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Unpacking the European Parliament's Recent Resolution on Online Video Games

Last week, the European Parliament (“**EP**”) adopted a resolution on online video games (the “**Resolution**”). In essence, the Resolution **calls for strong enforcement of consumer protection rules in the video game industry, requires stricter regulation of loot boxes and emphasizes the enormous potential of the gaming sector.**

The EU-wide video gaming industry is viewed as a highly innovative digital sector that has contributed to the development of new technologies, helped to create thousands of jobs – for example for developers, designers, writers and music producers – and makes up over 50% of the added value of the EU market for audiovisual content. Yet despite this, this sector has been often overlooked in top political circles.

But now the EP is rectifying the situation via a Resolution that seeks not only to highlight the potential of this innovative sector, but also to highlight some of the consumer law-related and other issues associated with video gaming.

The Resolution is viewed as an important political acknowledgment of the European-wide video gaming industry. This means the online video game industry will likely pay close attention to its details, especially where it may spur future legislative proposals at the EU level (e.g. loot boxes). Moreover, the Resolution also calls for strong national approaches and coordination in consumer protection and data protection enforcement with respect to the video game industry.



Loot boxes

So-called “loot boxes” are one of the specific areas addressed in the Resolution. This term is used to describe a situation whereby online video games offer users in-game purchases using in-game currencies, which can be either purchased with real money or earned in the games themselves. This is done in order to obtain items through loot boxes, the content of which the player does not know before paying. The regulatory environment surrounding such loot boxes has been subject to discussions by legal and gaming professionals in recent years. Some have called for stricter EU-wide regulations to be imposed due to the potential harmful effects and use of exploitative practices, particularly in relation to minors.

In the Resolution, the EP notes that in-game purchase systems should be compliant with existing rules under the [Unfair Commercial Practices Directive](#) and its respective [guidance](#).

The Resolution then goes even further and **calls on the European Commission** (the “Commission”) to:

- take the necessary steps to bring about a European approach to loot boxes;
- assess whether the current consumer law framework is sufficient to address the consumer law issues raised by loot boxes; and, if insufficient
- present a legislative proposal to adapt the current EU consumer law framework for online video games or to present a stand-alone legislative proposal on online video gaming, which could even impose a ban on paid loot boxes in order to protect minors.

Such measures could thus lead not only to the drafting of a special European regulation on video gaming, but also to the restrictive regulation of loot boxes.

Presently, gambling-related issues are the purview of EU nation states and are not subject to EU-wide regulations. Nonetheless, loot boxes could be addressed by the EU from a consumer protection angle instead – where the EU’s existing purview is far clearer.



Consumer law compliance and enforcement

The Resolution acknowledges that existing EU consumer rules generally provide strong consumer protections. Nonetheless, it calls for a consistent and coordinated consumer protection approach among the Member States¹ and also **calls on national consumer protection authorities to be more active and to better enforce consumer law rules across the video game sector**. Moreover, the Resolution highlights certain mandatory consumer rights which traders must respect and which consumer protection authorities must enforce. These include the provision of clear, transparent and reliable information on how to request a refund or how to make use of the right of withdrawal.



Information obligations on algorithms and prohibition of dark patterns

The Resolution also **calls for greater transparency from video game developers on the probabilities associated with loot box mechanisms**, including the provision of plain language information on the functioning of the respective algorithms. In addition, **the Resolution addresses an issue that has been hotly debated within the industry for some time – namely, deceptive video game designs that can distort consumer behaviour**. These include the use of so-called **dark patterns**, defined by one gaming site as, “something that is deliberately added to a game to cause an unwanted negative experience for the player with a positive outcome for the game developer”. Accordingly, the Resolution **calls on national consumer protection authorities to take stronger action** in relation to such practices and calls on the Commission to keep a close eye on this issue.

1. One of the issues highlighted is also the fact that certain Member States have not yet transposed the [Digital Content Directive](#).



Hate speech and cyberbullying

The Resolution offers a more praiseworthy tone in terms of welcoming the effort that went into the adoption of the 2022 [Digital Services Act](#), which inter alia updates rules on illegal content moderation. However, the Resolution notes that, in addition to illegal content, harmful content can also be disseminated in video games through in-game communication features or gaming social media platforms. As a result, **the Resolution urges the video game industry to comply with existing laws on protecting users from harmful content.**



Gold farming

The Resolution also addresses the issue of “gold farming” whereby certain players sell acquired in-game currency for real-world money to other players who want to save hours of playing time. According to certain reports, this practice has been connected with forced labour² and exploitation in developing countries. Such exploitation typically occurs when wealthy players from developed countries, wishing to save many hours of playing time, pay substantial sums to gold farmers from developing countries.

While the vast majority of game developers expressly ban gold farming in their terms of use or EULA³, or discourage third-party gold farming by implementing other systems in their games, **the EP has nonetheless called on national authorities and the Commission to conclusively put an end to such illegal practices. Accordingly, the Resolution requires the Commission to assess the use of gold farming in connection, inter alia, with financial crimes.**



Data protection

Finally, given that the gaming industry has access to large quantities of user personal data, the Resolution **stresses the issue of personal data protection compliance by video gaming companies.** This, it argues, will help to ensure that processed behavioural data is not used for manipulative and discriminatory purposes. In addition, the Resolution once again **calls on the competent authorities to strongly ensure data protection compliance in relation to the video game industry.** The Resolution also points out that video game platforms can be used for phishing and proposes the establishment of information campaigns in order to raise awareness about the related risks.



2. See for instance <https://www.theguardian.com/world/2011/may/25/china-prisoners-internet-gaming-scam>.

3. See for instance Prohibited Commercial Uses in BLIZZARD END USER LICENSE AGREEMENT: <https://www.blizzard.com/en-us/legal/fba4d00f-c7e4-4883-b8b9-1b4500a402ea/blizzard-end-user-license-agreement>.



Conclusion

Although the Resolution is not binding, the video gaming industry should not disregard it and should closely monitor its follow-up in the upcoming months both at the EU and also at the Member States level.

The video gaming industry is presently advised to do the following:

- ✓ Review its compliance with consumer protection and data protection rules;
- ✓ Follow the discussions in the Commission on loot boxes and any other special legislative efforts towards the video gaming industry;
- ✓ Follow closely the practice of national consumer protection authorities as the Resolution calls for strong enforcement of consumer protection rules in the video game industry.



In case of any questions with respect to the above, our video gaming law specialists are standing by to offer guidance and counsel.



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