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**Legally Protecting Children from Video Games**

**Reflection Essay**

Before writing my research paper, I possessed little knowledge about video games and even less about their connection to the law. I knew that video games were an emerging topic in intellectual property law, but I never heard of video games being discussed in any other areas of law until last year, when I heard on the news that a class action was being filed against a big video game developer for failing to warn consumers about their game's addictiveness. When hearing this news, I immediately thought about my little cousins in South Korea who are always playing games on their phone and some of my high school classmates who would always fall asleep in class or arrive at school late, if at all, because they were awake all night playing video games.

These thoughts made me wonder if there were laws in Canada that regulated video games like South Korea that has implemented a shutdown policy many years ago to restrict children's video game usage. I was not surprised to discover that Canada has not created any laws regulating against gaming addiction and that there was no jurisprudence on the topic either. However, many of my other discoveries during the process of writing this paper have astonished me, notably the gaming industry's reach on the global population, the physical and emotional vulnerabilities of children that should influence the law, the Quebec legislature's willingness to protect children, and the differences in culture that cause the action or inaction in legislating laws that aim to mitigate excessive gaming in children.

I knew that some people enjoyed playing video games, but I had no idea how popular and lucrative the video game industry has become. I was stunned that so many people, regardless of age, gender, nationality, played video games, that video gaming have become the most popular form of entertainment, and that other types of entertainment that are deemed more traditional, such as television, music, sports, etc., could barely compete with its success. I now understand why intellectual property lawyers specializing in video games are thriving and why this area of the law that was once considered niche has become a more popular field of practise. Although the video game industry's dominance impressed me, I also made the connection that its stunning rise in popularity was not random, as video game developers have been hacking people's brains to make them addicted to their products, using behavioural psychology. The popularity of video games also made me realize that gaming addiction was a bigger global issue than I originally thought it was; even if only a minority of people are affected by the disorder, the number of people being negatively impacted by this addiction remains significant, as so many people play video games all around the world.

My research on this topic has also taught me that children are especially vulnerable to these kinds of manipulation because they do not have fully developed brains, which also prevents them from fully controlling their compulsions and desires for dopamine-seeking activities and short-term rewards like playing video games. This explains why the percentage of children affected by video game addiction is a lot higher than that of the general population with gaming addiction.

Furthermore, children are even more susceptible to falling prey to video game developers, as video games are the new social currency, and children are generally more sensitive to peer pressure. When I was a child, only a decade ago, we were mainly made fun of for our clothes and general appearance, so I was stunned to find out that children nowadays were being bullied for what their online video game characters were wearing, which incites children to make in-game purchases. All this information made me really appreciate the gravitas of video game developers' predatory practises that induce addiction in children.

Although the issue of gaming addiction in children is not addressed in Canadian laws or jurisprudence, I was pleasantly surprised to learn that the vulnerabilities of children were taken into account in Quebec law in sections 248 and 249 of the *Consumer Protection Act*. The protective attitude that the Quebec legislature has adopted in regard to young children against all types of advertisements gives me hope that Quebec judges will interpret the legislative intent of existing laws in favour of protecting children from video game developers' predatory tactics to profit off children by making them addicted to their games and purchase in-game items. I am also hopeful that our province will eventually take legislative action to mitigate the risks of video game addiction.

Another aspect of my research that expanded my critical thinking was learning how different countries' views on children influenced their laws. I always thought that Asian countries had adopted strict laws on video gaming way before the West has even touched on the topic of video games in their law because video games were more popular in Asia. While this is partly true, there is another aspect to the story that I failed to realize. We now know that video games are not only popular in Asia but everywhere around the world, including North America, so the lack of popularity is no longer a factor to why our legislators have not legislated against video game addiction. Asian laws relating to gaming addiction are directed at youth because of the cultural importance Asian countries place on their academic performance. This made me realize that a country's culture and views on children affect the way its laws protect them or control them. I wonder how Canadian legislators and judges will act in response to the issue of gaming addiction in children because it will inform us on the way we, as a society, think about young consumers. Do we think that our country and its legislature and judiciary need to protect children from the risks of video game addiction or that the youth and their parents should make their own choices on whether or not to engage with these risks?

## **Annotated Bibliography**

### LEGISLATION: CANADA

*Consumer Protection Act*, CQLR c P-40.1, ss 248-249.

Section 248 of the *Consumer Protection Act (CPA)* prohibits advertising to children under the age of thirteen. Pursuant to article 249 *CPA*, whether an advertisement targets people under thirteen years old can be determined by considering three factors: a) whether the goods advertised are intended for and appealing to children, b) whether the

advertisement was designed to attract children, c) whether children are present at the time and place the advertisement is shown.

#### JURISPRUDENCE: CANADA

*F.N. et J.Z. v Epic Games Inc. et al.* (3 October 2019), Montreal, Que CS 500-06-001024-195 (motion).

This motion involves a class-action lawsuit against Epic Games, the developer of Fortnite, one of the most popular and addictive games amongst children. The class action claims that Epic Games breached articles 248 and 249 of the *Consumer Protection Act* by advertising to children under 13 years old.

#### SECONDARY MATERIAL: ARTICLES

Orsolya Király et al, “Policy responses to problematic video game use: A systematic review of current measures and future possibilities” (2018) 7:3 *Journal of Behavioral Addictions* 503.

This article discusses and evaluates different regulations enforced by different countries, predominantly Asian countries, to mitigate gaming addiction in children. It also provides other possible solutions that legislators or video game developers could adopt in order to protect children from the risks of video game addiction.

#### SECONDARY MATERIAL: ELECTRONIC SOURCES

House of Lords, “Gaming Harm – Time for Action” (2 July 2020), online (pdf): *Select Committee on the Social and Economic Impact of the Gambling Industry* <[committees.parliament.uk/publications/1700/documents/16622/default/](https://committees.parliament.uk/publications/1700/documents/16622/default/)>.

This report calls for the regulation of loot boxes under section 6(6) of the *Gambling Act 2005*, as it concludes loot boxes are forms of gambling that target children and are highly likely to incite gambling problems in the youth.

OPC, “Advertising Directed at Children under 13 Years of Age” (September 2012), online (pdf): *Office de la protection du consommateur*

<[www.opc.gouv.qc.ca/fileadmin/media/documents/consommateur/sujet/publicite\\_pratique-illegale/EN\\_Guide\\_publicite\\_moins\\_de\\_13\\_ans\\_vf.pdf](http://www.opc.gouv.qc.ca/fileadmin/media/documents/consommateur/sujet/publicite_pratique-illegale/EN_Guide_publicite_moins_de_13_ans_vf.pdf)>.

This Guide provided by the Consumer Protection Bureau explains what sections 248 and 249 mean and how they should be interpreted, so merchants and advertisers can determine whether their advertisements are likely to be found in breach of sections 248 and 249 of the *Consumer Protection Act (CPA)*.

Policy Department for Economic, Scientific and Quality of Life Policies, “Loot boxes in online games and their effect on consumers, in particular young consumers” (July 2020), online (pdf): *European Parliament*

<[www.europarl.europa.eu/RegData/etudes/STUD/2020/652727/IPOL\\_STU\(2020\)65277\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2020/652727/IPOL_STU(2020)65277_EN.pdf)>.

This report from the European Parliament discusses the two roles advertisement plays in loot boxes: 1) advertising the loot box to incite its purchase and 2) rewarding the gamer with a loot box for watching an advertisement. This document discusses how these advertisements are predatory to children who are especially vulnerable to the manipulations of these microtransactions and recommends that the government protect children from these exploitative practises.