

Frequently Asked Questions Regarding Legislation on Pay-to-Win and Loot Boxes

The purpose of this legislation is simple: to eliminate exploitative monetization practices from video games played by children.

Which games would be covered?

The bill's prohibition of pay-to-win and loot boxes applies to two categories of games.

MINOR-ORIENTED GAMES

This category is defined using a framework inspired by the landmark Children's Online Privacy Protection Act and the recent update proposed by Senators Hawley and Markey. Determinations of a game's target audience would be made by reference to a number of factors including subject matter, visual content, use of animated characters, advertising materials, and other indicators.

GAMES FOR GENERAL AUDIENCES

The prohibition would apply to other games if developers and distributors have constructive knowledge that some users are under the age of 18.

How will developers know which games can include pay-to-win or loot boxes? These sound like very broad categories that would include some of the most popular games on the market.

While it is true that a large proportion of game players are adults, even games with predominantly adult player bases – including games marketed primarily to adults – tend to have enormous appeal to children. The onus should be on developers to deter child consumption of products that foster gambling and similarly compulsive purchasing behavior, just as is true in other industries that restrict access to certain kinds of products and forms of entertainment to adult consumers.

Does this bill ban all downloadable content?

No. The bill distinguishes between one-time-purchase downloadable content providing new experiences for players and downloadable content available for repeated purchase that serves primarily to distort player progression through existing content, explicitly exempting the former from its prohibitions.

How are loot boxes defined?

Loot boxes are defined as microtransactions offering randomized or partially randomized rewards for purchase.

The definition also includes another category of loot boxes whose contents are made known to a player before purchase, if the purchase of one such loot box enables a subsequent purchase of a new loot box whose contents are unknown to the player prior to the first purchase. The rationale for including this additional category of loot boxes is that effectively the player purchases not just the initial items but also the chance that the next set of items will offer what he or she actually hopes to purchase.

How is pay-to-win defined?

The bill covers two types of pay-to-win microtransactions in overlapping categories of games.

PROGRESSION-BASED GAMES

This category includes both single-player games and multiplayer games featuring some form of player progression and covers any game that a reasonable user perceives as including a set of goals, rewards, progression through content (including narrative progression), or a scoring system. For such games, pay-to-win is defined as downloadable content that, from the perspective of an individual user, eases progression through such content, assists in accomplishing the game's goals, or permits a user to continue to access game content rendered inaccessible after the expiration of a timer or number of gameplay attempts.

COMPETITIVE GAMES

This category, which overlaps with progression-based games, includes games featuring competition between players. For such games, pay-to-win is defined as downloadable content that, from the perspective of a reasonable user, provides a competitive advantage.

The bill's exemption for downloadable content providing additional game content is defined by reference to these sort of pay-to-win microtransactions to prevent publishers from using the new content exemption as a loophole through which to continue to include pay-to-win content in games played by children.

What about cosmetic downloadable content?

Cosmetic downloadable content is excluded from the bill's prohibitions. The bill does commission a study of microtransactions that includes a study of the potential of cosmetic downloadable content to induce compulsive purchasing behavior by children.