



# The Bumpy Road to Global Industry Self-Regulation on Loot Boxes

## Has it been a case of too little, too late?

### RISK BAROMETER:



### JURISDICTION RELEVANCE:

Global

### TIMELINE:

End of play - 2020

## WHAT YOU SHOULD KNOW:

- When the loot box furore first broke, the Electronic Software Rating Board (ESRB), the premier ratings agency in the US, gave a cut and dry [statement](#) that loot boxes are not gambling. True as the assertion may be, it did nothing to sate the critics - and at the start of 2018, US Senator Maggie Hassan (Dem) launched a [public campaign](#), calling for the ESRB to take concerted action. In Hawaii, photogenic Senator Chris Lee advocated a [series of bills](#), which would prohibit the sale of loot boxes to under 18's, triggering copy-cat bills in other states.
- On February 27th 2018, the ESRB lurched into action, announcing the introduction of a new label for "[In-Game Purchases](#)". Stop avoiding the issue, was the essence of the [response](#) from Senator Hassan. The label, she claimed, failed to specifically address loot boxes since virtually all games have in-app purchases. In Hawaii, the loot box bills failed albeit not without a humiliating cross-examination of an ESA representative by Senato Lee.
- Relentless pressure led the Federal Trade Commission (FTC) to launch a workshop: "[Inside the Game: Unlocking the Consumer Issues Surrounding Loot Boxes](#)" (August 2019). As a result, several console platforms - Nintendo, Sony, and Microsoft - alongside a host of high-profile developers [committed](#) to publishing their drop rates by the end of 2020.
- Finally, over two years after the loot box controversy began, in April 2020, the ESRB

introduced an "[In-Game Purchases \(Includes Random Items\)](#)" label with the caveat that it is not just about those loot boxes. PEGI, the ratings agency for Europe, [followed suit](#), towing the same party line - the nuance escaped the BBC who covered the development as a straightforward case of "[Loot box warnings to be added to video games](#)."

- And yet, [a class action lawsuit](#) has just been launched in California, alleging that Apple is complicit in promoting gambling and addictive behaviour by allowing developers to market apps and games with loot boxes on the App Store, akin to illegal "slot machines or devices." Whilst, an imminent review of loot boxes in the UK is set to consider whether the industry has done enough to advance voluntary regulation (See our brief: "[A Call for Evidence on Loot Boxes](#)").

## MOST TELLING:

"Loot Boxes have all the hallmarks of a Las Vegas-style slot machine, including the psychological aspects to encourage and create addiction - especially among adolescents." (Class action [filing](#) against Apple).

## DELANY & CO HOT TAKE:

Drop rate disclosure is likely to be next on the agenda for global ratings agencies, directly impacting the mobile game ecosystem. But it may be case of too little too late - the abiding picture has been of a cumbersome industry self-regulatory apparatus failing to address concerns before the tide of moral outrage overwhelms regulators and policymakers.