden you
need to spend extra to maybe get a certain scenario or
get a certain purchase, that spending limit will
quickly evaporate, especially if you wind up always
paying for a new pack, a new player, a new stadium,
something else.

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

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

MR. HAYNES: Sure.

MR. KANE: Some of these games, basically --
we obviously have COPPA that Renee mentioned earlier.
Most of the companies here, if they have knowledge that a child is 12 years old or younger and has an account, that game will shut down that account because those particular players, that particular age, is not necessarily welcome within that game. And there are other games we’re talking about that are rated by the ESRB as older, mature, that sort of thing. I know kids that play those games.

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

MR. HAYNES: I absolutely agree with you. But I think in some cases, just to counter that, there are absolutely certain games -- for instance, to use the MLB: The Show reference, there are plenty of kids that will play MLB: The Show. It’s not to say that that game is for mature audiences. It’s a baseball
game, and so there are going to be plenty of kids that
want to get their favorite players, they want to get
their favorite packs. Just like with FIFA, you have
plenty of players around the world that want to get
their favorite football players.

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

But then for parents -- because parents do
need to have a role in this so that it’s not simply a
situation where they establish an account, they pay
absolutely no attention, then all of a sudden they go,
how did I get $1,000 worth of charges? At least that
way they know if my kid is playing baseball, I know
that they’re playing baseball, it’s a safe game. But
then I also know exactly what the charge might be if
they want to try and find their best players for their particular team.

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

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

All we can do is basically put out disclosure
that, in as clear sense as possible, makes people understand what they’re getting, what they’re purchasing. And if they decide to do it because they love that game, then that’s their right to do it. I don’t think that we, as an industry, needs to step into that parental role, though, because some of these people are not children.

MR. HAYNES: Yes, absolutely.

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

MR. HAYNES: Absolutely, I completely agree.

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

MR. WARNECKE: So separate and apart from the announcement on the drop rates disclosure, as will be discussed later this afternoon, ESRB will be announcing some greater educational efforts to reach
out to parents and inform them about parental control features, including spending limits.

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

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

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

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

MR. DARIANI: Yeah, that’s a good question. So, yes, companies do pay for that sort of thing. It’s pretty uncommon for it to specifically be, hey, just open a bunch of loot boxes. But we’ve definitely seen that. It happens more in sort of the eSports type games.
I’ve definitely been in a room where a publisher said we could do better odds on the packs that this person opens for promotional purposes. That’s only been one time.

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

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

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

So you have a tweet, hey, a reminder to put
1 hashtag ad or mention that it’s sponsored, things like that. Very important to us because we want to make sure that we’re staying on the right side of this.

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

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

MR. KANE: If I may on that. So we’ve actually handled several FTC investigations into influencers in this space. And I will say that -- so
I’ve had a lot of experience with the endorsement guidelines. One of the things I will say, a question I get quite a lot, though, is, what really is the required disclosure and how do you go about doing it properly?

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

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

MR. KANE: Exactly.

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

MR. KANE: But do you have to disclose it
every five minutes in a three-hour stream?

MR. DARIANI: Yeah.

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

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

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

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

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

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

Whoever would like to go first.

MR. BREYault: From my point of view, I don’t see any reason why the industry would turn away from a game model that is becoming increasingly profitable for them. In terms of the disclosure, just to underline what other folks have said, Michael’s announcement on ESA and loot box drop rates is important, and I think it does show that this is an industry, unlike other industries, where you often see people like me criticizing. It’s one that does seem
to pay attention to its users and react fairly quickly to them. And so for that, I think they should be applauded.

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

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

MR. DARIANI: Can you imagine if the “freemium” game model existed sort of in that time period where AOL was just mailing CDs to everyone like
every day? I mean, World of Warcraft doesn’t make
most of its money from the $49.99 box; it makes most
of its money from $15 a month. You could very easily
see a situation where they’re just sending those disks
to everyone and it’s like, hey, just try this for a
month and see what you think. But I think download
speeds caught up, so that was never necessary.

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

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

So personally, I think that all of these
issues makes it certain that my grandkids are going to
be around still kind of questioning what’s new and
what’s going to happen. It’s going to be a great
ride, I think, for all of us to see where we’re going
to go.

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

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

On the other hand, when it comes to mobile
apps, I think there’s going to be a larger explosion
of that, with possibly the exception of whatever the
Google Pass or the Apple Arcade announcements will be
and how that will be handled. Because if it winds up
being a situation where you pay in for a subscription
to have a certain kind of experience without ads or
without in-app purchases, that could radically change
the landscape of how apps are even being handled and
measured with loot boxes or microtransactions going
forward.

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

And so I can’t say where the direction of the
industry is going to go in five or ten years, but what
I can say is this. It is a customer-focused industry.
And when gamers are upset or have concerns about a
particular implementation, there is an incredible feedback loop to the publisher and to the industry about what works, what doesn’t work, what can be improved. And so I imagine, regardless of what the technical platform will be for the future, that feedback will continue and the industry will continue to be responsive to the gamers who help support us.

Thank you.

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

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

Thank you.

(Applause.)
PANEL 2: HEAD IN THE GAME – WHAT DRIVES LOOT BOX SPENDING?

MR. MCALVANAH: -- will present recent academic research about loot boxes.

This afternoon’s panelists include David Zendle from York St. John University, Andrey Simonov from Columbia University, Adam Elmachtoub, also from Columbia University, and Sarah Domoff from Central Michigan University.

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

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

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

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

DR. ZENDLE: Okay, thank you.

Okay, hello there. My name is Dr. David
Zendle, and I’m one of the world’s leading experts in the potential for harm present in loot boxes, something that hasn’t really been covered extensively so far today.

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

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

This isn’t just my research. This is an effect that has been replicated numerous times across the world by multiple independent labs. This is something that the games industry does not engage with.
Today, I want to talk about this link and I want to talk about why you should care about it. The reason you should care about it are the two words, “problem gambling.” Problem gambling refers to an excessive and disordered engagement with gambling activities that is typically outside of the gambler’s volitional control. It is incredibly harmful. It’s linked to depression and anxiety. It causes financial distress, the destruction of families and, most importantly perhaps, it leads to people taking their own lives. Problem gambling is the reason why some parents come home at night to find their children are not there.

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

So the reason why problem gambling is such a big topic when it comes to loot boxes and why people care about gambling and loot boxes is because loot boxes look so much like gambling. Both when you’re playing on a roulette wheel or when you’re opening a loot box, you’re wagering something that you have in your hand of value now on the uncertain hope of getting something of greater value later on. It’s
that reason that loot boxes have tripped gambling regulations in a couple of countries within Europe, because of those formal similarities, and because of those formal similarities, people have been worried for a very long time that loot boxes might act as a gateway to problem gambling, particularly amongst younger and vulnerable populations.

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

And what we found was this. So this is the first time we found it. Again, this has been replicated many times across the world. This isn’t a new effect. We’ve known about this for a while. You’ve got people who have no gambling problems and they tend to not spend much money on loot boxes. And then as people’s gambling problems get more and more severe, they spend more and more money on loot boxes. And the effect associated with this is something that
we call clinically significant, meaning that it’s large enough that people should maybe take notice of it. And you see it again and again and again and again.

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

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

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

So you could be out spending, spending, spending, spending on slot machines uncontrolled. And then you go home, you switch on your favorite game and you see something that looks a lot like a slot machine, so you start spending on that, too. We don’t know which of the cases is true. We don’t know which of these is right. But we think that in either case, it’s a clear cause for concern and it’s not something to be trivialized.
In one case, you have a mechanism in games that many children do play, that is literally causing a state of affairs which is enormously destructive. And if loot boxes do cause problem gambling, we’re looking at an epidemic of problem gambling, the state of which the world has never seen.

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

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

I adopted a process called Open Science. It’s a set of practices, one of which is that I always openly share all of my data. If you want to have a look at the data for these studies, if you want to see what it’s like, it’s out there. It’s free for you. Go have it.
And other people have been having it and they’ve been finding similarly worrisome things. This is a study by Aaron Drummond and Jim Sauer out of New Zealand, where they sort of looked at how much money problem gamblers were spending by reanalyzing our data, which is available freely to anyone who wants it, and they found that problem gamblers were spending enormous amounts of money on loot boxes and suggested that maybe setting limits might be a good idea.

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

We don’t know why children and adolescents are particularly vulnerable or susceptible to the development of gambling problems. Some people say it’s because it’s a turbulent social time and they find gambling as a means to cope with that. Other people say, oh, there are neurodevelopmental
explanations. It has to do with brain plasticity. But for whatever reason, they’re very vulnerable. So we set out to find out if the same link between problem gambling and loot box spending existed in adolescents as well. And guess what? It does. In fact, it’s much, much stronger than in adults. This isn’t new research. This has been out for a while. So you have the same relationship replicated in adolescents, but that’s no surprise because this replicates everywhere.

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

So some of them say things like gameplay advantages, which you might have seen coming. I feel pressured to get new gear, continue to compete with the ever-changing boundaries of what’s classed as good gear, new gear is constantly -- is added constantly, and thus, gear quickly becomes outdated. Or I enjoy the game. I compete with friends. I don’t want to fall behind them. You cannot be competitive at NBA
2K19 or FIFA 19 without them. This is the sort of stuff we might have predicted.

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

Here’s a quote, bear in mind, this is a minor. “Shit just feels good, man. Seeing other people opening hundreds and you get a few of that feels good and keeps me goin’.”

Here’s another one. “Because it’s addicting and thrilling reaching into the unknown.” Some of them talked about the gambling feeling associated with loot boxes.

So this brings me to the subject of Kinder Eggs, if you’re at the UK and EU, or baseball cards, if you are in the US. I used to have a lot of sympathy with the argument that loot boxes were just like baseball cards. I don’t have any sympathy anymore. And that’s because whilst you might be able to point to similarities between loot boxes and baseball cards, you can also point to differences. And I’m increasingly coming to see the baseball card
line as a method by which the industry, like a stage magician, draws our attention towards something, whilst distracting it from something else.

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

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

Let me move on and talk about the features of loot boxes. There’s some people who would tell you that loot boxes that are only cosmetic, contain only cosmetic items, are in some way harmless. That’s a common opinion you’ll hear from people.
We were asked by the Australian government -- I present this research to governments quite regularly. I’ve presented to the Australians. I’ve presented to the UK Select Committee, in our own parliament. And the Australians said, are there any particular types of loot boxes that are harmless? So we went out and did something called a moderation.

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

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

It’s an early exploratory analysis. There were some small effects in there. But, generally, what we seem to be seeing is that there’s something specific about the loot boxes.
That brings me to my final slide, which is about the prevalence of loot boxes. Loot boxes are an extraordinarily popular way of making money in games. They’re in a lot of games. It’s quite hard to find out what games have loot boxes, because they’re not sort of labeled very clearly. So we went through, we just tried to find out how many games they were in. We went through the highest-grossing Google Play games in the UK. I imagine this is analogous to a situation you have in the US. We found that 54 percent of those top 100 -- 54 percent of that top 100 had loot boxes in, the top grossing games.

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

Again, we don’t know if it’s that the loot boxes are driving problem gambling or if it’s that problem gamblers simply are drawn to spend more on the loot boxes because something to do with them. But in either case, it’s extremely worrying.
I’m here today, I’m aware that there’s a lot of industry people. We could get this wrapped up. We could find out which of these is the case if you would work with us. There are people out here. We’re not mobsters. We want to work with industry. But in order to answer these questions, in order to find out which way the relationship goes, people need to share that data with us.

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

That’s me. Thank you for listening.

(Applause.)

MR. MCALVANAH: Thank you, David.

Next, we’ll hear from Andrey Simonov.

DR. SIMONOV: All right, thanks, Patrick.

And hello, everyone. It’s a pleasure to be here. So I’m Andrey. I’m on the faculty of Columbia Business School and -- where is clicker? This one?

MR. MCALVANAH: Yeah, that’s it.

DR. SIMONOV: Oh, wow. Hmm, okay, let’s try
it. All right, here we go.

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

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

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

For companies, it’s a great way to monetize the games. And companies have been struggling with this a lot. We heard about fixed costs involved. And this is one of the forms of bundling that these ways you can do pricing. So Adam will talk more about this after me.
For consumers, it’s a great chance to obtain useful items in the game. So if I’m stuck on a particular stage, I want to make progress, it’s somewhat useful to open a lottery, and with a large probability I’m staying in the same spot, but there’s a small chance I’m just jumping to a very different productivity curve. So there’s the same economic arguments which were about lotteries in the ‘60s and ‘70s in the US. So that’s one view on loot boxes.

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

So what we are trying to do in this paper is
to really separate out these two views on loot boxes.

One is -- our question is, how much people play loot boxes because of the in-game functional value, that like the items you get will enhance this gaming utility, and how much they play just for the sake of playing the loot box and getting this maybe like risk preferences, like some draw of behavioral utility from opening a risk.

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

Okay, so this will be an empirical paper. We actually have data from a large video game company in Japan and it will be able to separate this out in some way. But to get us started, to get us thinking on how -- like what it means to separate this question, let me show you a very simplified version of the theory
model just to get intuition or to imagine. Given it’s a video game conference, we’ll call it a toy model.

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

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

So the goal of the paper is really to separate out those two stories. And from the model,
we want to show do people play loot boxes because it enhances the probability of winning, so it was a beta factor. And if that’s the story, we should see that people will open loot boxes at the moment when the marginal return of having this extra item is the highest. In other words, if I really don’t play so well at this stage and an item in the loot box will help me, that’s the moment I want to open the loot box and get the item.

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

So the data we get is from a Japanese mobile video game. And to kind of simplify it, which simplifies our story in some way, is that you think about it as some version of Candy Crush. So there is not much social interactions. People open loot boxes mainly for functional value of the items, so it’s not -- it’s not about skins. It’s really about these characters will help them to progress in the game. We can extend analysis to social interactions, but this
helps us to simplify. And so we’ll be able -- having the data, we’ll be able to measure what is the return of having each character to make progress at each stages of the game.

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

And then characters differ in the quality. Some characters are better than others, but also in how they specialize. So which helps us as the game progresses, stages becomes increasingly hard and it requires often different quality of characters, but also different specialization. So we can easily see a moment where I play amazingly at stage 50, but at stage 51, suddenly I get a very different set of characters. And if it’s a functional value of loot boxes, that’s the moment I would want to open them and
to get this thing. So it covers -- will give us some indication for how it matters and different things.

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

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

We see loot box realizations and distribution of outcomes of loot boxes. And in this game, the -- I think the regulation in Japan requires you to post
probabilities. So for all the loot boxes, there was a probability for every character which is in the game. So we see what the probability is; we see which characters who you get. We know what is the actual realized distribution.

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

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

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

So do people tend to play more -- open loot boxes more at the moment when they start losing the game? So as we would treat it, we have different
metrics of success. So maybe the success is you
advanced to the next stage. Maybe the success is you
have to pay something to keep playing the stage and
finally win it. Maybe success is what is the score
and how many stars you get at this level.

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

However, to highlight how it is looking at
this on one metric, here is a plot which shows how
much people open loot boxes as they play the game and
how well they did in this game. So here on the
Y-axis, on the vertical one, you have transformed
probability of people actually opening, engaging in a
loot box. And on the X, you have different scores.
Those three vertical lines are thresholds to get one star, two stars, and three stars in this game.

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

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

The slide I wanted to finish with and kind of wanted to -- maybe also actually save some time for discussion later -- the slide I wanted to kind of highlight here is even though we show some suggestive evidence for this functional value and, in this, we believe that functional value is quite important, it doesn’t mean that people open these loot boxes only for functional value.
So what we’re really trying to get out of this paper -- and results, hopefully, we will share soon -- is which share of amount of loot boxes which are opened to people are really opened because of functional value or are opened because of persistent preference, this preference for loot boxes directly. Because if it’s like 95 percent of loot boxes because of functional value, well, that’s actually part of the video game. But if 95 percent is really this extra component where it doesn’t have to do with how people play the game, maybe we should think about it more as casinos and as gambling.

So that’s our takeaway from the work so far.

All right, thank you.

(Appause.)

MR. MCALVANAH:  Thank you, Andrey.

Now, we will hear from Adam Elmachtoub.

DR. ELMACHTOUB:  Hi.  Good morning.

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

So today, I’m going to be talking about a slightly different topic, very different angle. We’re actually going to take a perspective on how would I
actually design a loot box if I’m the publisher, developer, or the gaming company. And before I really get into it, I want to emphasize that we have no connection to the industry at all. So this is like a neutral perspective. And we also have a neutral perspective on the entire issue as well. So although we’re just we’re telling you how one would design it, we’re not advocating or vise versa, okay?

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

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

So here the research questions, why do video
game companies even use loot boxes? Can we quantify the optimality of such a strategy? One doesn’t need to use loot boxes to have a video game, so why does this even exist?

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

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

So the framework we’re going to use is a mathematical model to answer these questions. I’m going to try to avoid math for today and just sort of 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
a new item. And the other one is a traditional loot box where customers can actually potentially receive duplicates. We call it traditional because it kind of dates back to the idea of baseball cards where you can end up with duplicates. And unique, again, is called unique, because you always get a unique item.

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

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

And here’s an actual picture of how the model works. So back to this person over here, he has these -- there’s these six items that they’re willing to pay for and you can see how much you’re going to pay for these six items above his head. And let’s say we’re selling loot boxes for $2.99 each. So the way this model works is the customer thinks that they’re going to get one of these items at random. So with the probability one out of six, they’ll get each of the items. So on average, they value this loot box at $4.50 by taking the average of those six items. And
that’s more than $2.99. So in their head, they think,
yes, I’m going to buy this because I value the loot
box more than $2.99.

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

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

All right. So our goal is to basically
theoretically describe which strategies are best and
how does it affect seller and consumer behavior? So
actually, I’m going to take a quick poll. If you’re a
gaming company, and maybe people here representing the
gaming industry, do you think it’s better to sell
unique boxes or traditional boxes? So anyone can
actually take a vote here. So if you think a unique box makes more money, raise your hand. If you think a traditional box makes more money, raise your hand. So around 80 percent of people said the traditional box.

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

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

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

And in both cases, the customers end up 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
prices come down a lot.

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

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

So if you’re the seller, what is actually the optimal strategy for you? It turns out, actually, the optimal thing to do is to do the simplest thing, which is just allocate uniformly at random, which also, in
this case, may be good for consumers because they can understand this strategy. Simply, if there is 1,000 items, allocate each item with probability one one-thousandth, regardless of how much these items vary in quality. So for example, let’s say 1 percent of your items are the best kind, legendary, which is the example I was looking at before. Then you should allocate legendary items with 1 percent probability. So if 10 out of the 1,000 items are legendary, then you should allocate a legendary item with a chance of 10 in 1000.

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

Now, here’s the caveat, and this is where regulation becomes really important. What happens if the seller lies about the probabilities? This is something that’s impossible for any one user to keep track of, especially if you have a 1 percent chance of winning something. It’s reasonable to not get it 15 times and think that’s just bad luck. There’s no way for an individual to monitor if their allocation
probabilities are really being true or not.
So it turns out if the seller publishes some
list of probabilities and lies about them, the seller
can actually make a significant more -- significantly
more amount of money, more revenue. So there is
benefit to lying. Since there is benefit to lying,
there must be regulation around this. Otherwise,
people will make money. They're for-profit companies.

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

But what I’m saying is that in addition to
them being public, they all should also be monitored
to actually make sure you’re following these
probabilities. So we need to keep track of this. And
not only on the aggregate level, but also on the
consumer individual level. So it’s even possible to
make more money where in the aggregate you’re
following the probabilities. If you see what
everyone’s getting, the probabilities all look
correct. But for individuals, the probabilities may
not be correct. So it’s possible to gain more revenue
by extorting specific individuals. So even monitoring
at the individual level is necessary over time.

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

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

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

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

Thank you very much.
Applause.)

MR. MCALVANAH: Thank you, Adam.

Now, we will hear from Sarah Domoff.

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

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

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

When we consider how games impact children, it’s important to consider the content and the context
of gaming or other types of screen media use. So when I speak of context, I’m talking about when children can play different games. And with mobile games, children can play games at any time and any place. And, indeed, a quarter of teens indoors playing Fortnite in class.

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

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

In my research, we conducted a naturalistic study looking at how do parents and children interact around different types of screen media. So children wore audio recording devices and we transcribed and described parent-child communication interactions around different types of screen media. In this
study, we found that there’s very limited interaction between parents and children around media and mobile devices.

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

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

So in terms of unique concerns, at my clinic at Central Michigan University, we really focus on helping clinicians, teachers, other individuals important in children’s lives, communicate and make decisions around media use screen time. And one thing
that we hear time and again, is that gaming is embedded in social interactions among children. So sometimes this can be really good. You connect with your friends and peers on games. And other times it can be conflictual. And we’re seeing it kind of trickle into the school -- the school zone. Children are developmentally vulnerable to gaming risks, and we heard about this today.

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

In order to get -- let me put it back for people so they can write it down. In order to be considered to have a problem with gaming or disordered gaming, there has to be dysfunction in someone’s life. So it’s not just enjoying playing video games or being
really enthusiastic or wanting to be a professional gamer. It interferes with the child or adolescents functioning.

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

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

Now, back several years ago when I was doing my clinical post-doc, I’m a clinical psychologist and work with children and families, there weren’t measures out there to capture concerns related to media use. And so that led to the development of the
Problematic Media Use Measure, using DSM-5 criteria to identify children at risk for problematic media use including gaming.

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

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

I want to spend the rest of my time talking about some of the work that I pursue at the Center For
Children, Families, and Communities at CMU. And this really stems from a need from providers, school personnel, and parents in communities around the country regarding how do I manage -- around screen media use; how do we handle or make systemic change when screens are in schools and so forth.

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

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

And then, additionally, what we also focus
on, is developing interventions that treat screen
media-related concerns, so helping parents manage
screen time using harm reduction approaches.

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

(Applause.)

MR. MCALVANAH: Thank you, Sarah.

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

DR. SIMONOV: I mean, I guess that in the
framework which I talked about, it’s really all part
of this alpha L as the persistent preference for loot
And I guess one way to separate it out is just ideally what you want to find is some shifters which will affect your -- will not affect the risk preference characteristic of risk of the loot box, but will affect how much people are exposed to the loot boxes, like in which environments they use them. It requires a lot of data and the right variation in the data, I guess.

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

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

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

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

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

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

5 DR. ELMACHTOUB: Well, I guess it’s good that I let you answer for us, because we ignored that
effect and now you justified it for us.

(Laughter.)

DR. ZENDLE: Yes.

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

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

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

So we went and we asked about 900 people about collectible card game spending to see if that was linked to problem gambling. And it just wasn’t. Like, you know, there’s something special about loot boxes. We haven’t published that study yet, but if
anybody would like to have access to the data from it, I’m very willing to share any of the data from this. And since it’s a question that people are asking, I’ll make it a priority to get it published.

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

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

DR. ZENDLE: Yeah, that’s a really neat point. I remember when we were talking to the Australian Senate about this, they sort of said, what are the differences between loot boxes and trading card games in the real world. We said, well, there are loads and we don’t really know which are the important ones. But, certainly, one of the things
that seems important is the velocity and the volume
with which you can make loot box purchases.

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

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

Stumped them.

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

MR. MCALVANAH: This question’s for Andrey
Simonov. What control variables were in your study?
Is there something to control for the popularity of
the game or the rarity of the items or any unique
traditional style boxes?

DR. SIMONOV: Yes. So all the analysis was
done within the game, so there is no need for control
for the game. There is -- so for the descriptive
items I showed, there was controls for stages, for
player fixed effects, what kind of items people had.
So at this stage, what we -- this is all against [indiscernible] relational. We have the right variance. We just didn’t clean enough results to be ready to share the results of causal estimates. But, well, basically, those correlations hold whatever the fixed effects will include, basically.

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

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

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

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

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

And so I think one thing that we’ve all got
to be aware of is that games aren’t coin-operated
arcade machines anymore. They’re vibrant social
worlds. And just because your motivation for
purchasing something isn’t to do with literally
winning the game doesn’t mean that it’s valueless.
There’s a lot of value in looking a certain way in
many of these games. And lots of times, people play these games not to win them, but to hang out with people.

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

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

And the unique thing -- another unique thing about loot boxes versus baseball cards is that companies can see your inventory. That’s a fundamental difference. So being able to take advantage of that would obviously be beneficial for the seller and allow them to exploit more. But also be bad for consumers because they -- it would be very, very difficult for them to understand their optimal
purchasing strategies in the long run of the game. It would be very hard to anticipate how much money they will need to succeed in the game if everything is updating dynamically.

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

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

   MR. MCALVANAH: And you, Sarah?

   DR. DOMOFF: What was that?

   MR. MCALVANAH: Did you have any comments?

   DR. DOMOFF: I just think it’s -- I’m going to bring a point that may not be entirely related to this, but it’s really challenging for parents to navigate all of the details of the variety of games that kids are playing and it takes a lot of effort and
time. And I find myself, and other clinicians and other individuals who work with children, have to spend a lot of time to kind of figure out what are these protections that we should tell parents about because it’s just not clearly labeled.

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

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

I think the industry needs to take a really long look at itself and see what is it doing. I hear
these internal discussions by the industry say, of course, we behaving totally ethically. But from the outside, it really doesn’t look like that, and it really doesn’t look like that to researchers, and it doesn’t look like that to policy makers, and it doesn’t look like that’s regulators. And in my home country, the UK, we’re talking very seriously about should you be able to self-regulate? Have you demonstrated that responsibility? And lots of people think that you haven’t.

MR. MCALVANAH: Okay, that concludes the second panel. Thank you all very much. I think we’ll take a 10-minute break. Yeah, we’ll shoot for a 10 minute break. And it’s 2:35 now, so let’s aim to be back here at 2:45, please. Thank you all.

(Applause.)
PANEL 3: A LEVEL PLAYING FIELD - WHAT’S FAIR GAME?

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

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

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

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

So after the formal presentations, then we’ll move to a moderated discussion.
Please feel free to take the podium, Pat.

Thank you so much.

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

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

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

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

When it comes to our ratings, we have a three-part rating system. We have age rating
categories that suggest age appropriateness. We have content descriptors. We use approximately 30 different content descriptors that indicate why a particular age rating was assigned to that particular game or app. And then our newest and third component of the rating, is what we call interactive elements. I’ll talk a little bit more about them as we get into the presentation.

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

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

Now, despite the fact that interactive elements is the newest part of our system, 70 percent
of parents say that they’re aware of the interactive elements. And of those parents, 79 percent say they regularly check them.

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

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

Now, parents consult many different sources when they’re trying to make a decision about what’s appropriate for their children and families. Not just the ESRB rating information, but they’re playing the game themselves. And I think we’re finding that
increasingly to be the case as new generations of parents have kids, and they grew up with playing games.

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

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

The ESRB provides a family discussion guide on our website to actually start that conversation. Sixty-four percent of parents indicate that they frequently discuss online safety with their children. And our own research suggests that 7 out of 10 parents have actually prevented their child from playing a
Now, ESRB ratings are integrated with the parental controls that are available across different game devices. So here you’ll see the Xbox, Playstation, and Nintendo parental controls, which allow you to block games by their ESRB rating. And you can do the same thing in the Google Play Store.

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

(Video played.)

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

Parental controls are available for all current game consoles, handhelds, PCs, smartphones, and tablets. Each device has settings that can limit and manage the experiences that your children have, and they take just a few minutes to set up. On some devices, you can remotely set controls from your mobile phone or your computer. So whenever you want to add a restriction or change a setting, you can be
assured that your children enjoy playing games within the parameters that you approve.

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

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

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

(Video concluded.)

MS. VANCE: So there are obviously a lot of functionality in parental controls, but are parents
using them? And based on our latest research, 72 percent of parents have indicated that they have activated or enabled parental controls on their computer at home, their mobile device, or their game console. And not surprisingly, the propensity for them to do that is higher for parents with kids of younger ages than older ages.

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

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

So parents are familiar with parental controls. They’re using them and they’re using them
in a variety of different ways.

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

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

So this is important to understand in terms of how we’re presenting disclosures. Our rating system’s primary target audience are parents. Parents
need to understand what it is that we’re providing and
we need to provide it in a way that they understand,
that’s concise and that they can digest at a fairly
quick glance.

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

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

But disclosures aren’t enough. We want to
make sure that parents know that when they see that
in-game purchase notice, if they want it limit -- if
they want to limit their child’s ability to spend money, they know how to do it. So we launched parentaltools.org last year, which gives very easy access to parents to instructions on how to set up parental controls depending on which device they have in the home. And we created an animated video that’s a very simple way to sort of describe what parental controls can do.

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

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

We also have just partnered with GameStop and are talking to other retailers, so that this holiday
season whenever a parent purchases -- or any consumer
for that matter, purchases a new console, that it
comes with an insert that reminds them to set parental
controls and directs their attention to
parentaltools.org so that they know how to do that.
And we’re going to be complementing that program with
an online ad banner campaign targeting parents.

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

    So in summary, I just want to tell you that
you can be confident that any game that gets
published, regardless of the device, will have some
descriptor that will indicate that there are in-game
purchases; that parents have very low awareness of
what a loot box is, but that their main concern is
spending, and we are addressing that by not just
having disclosures available for games, but also
making sure that they have the tools and parental
controls to manage the money and time that their child
spends playing video games.

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

So thank you very much.

(Applause.)

MR. DUCKLOW: Thank you, Pat.

Next, we have Anna Laitin.

MS. LAITIN: Hi. Good afternoon, everybody.

My name’s Anna Laitin. I’m the Director of Financial
Policy at Consumer Reports.

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

We approached this workshop -- we don’t have
-- we haven’t historically done a lot of work on video
games, so we approached this workshop from a perspective of looking at larger marketplace trends first. And a couple of things we’ve been spending a lot of time on lately, drip pricing, hidden fees, the obfuscation of the true cost of a product or service. This is something the Federal Trade Commission has spent a lot of time on from a 2012 workshop on drip pricing to the workshop earlier this summer on online event ticketing.

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

So how does that apply to the gaming marketplace? Well, obviously, the increased monetization of play. That’s what we’re talking about here. You’ve got the downloadable content, those one-time purchases, and then the microtransactions, the loot boxes we’re all talking about today, repeat purchases, consumables, often very quick purchases made often in quick succession, and manipulative user
experiences. So subtle tactics that influence consumer behavior and nudge them to purchase these loot boxes.

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

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

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

In-game currency and pricing can really hide the true cost. This one from Fire Emblem Heroes, it’s very hard to see on these slides, but it costs five orbs to summon a character, four each to summon the next three, and three orbs to summon the last. So 20 orbs spent on loot boxes. But how much is an orb?
That price isn’t linear. So to figure out how much it costs to summon 20 characters is not a simple matter to figure out. This is very much finding ways to hide the fact you’re spending real money on these characters.

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

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

This one for Clash Royale, you can get a -- I can’t even read it on my own piece of paper -- a pouch of gems for $4.99 or a wagon of gems for $49.99. Is a pouch 10 times smaller than a wagon? What are you actually buying? And it’s, again, taking the money away from the actual what you’re buying.
So loot boxes, just in conclusion, are not transparent. Consumers aren’t sure of what they’re getting; odds of winning items -- although the announcement this morning may move to change that -- the cost is hidden; and those loot box mechanics are insufficiently labeled.

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

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

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

And pay-to-win, as was discussed quite a lot
this morning. Playable without microtransactions, but if you’re not willing to spend money, you’re not going to do as well as your opponents or your friends, or you’re not going to help out your group.

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

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

And then a growing population of game players exposed to loot boxes and manipulative content. So I think this was discussed earlier today, we’re not just talking about young gamers who play all the time. We are now a society of gamers, whether you’re playing on your mobile phone while commuting, whether you’re sitting in your house playing games for hours, it’s a lot of people. Sixty-five percent of American adults
now play video games and seventy-five percent of households have at least one gamer. So this is not an isolated problem set to those young, sort of stereotypical gamers.

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

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

Thank you.

(Applause.)

MS. JOHNSON: Thank you, Anna.

And now, we’ll hear from Keith Whyte.

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

I’m Keith Whyte, the Executive Director of the National Council On Problem Gambling. I’ve been
working on gambling addiction issues for 25 years now. And as a brief note, I’d like to wish my son, Ian, a happy 14th birthday today. When he’s not playing drums, guitar, bass, or piano, he’s often gaming. And he wanted me to tell you that loot boxes in Fortnite are occasionally annoying, mainly because he doesn’t get the gun he wants. Nothing to do with gambling.

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

Many of the world’s largest casino and slot machine companies are members of the National Council, and, again, we’re not anti-gambling, nor are we anti-loot boxes. However, we’re here to share our experience because many features of loot boxes are similar to those of slot machines, and we’ve got about five decades of experience working on consumer
protection issues in the gambling space.

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

But it’s clear that whether or not loot boxes meet criteria for a gambling device in a particular jurisdiction and whether or not parents recognize or understand the risks, additional consumer protection issues -- protection features must be put in place to protect vulnerable players from developing gambling problems. Loot boxes and slots can powerfully influence player behavior in ways that lead to entertainment for most, great excitement for some, and excessive play and even addiction for a few. Players with gambling problems likely provide a disproportionate percentage of the, quite frankly, massive profits from slot machines and from loot boxes.
To my knowledge -- oops, I think I’m going the wrong way. To my knowledge, every study published to date on the connection between loot boxes and gambling has found an association. You’ve heard from Dr. Zendle and others on that today. And, in fact, given everything we know about the similarities between boxes and slot machines, it would actually be astounding and surprising were there not such a connection. They are, in many ways, so closely related.

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

And we believe, again, there is likely a bidirectional effect. People who are vulnerable for
gambling addiction or who have gambling problems may be more likely to pay-and-play and develop problems with loot boxes. And those who play loot boxes may well be on their way to developing gambling problems due to their loot box play. These are very, very complex associations. Obviously, a lot more research needs to be done. And, again, the industry can play an enormously helpful role in providing data to help all of us make more informed decisions about some of these risks.

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

So first, in the gambling industry, we look a lot about creating informed consumers. And we’ve talked a lot about -- today, about making and building transparency. And I think one of the challenges to this industry and one of the ways that you can actually do much better than the gambling side, is if
you’re spending $250 million to develop a game and
you’ve got some of the world’s best, most creative
talent, let’s find a way to make this information in
disclosures entertaining and interactive and exciting.

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

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

You know, obviously, we talk a lot about, in
the gambling space, about consumer education
protection. I think, last but not least, we would
suggest a rating of most games with loot boxes is M
for mature, because, ironically, if many of the
parental controls are based on existing ESRB ratings,
then most games with loot boxes, including some of the
ones we’re most concerned about, are rated as T for
teen.
And so if you’re a parent who’s basing your parental controls on what the ESRB rating is, if the ESRB rating is as we would think artificially low, then that might not trigger the appropriate level of parental controls.

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

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

And one other thing on this that’s, I think, important when we talk about certification and verification, nobody in the gambling industry would
ever trust a slot machine manufacturer to self-certify
that their machines -- the odds and randomness of
their machines is as -- that their machines perform as
they say. So we use independent testing labs. That’s
what the state of Nevada and New Jersey -- that’s what
everybody uses to verify that the odds are as they are
stated. And they often find machines that don’t
perform adequately. It’s an important consumer
protection feature.

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

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

As Dr. Domoff talked about, there’s a number
of flavors, if you will, of addiction that are
implicated in this discussion. There’s straight-up
gambling addiction. There’s, of course, gaming addiction, which she went through with the clinical criteria. And there’s internet addiction. These are all separate, they’re distinct, but quite closely-related issues. And what we’d like to do with responsibleplay.org is help people come take these various self-tests and then find where they perhaps need to be.

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

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

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

So last but not least, we talk a lot about
evidence, and we believe it’s incumbent upon the
industry to help by providing identified data to
independent objective researchers to help all
stakeholders validate concerns and develop solutions.
If the video game industry disputes our concerns, they
should make publicly available the massive amounts of
data they have on player participation and spend on
loot boxes that they collect.
As Dr. Zendle said, we’d be happy to be wrong. We don’t think we are. Again, we’ve looked at -- looking through the gambling lens and with 50 years of experience on this issue, we think there’s clearly both cause for alarm and a link between people who pay-to-play loot boxes and people who develop gambling problems.

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

So in conclusion, with great profits come great responsibility, right? We call on the video game industry to dedicate a portion of loot box revenues to a public health trust fund that supports independent prevention, education, treatment, recovery, and research initiatives. ESA and its member companies can play a constructive and productive role, just as some casinos and lotteries embrace responsive gambling as the most ethical and
1 economical way to address the harm their products cause.

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

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

   In the five decades in gambling, we’ve learned that self-regulation alone is never enough. It must have an enforceable consumer protection framework and be accompanied by external oversight, research, monitoring, and verification by independent groups. So there’s a three-legged stool, there’s room for industry, for regulators, and for advocates.
We look forward to working with anyone who has a sincere interest in preventing addiction and protecting players.

Thank you very much.

(Applause.)

MR. DUCKLOW: Thank you, Keith.

Ariel, you have the podium.

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

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

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

A lot has been said so far today about how children and youth are particularly vulnerable. And
I’m pleased about that, that I won’t be the only one. I want to just talk a little bit more about what kids and families know with respect to loot boxes and in-app purchases. And spoiler alert, they don’t know a lot. So let’s also talk about how we can improve the situation.

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

Second, even if information is listed providing real dollar amounts, digital transactions can make it difficult for people to understand that they’re spending money. There is very little friction. It’s hard to comprehend if you’re making a purchase, if you’re just clicking online or talking to a smart device, a lot harder than if you were handing over cash. Additionally, the use of microtransactions can compound this problem. To a kid 99 cents, $2.99 doesn’t sound like a lot, and they don’t think about the fact that they’re going to make that purchase.
When talking about teens, there are neuroscience and other issues to consider. Neuroscientists have looked at how teens brains are different. They’re still developing, and this has been talked about a little bit earlier today. Their prefrontal cortex is not in the same shape as an adult’s, and they’re more likely to do the immediate and risky thing to get a reward and less likely to consider long-term consequences. In this space, that means that they’re more likely to spend money, and as we’ve heard, some of them think it feels good.

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

In addition to cognitive and comprehension issues, there are also social and emotional issues at play. And companies can take advantage of this. Older kids want to compete with their friends. And we’ve seen that some gaming companies are filing patents that would take advantage of this desire to compete, contemplating pitting a junior player with a more senior player in an effort to get the junior player to spend more money.
Younger kids, they want to make people happy. They don’t want to disappoint their friends, their family, and this also includes their favorite characters. And what I now hope is an infamous example that you’ve all heard of, and if not you’ll hear of it now, is Strawberry Shortcake insisting that children who are trying to play her game and make treats, purchase certain costly kitchen tool items. And if they don’t, she’ll berate the player.

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

Kids can also fall prey to the same type of selling techniques that adults can. So here, if they can read, they may go for the best value them. If they’re pre-literate, they may just like the pink color.

I think it’s important to consider kids purchasing techniques in the broader context of their gaming experience. From our Common Sense research, we know that some kids are spending a good chunk of time
1 playing video games each day. While a minority of
teens and tweens, according to our research, are
playing video console games on a given day, I think
the numbers are much higher for mobile probably, only
27 percent of teens play console games. Those who do
average over two hours. Among gamer teens and tweens,
they’re spending over two hours a day on video games.
And those who consider themselves mobile gamers, spend
almost as much time.

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

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

So we do hear a lot of concerns from parents
at Common Sense about their kids spending too much
time online and on games and we also hear questions
about in-app purchasing. We hear less, as you heard
from the ESRB, about loot boxes. I think a large
reason for this is that parents are in the dark. They
barely understand in-app purchases in general, let
alone specific mechanisms like loot boxes.

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

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

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

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

When parents find out that their kids have made these purchases, they respond in sort of a variety of predictable ways. One, they try to get their money back, and a lot of these games have chargeback rates that would be considered fraudulent in other industries. Also, some of these parents turn to the courts. And, indeed, in a lot of the examples
I mentioned in the last slide, they are about parents who’ve sued.

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

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

Thus far in the US, most efforts have focused on transparency. App stores, self-regulatory groups are indicating in-app purchases. Now, there’s also Google and Apple and, today, others who will be disclosing odds, drop rates on loot boxes. Common Sense, in our reviews, tries to give information to parents about in-app purchases, as well as the prices
of those purchases when we can.

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

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

Companies should clearly label advertising and other commercial content. And they should make sure that children fully understand all purchases before they pay for them and not later when their mom asks how they racked up huge charges. Companies should also be inclusive in their game design. They should make them so that all children can play them and understand and have the expectation that children maze the games in a way that they did not intend, and
they may play games, even if the product was not
designed for them.

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

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

    The UK has found that some similar practices
were not gambling. In China and South Korea, there
are rules that require game companies to disclose the
odds. This seems like a positive step forward, but
some of the odd disclosures that we have seen include
ranges of winning certain items that are so broad,
like say 5 to 60 percent, that it seems to barely
constitute a disclosure at all.
So as we move forward and talk about disclosing drop rates and odds of winning, I think it’s important that we maybe look closely at what’s being disclosed.

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

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

There are also broader bipartisan efforts, like the Camera Research Bill, that would study the effects of technology and media, including video games, on kids. And at the state level, we’ve seen a number of efforts, including one Hawaii legislator who’s made repeated efforts to ban loot boxes for those under 18 and require odd disclosures and recently gotten passed a commission to study this aspect of the gaming industry in his state.
This is still an emerging issue for many parents and it’s one which many are still unfortunately not aware of. But as it faces increased attention, we’re hopeful that efforts from all sides will lead to a better experience for kids and families in the future.

Thank you.

(Applause.)

MR. DUCKLOW: Thank you, Ariel.

So we’re going to jump into some Q&A now.

And none of the following questions are directed at any particular panelists, so please feel free to jump in.

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

MR. WHYTE: I’ll start out and say we’ve got a lot of experience with this in the gambling world, and it is not harmful, but unlikely to be effective.
Most people don’t understand odds and randomness in the most simple dimensions, especially when you’re talking about dynamic odds. It’s almost impossible for people to figure that out.

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

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

But I think the next step is to make -- is to find ways to make it sticky and entertaining for consumers and to make such disclosures impactful. And so I think there’s a whole lot we can do to try and find ways to communicate those odds to people in ways
that they’re going to understand and be able to make
more informed decisions. That’s the ultimate point.

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

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

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

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

MS. LAITIN: Yeah, I’ll jump in and agree
with all of that and say from first inclination, it’s
a good step, but there’s a lot of questions about when that disclosure happens and how. If the disclosure only happens at the time you buy the game, and then it’s weeks, months later when you’re actually playing and encountering the loot box, and how do you have any recollection of that at that time, is that a meaningful disclosure?

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

MS. VANCE: I think you have to trust that the industry is serious about making the commitment that they announced this morning. They have their own customers to serve. And they’ve made a commitment to make disclosures easy to access and to be understandable.
And as we learned earlier this morning, loot boxes vary game to game, loot box to loot box, and if there is no one silver bullet for disclosures, there’s no one standard, I think we have to leave it to individual game developers to develop the right type of disclosures for their game and for their customers. I also think it’s different disclosures for different audiences. I mean, what you would disclose for a parent -- like we just created a blog that helps parents understand what drop rates mean, but it’s complicated. And instead of -- I think to make a parent comfortable, we’re better off focusing on a generalized disclosure up-front that this game enables in-game spending, and then point to parental controls that allow them to limit the amount of spending that their child can enable.

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

MS. VANCE: You’re talking about the in-game
MS. JOHNSON: Yes.

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

Our rating system, at least the up-front information that we provide prior to purchase, needs to be really easy to digest. Otherwise, it’s going to get ignored. And so we really try to make our information concise, easy to digest. We cannot throw a lot of information at parents. They just -- their eyes glaze over.

But if they want to go deeper -- for an example, we offer rating summaries on our website and through our mobile app, so that if a parent wants to know what do we mean by suggestive themes, or, you know, okay, it’s teen-rated, but I have a 10-year-old, and I really want to make a decision, I want to understand more about the context of the content that we’ve called out, they can go to our rating summary and read a paragraph or two giving them far more information, far more examples.

But we can’t expect -- A, we can’t expect
that to be on the box. We can’t expect that information to be up on a mobile screen when you have this amount of real estate. We have to give different layers of information depending on how parents want to digest it and what parents are looking for.

But, look, the drop rates is really to serve the gamers. The drop rates are really to provide clarity about the relative rarity and probability of getting certain items in a loot box. And I think whether -- I think most gamers would understand what that means. If they’ve been playing a game for years, they know what those stars mean, they know what the different terms are that are being used, whether it’s legendary or rare or epic. And the drop rates, I think, they understand based on the context of the game that they’re very familiar with. So I don’t think we should underestimate gamers’ ability to figure it out.

MR. WHYTE: I think that -- just to add to that a little bit, I think sort of implicit in the question is focusing on point of sale. And that’s akin to when someone sits down to a slot machine or a blackjack table saying, oh, hey, here’s a plaque. You may lose your money and this is a random game. Or like if you go to a bar, you expect your bottle of
beer.

It’s not going to -- so it can’t tell you -- point of sale is a very, very limited time for all sorts of reasons to provide this kind of information. And it really -- the true way to approach this, as with any other public health issue, is through large-based awareness campaigns. ESA is starting in that direction. I think there needs to be others.

It’s almost impossible. We can’t push all consumer protection at point of sale or point of purchase. That is, there is a time. I mean, there’s things we can do there, but it’s got to be throughout the lifespan. I mean, if we’re not talking to kids in schools about this, those measures are not going to be -- again, they’re not going to hurt, but they’re likely -- they’re not likely to be very effective. It’s got to be multilayered, multifaceted, multi-year approaches all across the lifespan.

MS. LAITIN: And I’ll add to that analogy. I think it’s not sitting down at the slot machine. I think it’s entering the hotel in Vegas and it says, you may end up spending money here, possibly at a restaurant, maybe at a show, or maybe you’ll be at the slot machines.

MR. WHYTE: That’s right.
MS. LAITIN: And that’s what’s so hard about that “contains in-app purchases.” As a parent, I look at that. I don’t know if that’s loot boxes or you can buy another world sometime later. It could be anything in between. And so to get that level of specificity when consumers are at the point or when players are at a point where they’re accessing that stuff, that’s a different moment.

The point of purchase is really, really important, and I’m thrilled that that’s there, but it’s not doing enough of the job.

MR. DUCKLOW: So Keith had mentioned the idea of dynamic odds. And one of the specific types of dynamic odds that we saw come up in comments is the idea that you could actually guarantee a specific item or a specific rare item to pop up after a certain number of loot boxes. I’m curious what the panel’s reaction is to that idea. Does that increase clarity for gamers or could it actually counterintuitively increase the number of loot boxes that they purchase?

MR. WHYTE: I think it absolutely depends on the gamer, right? If you’re a kid, if you’re, again, vulnerable to addiction, there’s lots of people that can perceive those as absolutely exhortations to play. The gambling world, you only have to admit you’ve lost
when you stop playing. So anything you can beg, borrow, or steal to stay in action, you’re always one bet away from winning everything back.

If you believe or you know or you think you know that additional play or additional spend is going to guarantee you an item, and why would you stop anyway, but especially if you’re addicted, especially if you’re risk for addiction, especially X, X, X, X.

Other players, recreational players, nonproblematic players, adults, you know, may be able to see -- may be able understand the dynamic odds better. And, again, that’s one of things that makes this hard. You’re talking 165 million people, but you know some of them are people who either have problems or are likely to develop problems, and you know for them, their judgment is, by definition, impaired.

They are worse at understanding odds and randomness than others. They have cognitive distortions. They have illusions of control. And providing information, dynamic odds, in such a way to make them think that persistence is going to allow them to win that epically rare item can be disastrous. That can absolutely be a pathway to gambling problems if the problem is not already there.

So again, it’s hard to answer, I mean, a lot
of it depends on the player, in our opinion, because we’ve seen this happen in the gambling addiction space with devastating consequences for some. And we predict that would be the same within this loot box space.

MS. FOX JOHNSON: I think this also just sort of speaks to the recurring theme we’ve heard today about the need for more research, and different individuals respond differently, and how can we support that.

MS. JOHNSON: So --

MS. VANCE: Can I just -- can I just add one thing?

MS. JOHNSON: Oh, please.

MS. VANCE: There’s is a theme that, you know, incentives are bad. Rewards are bad. Games are all about rewards and incentives, and that’s what makes them fun and that’s what makes them compelling forms of entertainment.

So I want us to be careful about how we frame the conversation. Providing an incentive isn’t, on its own, a bad thing. It provides challenge, it provides progression, you know, encouragement to progress through a game. So I think it’s important to not tar all types of incentives as somehow bad.
MS. JOHNSON: Oh, that’s a good -- oh, go ahead. Did you want to --

MS. LAITIN: No.

MS. JOHNSON: I was saying that’s a good segue into sort of another question, which is what about just offering randomized loot boxes for free, essentially, you know, and only available through gameplay, and then instead having specific virtual items or bundles or passes available for purchase, sort of á la carte? Would that solve the problem?

MR. WHYTE: Not all of it. From a psychological model of addiction, no. Whether or not a reward is monetary or not, whether or not how you pay for it, those things or not -- are slightly salient in addiction, but not entirely. So it wouldn’t -- making loot boxes free would not remove the risk that some people will become habituated and conditioned to them and will play them obsessively.

We see this in the social casino space all the time. Free-to-play social casinos have quite high rates of people who will play ‘til extinction, and get a billion chips, and then they’ll spend days and hours playing all those chips to extinction again, so they can go buy more free chips to continue to play, even though they know they will never win anything of
value.

So, no, it won’t solve -- it might solve some people, but it won’t solve the truly vulnerable people for gambling problems. It would be great if it was that easy. I’d be out of a job, but gambling addiction is a little bit more sticky than simply price.

MS. VANCE: I mean, I do think that would obviously change a lot of the economics. You may find the up-front cost of games to be higher. You may find it has a huge impact on the free-to-play market, particularly in the mobile market. These independent developers, in particular, need revenue streams to monetize, to cover the cost of development. So I think it obviously would have huge impact on the economics of the business, which I think you need to be careful about.

Plus, many loot boxes are free and they’re optional. So you don’t have to buy a loot box to play through a game.

MS. LAITIN: I think it’s interesting that you say how much it would change the economics if people could buy the things they’re currently winning in loot boxes. I don’t -- I have no studies, no knowledge, but it would be interesting to see how that
played out and how much the reliance on loot boxes is necessary for the economic viability of these. Because, again, if we’re talking about warnings and disclosure and making sure people are aware, and if paid loot boxes are necessary for these games to continue to exist, that alone is something that parents and others should be very aware of, that these games can’t exist without these and that the games are relying on people taking the chance here in order for them to continue to exist.

MS. JOHNSON: A followup, do you think there should be any kind of cap on the amount of in-app purchases for children and adolescents? So for example, you know, you may see bundles that are $99.99 or range anywhere from like $2.99 to almost $100. Would it make any sense to limit the price cap for loot box -- I mean, sorry, for in-app purchases for games that are marketed to children and adolescents?

MS. FOX JOHNSON: So I think it would make sense to limit or eliminate potentials for spending in games that are marketed to children and adolescents. I do worry that if we say, you know, if you have a loot box, or you have an in-app purchases, you have to rate your game for adults that that might be seen as a get-out-of-jail-free card for people who have games
that are, in fact, really appealing to 10-year-olds. And so I think you have to sort of consider it carefully.

But I think that parents would feel a lot more comfort if they knew that there were limits for their kids spending for certain age range games.

MS. VANCE: Based on our research, almost seven out of ten parents have rules that their kids can’t make any in-game spends. So we believe that parents need to be parents and set their parental controls and be informed with the disclosures that we’re making, including the in-game purchase disclosures, but other information that we’re putting on the box and on the product detail page.

I think parents need to be informed, which is why we’re doing a lot to try to educate parents and make sure that they’re aware, not just of the disclosures, but also the parental controls, and leave it up to them to set the parental controls at whatever levels that they think is appropriate. But based on our research, the majority of parents are not allowing their children to make any expenditures.

MS. JOHNSON: And then we’ve gotten a couple of questions from the audience. This one is for ESRB. And the question is, has ESRB found that there’s any
effect of household income or socioeconomic status on use of parental controls by parents?

MS. VANCE: We’ve not studied that issue, but I don’t know if anybody else here has.

MS. WHYTE: No.

MS. FOX JOHNSON: No.

MS. JOHNSON: And let’s see, another one. This one is, why not define the type of purchase? Consumers do care about whether they will be hit with constant money grabs versus rare or occasional full game add-ons or subscriptions to pay online.

So I think this goes to the issue of adding more detail to the type of purchase up-front. I don’t know if you have anything more to add than what we spoke about earlier with regard to that.

MS. VANCE: I mean, obviously, I’d refer you back to the comments I made earlier. But I would also just say that I think that you have to look at what problem are you solving. I don’t think the choice to purchase a game, it would be dependent on that information. I think that information is really relevant. Once you’re in there playing the game, the most relevant information, at least that we know, for parents -- from our research with parents, is that they want to know that there’s some ability to spend
money inside. And then once they bring that game home, hopefully, they’ll likely set their parental controls.

But that level of detail, I think might be helpful. But it’s helpful only after somebody has made a decision to purchase a particular game. The reason why they’re purchasing that game is because there’s great word of mouth, it’s great game design, based on a brand that I know my kid loves. There are a whole host of reasons. Price point. I mean, there are a whole host of reasons why a parent might make a decision to purchase a video game. So I’m not sure that particular information is relevant for that up-front purchase decision, but might be helpful further down the line.

MS. FOX JOHNSON: I guess I would just add that, in many instances, especially when we’re talking about mobile, the parents aren’t really purchasing a game. They’re clicking “download” and handing over their phone to their kids. And I think one of the things that we’ve heard from parents at Common Sense, is that they do want to know if in-app purchases are -- you know, is it a rare, or occasional, or even cosmetic. We heard today that maybe that doesn’t have as big an effect as we thought.
Or is it something where it’s like every time your child wants to advance to the next level, like in the Thomas the Tank game, they are going to have to spend money. Because a parent might make a very different choice, even though both could be listed as having in-app purchases.

MR. WHYTE: And just to echo that, as Renee and others have said, I mean, loot boxes, this covers just a massive amount of territory. And at some point, yes, providing information on better -- to help everybody better understand the risks -- I mean, I think there’s much more risks in some types of loot boxes and much less risk in others. It’s still risk, but helping weight that is important. But, yeah, really hard.

And I don’t know that we really know. And I think, again, it’s a call -- as Ariel said and as David said and others, it’s a call for more research to help us understand features that are more harmful versus less harmful, help us understand relative risk, and then communicating that relative risk, because risk is not seen equally amongst users. And there’s -- and it’s a great question. When and where, where’s the most effective way to provide that information and to whom? In some cases, it’s the users. In some
cases, it’s the broad public. In other cases -- and
sometimes it may need to be tailored very specifically
to specific groups.

And I think we’re only just at the beginning
stages of understanding this as not a technology
problem or a game problem, but as a public health
issue. And if you look at it through a public health
lens, I think that points to, again, broader
prevention, educational initiatives, more of a public
conversation around this, and then layered with lots
of different tools for lots of different audiences,
delivered at lots of different times. Point of sale
being one, but not the only, and probably not even the
primary.

Just as you wouldn’t expect your first lesson
about alcohol or driving drunk to be delivered when
you walk into the bar, when you walk in the hotel in
Vegas. That starts really early and continues
throughout your life, because the risk changes as
people change and mature.

And we haven’t even talked about seniors, but
we’ve talked a little bit about cognitive development
and neurocognitive development. But there’s a lot of
evidence to suggest that seniors may be at higher risk
for negative consequences in some of these things as
well, and it’s not just kids.

MR. DUCKLOW: So I think the final two questions we have today are more broad. First off, simply put, can the concerns that we’ve discussed today regarding loot boxes and other types of in-game transactions, can those be addressed effectively through industry self-regulation, or is some type of legislative action required? And then beyond that, what might cause the calculus of that answer to change in the future?

MR. WHYTE: So from our perspective from 50 years of working in the gambling industry, self-regulation alone, no. It cannot be effective, especially when there’s so much profit involved and there’s so little understanding of both risk and rewards across this global ecosystem.

So, yeah, we were comfortable with the three-legged stool on the gambling side. Industry self-regulation plays a really, really important role, and we partner with a number of gambling companies directly. But we also partner with regulators in this space, like the FTC. And as an objective, independent, nonprofit advocacy organization, we’re the third leg of that stool. We play a big role in helping keep the industry honest. It’s, you know,
trust, but verify.

And my counterparts to the left and right probably will also play a role. And so, that’s the approach that we would suggest based on, again, our experience with the gambling industry.

MS. LAITIN: I’ll echo that. I think there’s a lot that industry self-regulation can do. And I think ESRB has taken some really important steps. But the chance of this being solved entirely by self-regulation, given the broad nature of the industry, given the size of the problem, and given the concerns that have been expressed today, I think there will be a need for more than just that.

MS. VANCE: Obviously, I think self-regulation has worked very well, and the Federal Trade Commission has looked at our industry over the years and has written in their reports to Congress that we have the strongest self-regulatory code and high compliance with that code. I think we’ve proven ourselves over the last 25 years that we can do an effective job self-regulating and addressing particularly parents’ concerns.

But I would just add one more thing. This is an incredibly fast-paced industry. We move really fast and our self-regulatory system moves very fast.
along with it. When we need to make changes to the rating system, we do. When we need to make changes to the marketing guidelines, we do. We are continually adapting and evolving as the industry evolves.

I don’t think regulators can keep up with the industry, and I really fear that should regulations come to pass, by the time they’re passed, they’ll be obsolete or they’ll be completely impractical. This is a really complicated and very fast-moving industry.

MS. FOX JOHNSON: And I guess I would just say that, I don’t think that self-regulation can keep up with the entire industry either. So I think everyone has to play a role.

MS. JOHNSON: So last question. Let’s say we’re all going to get together again in five years. What do you think the key consumer issues would be at that point related to microtransactions? Are we still going to be talking about loot boxes at all? So what are your predictions?

MR. WHYTE: No.

MS. VANCE: No.

(Laughter.)

MR. WHYTE: Yeah, well, if David and I are right, then we’re going to see a spike in gambling 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.

MS. LAITIN: I think we’ll still be talking
7 about transparency, consumer confusion, parental
8 misunderstanding of how things work, kids being ahead
9 of their parents. I don’t know if we’ll be talking
10 about loot boxes, in particular. But as I started my
11 presentation, this is part of -- this is not something
12 that’s specific to video games. The marketplace is
13 getting more complicated. Pricing is getting less
14 transparent. Purchasing is becoming more
15 frictionless, leading to various different problems
16 and some fabulous solutions.
17
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
has been here today. I’m going to turn the podium
over to Mary Engle to give some closing remarks.
    Thanks so much.
    (Applause.)
CLOSING REMARKS

MS. ENGLE: Okay, good afternoon, everybody.
I am Mary Engle. I’m the Associate Director for Advertising Practices here at the FTC. Thank you all for hanging out to the bitter end, and I promise I’ll be brief.

First of all, I would like to thank all of the panelists who appeared today, for the time they took preparing for their presentations and for presenting their research and the insights they provided today. I’ve found it really interesting and very helpful.

I’m just going to try to kind of quickly provide an overview of what we heard today. I think, first of all, we heard that loot boxes are just one type of in-game transaction and that there are many different flavors and varieties of loot boxes.

Loot boxes do have a number of benefits. They enhance gameplay. They make it possible to play games for free. They help to keep game prices low, pretty much the same price over time despite inflation. But despite these benefits, we’ve also heard concerns about them, about their potential for addictive behavior and the evidence of correlation with problem gambling behavior.
We heard concerns expressed about whether
game companies are engaging in predatory behavior by
using knowledge of an individual’s particular game
play to maximize the likelihood that consumers will
buy a loot box and whether this increases the
likelihood of addiction.

We heard concerns about dark patterns being
used with games, things like grinding, appointment
dynamics and pay-to-win, and other techniques that
might increase the likelihood that consumers will
actually buy loot boxes instead of just playing
without buying them.

We heard concerns that it is difficult for
people, both adults and children, to know actually
how much money they’re spending because of the way
the pricing is presented in the games. And we heard
that problem gamblers spend a lot of money on loot
boxes, and that holds true, even more so, for
adolescents.

There were some analogies to baseball cards
and whether this is a relevant analogy was debated.
It was pointed out that perhaps not because loot box
purchases are more frictionless and are not correlated
with problem gambling -- that baseball cards are not.

We heard about research showing that people
buy loot boxes for their functional value, but that that is not inconsistent with their also being linked to problem gambling.

We’ve heard that the gaming community is very diverse, and actually that 65 percent or so of Americans do play video games. But the gaming community has mixed feelings about loot boxes. They mostly feel like that they are like gambling and are concerned about how easy it is for kids to spend money and how hard it is for parents to control this.

Gamers also have mixed feelings about government regulation because they don’t trust the government to get it right and are concerned about the impact any such regulation would have on jobs in the industry. So they suggest instead perhaps guidance and best practices being provided.

We heard a lot of concerns about loot boxes for children, in particular, and a discussion of research showing that parents have very limited interaction with their kids regarding their mobile devices, concerns about internet gaming disorder, where gaming interferes with a person’s daily functioning in terms of work, school or interaction, with relationships, not just in terms of time spent playing games.
And we heard about the various parental controls that the industry does provide for consumer -- for parents to control how much time or how much money their children spend on games, and as well as the educational information that the ESRB provides.

And, yet, we also heard that it is very challenging for parents to navigate all of these controls and all the different ways and platforms that children may play games, and that there’s -- more parental education is needed. More guidance could be provided on these issues.

There was also a suggestion that there needs to be more research and public health evidence to understand the extent of any problem in this area with respect to gambling or addictive behavior and to help develop solutions.

We heard ESA announce a new initiative to disclose the relative rarity and odds of winning virtual items. That would be put into effect for new games and game updates. This news was generally welcomed, but considered as a good first step and not a panacea to the problem.

There were concerns for people with gambling problems, that odds aren’t going to really matter to them and certainly whether children would understand
that or care about them. There was some discussion about also that the odds of winning would need to be independently verified because the companies have incentive to lie about what the odds of winning are. They’ll make more money if they do that.

There was also some discussion about how meaningful that disclosure is really and whether -- you know, at what point the disclosure would be most helpful to consumers. That point of sale is good, but how about down the road when people are long into gameplay? And also a discussion of really disclosures to parents or other adult players versus disclosures to children, and those being two different kinds of things.

Finally, there was some discussion about whether self-regulation would be enough here or whether legislation would be needed. And we heard a variety of speakers here, yes and yes on both of those.

So the FTC is going to be taking this all in. We heard a lot of really valuable viewpoints today. People are also submitting comments online and we’ll be reviewing those as well. So I know we have a lot to look forward to.

And I want to thank everyone, again, for
coming today and, again, to our panelists for participating.

(Applause.)

(The workshop was concluded.)
CERTIFICATE OF TRANSCRIPTIONIST

I, Elizabeth M. Farrell, do hereby certify that the foregoing proceedings and/or conversations were transcribed by me via CD, videotape or audiotape, and reduced to typewriting under my supervision; that I had no role in the recording of this material; and that it has been transcribed to the best of my ability given the quality and clarity of the recording media.

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DATE: 7/17/2020

ELIZABETH M. FARRELL, CERT