Loot boxes – defined loosely as virtual items purchasable with real money, which contain randomized in-game content of unknown value – are a very profitable monetization mechanism in contemporary video games. The plethora of issues surrounding loot boxes inevitably leads to the question of an adequate regulatory response. Legal responses have been deployed in various jurisdictions but faced several limitations. First, the responses are very divergent. Some jurisdictions view this form of monetization through the lens of gambling laws, consumer protection laws, and often – being conscious of the additional risks which loot boxes pose to under-age players – are increasingly addressing these issues under child protection laws. Thus, the broad array of issues triggered by loot boxes allows qualifying these within various regulatory fields. The possibility to place these in different regulatory ‘boxes’ inevitably leads to inconsistent regulatory outcomes. Finally, the very fact that a consistent definition of what constitutes a loot box remains elusive exacerbates the situation as well.

Furthermore, the global set up of the video game industry and the ubiquity of online gaming with users worldwide make the issues global by design. Fragmented and divergent regulatory responses to loot boxes on a country-by-country approach is suboptimal, and raise the daunting spectre of video game developers and publishers having to create parallel versions of the same video game in order to comply with the regulations in force in different jurisdictions – a prospect that seems both expensive and impractical. In these cases of regulatory deficiency, self-regulation is often mooted as a means for resolving the challenges presented by loot boxes. To date, however, the approach of the video game industry has been reactive rather than proactive, and a coordinated, industry-wide response has yet to emerge. The window for a self-regulatory approach is closing quickly – if it has not done so already – and divergences of position within the industry mean that it is unlikely that an industry-wide model for self-regulation will be developed within the short term. This has resulted in a regulatory vacuum, which has come to be dominated by a polemical strain of commentary that paints a complex issue in starkly black and white terms. This might explain the current state of affairs in relation to the regulation of loot boxes: a very polarized and heated debate, which often misses the crucial issues at stakes, and risks leading regulators toward unnecessary new legislation which is difficult to enforce.

It is against this backdrop that we have chosen to publish an issue of the Interactive Entertainment Law Review that is devoted exclusively to the topic of loot boxes. In their provocative article ‘Getting under your skin(s): a legal-ethical exploration of Fortnite’s transformation into a content delivery platform and its manipulative potential’, Marijn Sax and Jef Ausloos examine the freemium business model through the lens of the ethical theory of manipulation, using Fortnite – one of the most popular and profitable video games in the world – as a case study. In doing so, they also consider how European data protection and consumer protection laws might potentially serve as regulatory tools. Leon Xiao’s ‘Regulating loot boxes as gambling? Towards a combined legal and self-regulatory consumer protection approach’ provides a critique of existing regulatory approaches, particularly those rooted in gambling laws, and puts forward a model of co-regulation. In ‘Should loot boxes be considered gambling or can Self-Regulation and Corporate Social Responsibility solve the loot box issue? A review of current UK law and international legislation’, Daniel James Harvey highlights the difficulties with classifying loot boxes as a form of gambling under UK law, and ultimately rejects self-regulation and corporate social responsibility as possible regulatory approaches, focusing instead on the potential of child protection laws to mitigate the risks of loot boxes and similar monetization mechanisms to under-age players. Finally, Peter Honer’s article ‘Limiting the loot box: overview and difficulties of a common EU response’ outlines the difficulties of a common EU approach in regulating loot boxes and proposes that a hybrid regulatory approach adopting gambling law, self-regulation and consumer law could be the way ahead.

Some final words: being the first academic journal that covers interactive entertainment law, IELR has strived to provide a platform for rigorous academic debate and exchange of ideas. From its inception in 2018, it has grown to become an important and leading voice and channel for developing this growing field of law. As editors, we are aware that this special issue touches on a very controversial topic. The articles in this issue have undergone a tight editorial and additional double (or even treble)-blind peer-review process. We see these
articles as a contribution to the academic debate on loot boxes and are confident that they will provide food for thoughts and serve to further the debate. Given that our Editorial and Advisory Boards comprise a number of video game industry representatives, whose expertise we value, we would like to take the opportunity to reiterate that, as always, the articles in this issue have been selected on the basis of their merit and their potential to contribute to the academic debate, and do not necessarily reflect the views of individual editors or board members.

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