

Guidance on advertising in-game purchases: CAP and BCAP's evaluation of responses



1. Introduction

Following public consultation, the Committee of Advertising Practice (CAP) and the Broadcast Committee of Advertising Practice (BCAP) have decided to introduce new guidance on the advertising of in-game purchases.

CAP and BCAP have published a separate regulatory statement setting out the rationale for their decision. This document provides detailed responses to specific comments received during the consultation.

1.1 How to use this document

This document should be read alongside the consultation document

2. List of respondents and their abbreviations used in this document

	Organisation / Individual	Abbreviation
	5Rights Foundation	5R
	Gaming Effects Lab @ York	GELY
	Gambling Health Alliance	GHA
	Mobile Games Intelligence Forum	MGIF
	Private Individual 1	PI1
	Parent Zone	PZ
	The Association for UK Interactive Entertainment	UKIE
	The Video Standards Council	VSC
	Mr Leon Y. Xiao, Miss Laura L. Henderson & Dr Philip W.S. Newall, writing in a personal academic capacity	XHN

Respondents are invited to comment on the draft Advertising Guidance; comments on the following are particularly welcomed: <ul style="list-style-type: none"> • The degree to which respondents consider the guidance addresses concerns about advertising for in-game purchasing, including whether there are any other factors that should be included • Whether any effect of the guidance would present a disproportionate impact on the video game industry or a specific part thereof 		
Respondent/s	Comments	CAP and BCAP's evaluation:
<i>General comments</i>		
VSC	Proposed that the guidance make reference to the PEGI rating system and its associated labelling requirements as a means of informing consumers about the presence of in-game purchases, including those for random items	CAP and BCAP agree that, depending on presentation, reference to the PEGI rating and labelling system could be a way of complying with the requirements to provide material information about in-game purchasing. The guidance has been amended to include this approach as an example of what advertisers could do to provide the required information.
GHA, XHN	The odds of getting a valuable item from each loot box should be published at the point of purchase within the game and before the game itself is purchased, in an easy-to-understand format, to enable each purchase to be an adequately informed decision. In influencer marketing, the odds of getting the unboxed item should be included alongside the content.	Although CAP and BCAP understand that some countries now require the disclosure of odds for loot boxes, no evidence has been provided demonstrating that such information is readily understood by consumers, affects player behaviour, or reduces risks of potential harm. Therefore, there is currently no sufficient basis to introduce this requirement to the CAP and BCAP Codes.
GHA	Influencer marketing – many of our survey respondents noted that they watch unpacking of loot boxes by streamers on YouTube or Twitch. Where these influencers are being sponsored by games companies, they need to fall under the same marketing regulations as other forms of publicity. These connections to industry must be disclosed, and footage should not be edited.	CAP and BCAP agree; the guidance is intended to cover all marketing for in-game purchases, including influencer marketing.
GHA	We recommend disclosure of how games publishers use player information for marketing purposes. The way in-app purchases are advertised in games may exploit inequalities in information between purchaser and provider, such as when the industry uses knowledge of the player's game-related preferences, available funds and/or playing and spending habits, to present offers predetermined to maximise the likelihood of eliciting player spending. Consumers should be aware of how their personal data is used to affect their gaming experience, including how in-game purchases are promoted and priced.	The CAP Code contains a dedicated section of rules relating to data used for direct marketing purposes, which intended to align with the standards introduced by the General Data Protection Regulation. These rules are specialised and subject to their own considerations. As such, it would not be straightforward to include these issues in the context of a more general piece of guidance on in-game purchasing.

GHA	We recommend regulations be put in place to prevent accidental in-app purchases being made, for instance with a pop-up asking for confirmation before an in-app purchase is processed and parental controls to prevent in-app purchases being made without a passcode. It should also be clear to users how to cancel and refund a purchase.	CAP and BCAP understand that accidental purchasing is of concern to some people. However, the way in which in-game purchasing is implemented within a game is, for the most part, a matter of product or platform design and business practice rather than marketing. Where an ad misled about the way in which a transaction would be conducted, this would be covered by the Codes, but decisions about pop-up confirmations and similar protective mechanics lie with the game developer and/or the platform on which the game is provided.
PZ	Raised concerns that games were sometimes sold unfinished, 'buggy', or in digital and/or physical bundles that were hard to understand and sometimes exaggeratedly advertised	The consultation related specifically to advertising issues connected to in-game purchasing, and this comment therefore falls outside of its scope. However, the CAP and BCAP Codes contain a number of rules that address misleading advertising, including a product being inaccurately described, whether by omission, exaggeration, or deliberate untruth. As such, the concerns raised by the respondent are already comprehensively subject to regulatory action.
GELY	Many of the recommendations cannot yet be supported with empirical evidence, as they have not yet been (rigorously) studied. For example, to the best of our knowledge, no study in the literature maps the impact of any of the offending features on either player behaviour or financial wellbeing	<p>CAP and BCAP recognise the importance of robust evidence for regulatory decisions. The majority of the guidance is intended to support existing requirements for advertisements not to mislead; the majority of these requirements are drawn from the Consumer Protection from Unfair Trading Regulations 2008 and relate to the information that consumers should have to avoid making a transactional decision that they otherwise would not have made. These aspects of the guidance are, therefore, reflections of the key information relevant to in-game purchasing rather being driven by evidence of harm.</p> <p>The portion of the guidance that intersects with harm is the section relating to social responsibility and the degree to which gambling-adjacent terminology and imagery are used. As noted further below (and in the regulatory statement),</p>

			this section has undergone several amendments to reflect the nascent evidence base.
	GELY	Hesitant to directly support the recommendation that content requiring purchase or a significant investment of time should not be presented as easily or quickly through standard play - this did not emerge as problematic during player research, and what constitutes easily and quickly obtainable could vary tremendously between players.	CAP and BCAP consider that the presentation of an item as easily available when it requires time or money to unlock is a matter of potentially misleading advertising. Although the degree to which a claim of this type has the potential to mislead will depend on the context, game, and relative experience of players, the ASA is well-used to considering this type of issue on a case-by-case basis.
	GELY	Aggressive advertising is a prominently problematic theme amongst consumers, and may affect player attitudes towards the game and interfere with the player experience. We think that this type of advertising deserves attention within the guidance.	CAP and BCAP understand that 'aggressive' advertising may be termed as such either by its content or by other aspects such as prominence or prevalence. The amount of advertising and the way it is integrated into a game is, in and of itself, a matter of game design rather than marketing content. However, where the content of an ad (which may be further affected by its context or placement) could be considered 'aggressive', this would be covered by the social responsibility rules of the Codes.
	GELY	<p>Some games give players 'teasers' (loot box-like items that are freely given but require paid currency to open) or items toward a goal that cannot be completed without significant investments of time/money.</p> <p>Players may subsequently be more likely to spend time or money to complete these unfinished tasks. As such, recommendations may be needed to specify what types of items players should be given and under what conditions</p> <p>Scripted tutorials may give a misleading impression of the likelihood of receiving a rare or particularly useful item during ordinary gameplay. This constitutes a misleading advertisement for the game or random-item purchases and should be addressed in the guidance.</p>	<p>CAP and BCAP understand that players may receive in-game items in a number of ways, including through gameplay rather than purchase, and that some elements of gameplay may be made significantly easier or more attainable when items are purchased. Although such circumstances may sometimes act as an incentive to purchase in-game items, in and of themselves they are part of the game design and fall outside the scope of advertising regulation. For this reason, the guidance does not include any restrictions on how and when players may be given items or set tasks.</p> <p>However, where the game suggests that players purchase items (e.g. "this level would be easier with an upgrade – buy one here!") this would be considered to be advertising and, therefore, subject to the Codes and guidance.</p>

<i>Comments relating to gambling</i>			
	GHA	<p>Considered loot boxes to be a form of gambling. When they surveyed young gamers in the UK, 91% of them agreed that loot boxes are a form of gambling. Therefore, the marketing and advertising of loot boxes should be subject to the same advertising regulations as other gambling products and, accordingly, not directed at children under the age of 18</p>	<p>As the Gambling Commission is the statutory body responsible for regulating and licencing gambling activity, CAP and BCAP must have regard to the GC's decisions about what does and does not constitute gambling activity in the eyes of the law. Where a particular activity is considered by them to be gambling and licenced accordingly, ads for that activity would be covered by CAP and BCAP's gambling rules. However, as the GC has stated that loot boxes do not ordinarily fall into this category, CAP and BCAP are not in a position to treat them as such under the Codes.</p>
	MGIF, UKIE	<p>Between 23 September 2020 and 22 November 2020 the DCMS ran a call for evidence on loot boxes in video games. This may feed into the review of the 2005 Gambling Act if the Government decides that this is appropriate. It is important to note that the Government has not pre-judged the relevance of loot boxes to any change in the regulation of gambling in the UK.</p> <p>The draft Advertising Guidance contains specific provisions for “messaging relating to random-item purchasing”, including loot boxes. The draft Guidance suggests that “explicit or implicit links to real-world gambling” would be unlikely to be compliant. We note that this again has the potential to create two separate and potentially divergent regulatory regimes for randomised in-app purchases in the UK. With DCMS guidance forthcoming on randomised in-app purchase, there is a risk of conflicting guidance and confusion. We suggest that any guidance on randomised in-game purchases as it relates to gambling is delayed until the Government publishes its response to its call for evidence.</p> <p>Disagreed that random items are “gambling like activity”. Randomisation and chance are a standard part of play and purchase, from rolling dice in Monopoly to opening a pack of Pokémon cards from the corner shop. The sector is engaged in video game entertainment and expressly and explicitly does not offer gambling activities. The use of gambling terminology for a product that is not gambling should not be used, and indeed the Gambling Commission have been clear as recently as 2019 that they do not consider loot boxes to be gambling under the current Gambling Act . Therefore advised against the use of the phrase “gambling-like” as it is not supported by either the law or by research.</p> <p>Disagree that it is CAP and BCAP's position to determine that a product is akin to gambling when the Gambling Commission itself has already rejected that position. It is for CAP and BCAP to respond to proven and established harms by introducing guidance and codes to address those harms, not for it to make its own assessment of whether or not something</p>	<p>CAP and BCAP agree that it is important to avoid ambiguity over whether random-item purchasing (loot boxes) constitutes gambling. Although it is not the intention of the guidance to imply that random-item purchasing is akin to gambling (which, as noted above, is a decision for the Gambling Commission) CAP and BCAP understand the concerns raised about the inclusion of phrases such as “gambling-like activity.”</p> <p>The aspect of the guidance that deals with this issue has been significantly revised; the changes and CAP and BCAP's rationale are explained in full in the regulatory statement.</p>

		is or might be harmful, independent of any evidence establishing that actual harm in the first place or the Government reaching that same conclusion and legislating for it.	
	GHA	Proposals under messaging relating to random-item purchasing are weakly worded. Suggested 'explicit or implicit links to real-world gambling', 'encouragements to 'try one more time' or suggestions that the next purchase could result in a rare item', and 'where the outcome is based on chance rather than skill, suggestions that the player almost obtained a rare/wanted item' should be banned rather than considered 'unlikely to be acceptable'. Regarding pay-to-win loot boxes, it is not just the messaging that compels players to buy them, the entire design of the game strongly favours making in-game purchases to complete gameplay. For instance, rather than buy loot boxes, a player may have to spend hours engaging in repetitive gameplay known as 'the grind'.	
	GELY	Prohibition of implicit or explicit links to real-world gambling needs further clarification. For instance, some games portray the revelation of a loot box as a roulette-style spinning wheel - does this constitute implicit gambling?	
<i>Comments relating to information provided about a game</i>			
	IP1, PZ, GHA	Agreed that the guidance addressed concerns and welcomed the encouragement for advertisers to give information about the type of purchasing (e.g. cosmetic). Vulnerable consumers, particularly those at risk of addiction, needed to know what content was included in a game Support the proposal that marketers should make it clear when advertising games that they contain in-game purchases, including random-item purchases. Using 'in-game purchases' as a standalone term in advertising is not sufficient because it can mean anything from the option to buy a new character in a one-off payment to randomised loot boxes – consumers need to know in advance why they might need to spend further money if they buy the game Agree that marketers should be encouraged to provide further information about the type of in-game purchase contained within a game, and believe this should be mandatory rather than 'encouraged'; it is highly likely that marketers will not choose to display this information unless legally obliged to do so. Suggest that games publishers are required to disclose the average spend required to complete the game, or the average amount spent by players for those games where it is not 'pay-to-win'. Recommend adverts include information about parental controls on spending limits so parents know they have the option to control their child's spending.	
	GELY	Agreed that in-game purchasing (and random-item purchasing) information should be easily accessible and noted that it was standard practice for console games	
	UKIE	The requirement for industry to set out the type of in-game purchases the game contains is not realistic. It is not always possible to anticipate what type of in-game purchases may be made within such games at the time of release. Games are increasingly treated as a	CAP and BCAP consider that the presence of in-game purchasing in general and random-item purchasing specifically is likely to be material

		<p>service and consumers enjoy and expect new features, levels and content to be added to the game after initial release. Publishers will observe gameplay and consumer feedback and develop new features and content based on what has been popular in the original game</p>	<p>information that could affect a consumer's decision about whether to purchase or download a game. As such, this information should be presented in advertising, particularly in digital storefronts (such as mobile or console app platforms). Further information is encouraged, although not required.</p> <p>CAP and BCAP acknowledge that the content of a game, including the type and variety of in-game purchases, may be subject to change as the game is developed further and features are added or removed. The introduction or removal of game features and items is a matter of game design and business practice; the advertising issue is whether the game is marketed with adequate clarity to ensure consumers are not misled into making a transactional decision that they otherwise would not have done. As such, CAP and BCAP would expect advertising to include material information about the game at the time of advertising, and for advertising materials to be updated if the game changes. As the requirement relates only to the presence of in-game purchasing and random-item purchasing, CAP and BCAP do not consider that keeping ads up-to-date with this information would constitute a disproportionate or unrealistic burden on advertisers.</p>
	<p>MGIF, UKIE</p>	<p>We do not believe that there is any academic or research consensus on evidence of harm with regard to the advertising of in-game purchases, or in-game purchasing itself. We are not aware of players requesting information such as equivalent real world price at the point of consumption/use of in-game currency or other items. They've made their decision to spend earlier. It is important that any evidence for concern that is relied upon is referenced.</p> <p>The consultation asks whether the new guidance it will "address concerns about advertising for in-game purchases". We do not believe that this should be the purpose of new guidance should be framed this way. We disagree that there is established evidence of any problems in current advertising for in-game purchases, at least among our members. However, we agree with the goal of ensuring advertising for in-game purchases is legal, decent, honest and truthful and believe this should be the purpose of the new guidance.</p>	<p>The guidance aims to address concerns about truthfulness in advertising and the potential for consumers to be misled, not upon harm. The majority of the guidance is intended to support existing requirements for advertisements not to mislead; as noted above, these requirements are drawn from the Consumer Protection from Unfair Trading Regulations 2008 and relate to the information that consumers are entitled to have to avoid making a transactional decision that they otherwise would not have made. These aspects of the guidance are, therefore, reflections of the</p>

			<p>key information relevant to in-game purchasing rather being driven by evidence of harm.</p> <p>A consumer may feel that harm has come about if they have specific vulnerabilities, but the guidance seeks to ensure that these consumers are sufficiently well-informed to avoid games that they believe would cause them harm. In this regard, the purpose of the guidance is, indeed, to ensure that in-game purchase advertising is legal, decent, honest and truthful.</p>
<i>Comments relating to virtual currencies</i>			
	PZ, GHA	<p>Virtual currencies make it harder for young gamers to assess the real-world monetary value of what is being purchased, especially during stressful moments in the game. Children and young people find it hard to understand how much they are spending when proprietary premium currency is used. Strongly agreed that, where premium currency is used to purchase an item, the marketer should make efforts to ensure the real-world price is made clear.</p> <p>Purchasing in-game currency is likely to lead to increased spending by separating the psychological pain associated with spending money from the psychological pleasure of acquiring a desired item. Therefore, to protect children from spending more than they can afford to, regulations must be in place to help children understand and control their spending. Supported proposals to make the cost of in-game currency clear and not marketed in a misleading way; the clearest way to represent this information is by price-per-unit for all bundles e.g. 100 credits for £5 (5p per credit), or 200 credits for £7 (3.5p per credit).</p> <p>Supported the proposal that where in-game purchases must be paid for with premium currency, rather than 'real' money, it must be clear to consumers what the equivalent real-world price is for the item. In a GHA survey, almost one in ten (9%) respondents said that it was not possible to calculate the value of a loot box, and 31% said they struggled to keep track of their spending on loot boxes, demonstrating the need for easily understandable currency conversions. Commented that adults also struggle to correctly judge the value of items costed in an unfamiliar foreign currency and that young children are still learning to differentiate between play money and real money. This is made even more challenging when games obfuscate how much loot boxes really cost. Even when the transaction amount is clear, other factors such as the relative lack of friction to make such a purchase or the fact that the price may appear small may confuse or trick children into spending more than they intended, or without thinking.</p>	<p>CAP and BCAP agree that the real-world price of in-game purchases should be readily available to consumers, and consider that the exact means by which this is done will depend on the context of the game or storefront in question.</p> <p>The aspect of the guidance that deals with this issue has been significantly revised; the changes and CAP and BCAP's rationale are explained in full in the regulatory statement.</p> <p>The terminology of 'premium' and 'proprietary' currency has been replaced with the single term 'virtual currency'. The reflects the complex and varied use of in-game currency.</p>
	GELY	<p>Savings claims for digital currency bundling and clarity over real-world costs tie directly into player concerns revealed during research.</p>	

<p>MGIF, UKIE</p>	<p>The distinction between 'proprietary' and 'premium' currency as used in the guidance is not reflective of how in-game currency is developed and used, especially as there is great variety in currency implementation across the games industry.</p> <p>The definitions of “Proprietary Currency” and “Premium Currency” do not accurately reflect reality. Industry typically distinguishes between paid virtual currency (i.e. virtual currency that is acquired by consumers for “real-world” money) and earned virtual currency, (i.e. virtual currency that is earned through gameplay). Depending on the game, both types can potentially be used to acquire a variety of in-game items whether cosmetic or adding extra gameplay experiences. It is best to clarify that earned virtual currency is not caught by this guidance.</p> <p>Similarly, depending on the game, there may be in-game virtual currency that can be both purchased or earned and, whilst the publisher of that game may be able to identify in its backend systems what portion of such in-game virtual currency is paid virtual currency and what portion is earned virtual currency, that distinction may not be one that is actually identifiable to the consumer</p>	
<p>UKIE</p>	<p>An “exchange rate” implies that virtual in-game currency has a real world value when it does not. It may also imply to the consumer that there is a two way trading opportunity when there is not, it is a one way transaction. It misunderstands the nature of virtual currency which is, primarily, a type of in-game item. The only purchase that the player makes is that of premium virtual currency, which, like other virtual items, can only be used in the game.</p> <p>It is not clear from the draft guidance why in-game virtual currency should be treated any differently to other in-game virtual items that can be purchased for “real-world” money. In-game virtual currency has no monetary value, cannot be exchanged for “real-world” money, is not accepted as a form of legal tender, and cannot be cashed out of the game. It is simply another type of in-game virtual item and positioning it as something else not only risks confusing consumers, but also brings with it unwarranted regulatory, legal, and revenue recognition risks for publishers (such as increased refund obligations that might not otherwise apply to free digital content). This risks undermining existing legally permitted monetisation methods that rely on this distinction between in-game virtual currency and “real-world” money being maintained.</p> <p>Further, other than the fact that it can be purchased for real-world money, premium virtual currency, once purchased, is not different than earned virtual currency acquired through game play or other activities. Both are in-game virtual currencies that can only be used in game to acquire content or features. The difference between “paid in-game virtual currency” and “earned in-game virtual currency” is therefore often an artificial one to draw for the consumer, and so providing an exchange rate or equivalent “real-world” price for an in-game virtual item at the point at which a consumer uses their in-game virtual currency</p>	

		<p>to acquire that item therefore risks misleading the consumer as to how much “premium virtual currency” the consumer is actually spending.</p> <p>Premium virtual currency, once purchased, is not the same as “real-world” money. It is an in-game virtual item that consumers are able to exchange for other in-game virtual items. It is no different to earned virtual currency or any other in-game virtual items, such as cars, weapons, tanks, clothing or furniture. Consumers do not “buy” anything with in-game virtual currency, they instead exchange an allocation of in-game virtual currency for other in-game virtual items. This point is clearly established in virtually every publisher’s End User License Agreement and is the industry norm.</p>	
	GHA	Supported changes to savings claims on bundled items	
	MGIF, UKIE	<p>Because of the different ways that in-game currency may be placed in a player’s account (gifted, won, purchased etc) it is difficult to provide an accurate statement of real world currency equivalents. There is a difference between an ‘in-game purchase’ that is a direct purchase with real world currency and the use of in-game currency to purchase a game item. Where a game has a currency that can be bought, earned, and gifted, showing the real-world cost to players may confused them, especially if that player has never made a currency purchase. In addition, stating a currency equivalent as an average (where the price of an item varies) may also mislead. Providing a clear price for in-game currency at the point of currency purchase is sufficient for consumers to understand the value of their purchase.</p> <p>The pricing of premium virtual currency can vary depending on the point of sale, the amount purchased, and the sales strategy of the platform in question, among other factors. The estimation of a real-world equivalent pricing would require detailed real-time calculation in each instance and would often only be possible within a margin.</p> <p>It is already standard, widespread practice for a list of bundle prices of premium currency to be readily available both in-game and on the game’s storefront. In-game, when a player is considering a purchase that requires premium currency, that list of prices will be readily available, often in the same shop, at no more than one or two clicks away. Adding further information such as “100 Talents (currently equivalent to £0.67 - £2.50 depending on purchase price of Talents)” is a significant burden on visual and UX design that will only create player confusion.</p> <p>Each game requires its own solution and, rather than propose specific changes that do not reflect industry practice and may not be helpful to the consumer, the guidance should focus on the important principle that customers should be easily able to understand the price and value of the purchase they are being offered.</p>	
	MGIF	Price-per-unit statements for bundled products are not easily arrived at (since components may have varying values) and place a higher burden on game developers than, for instance, supermarkets.	

		<p>Pricing statements may also be complicated by premium currency costs for the same game being different across two different platforms (e.g. a currency bundle might cost £10 on a console and £12 on mobile). The platforms are charge the recommended retail price, or to discount or raise it. By law, this is out of the control of the publisher and the publisher is therefore unable to provide a real-time price list for the in-game virtual currency. In this same way, a food producer may sell a crate of their product each to two different supermarkets. These supermarkets are free to sell this product at a price of their choosing (including at a loss), and consumers are free to choose which supermarket they use.</p>	
	MGIF	<p>Requiring real world currency statements to acquire in-game items steps from regulating advertising and marketing content to regulating game design and content. The draft Advertising Guidance strays into regulating the point of consumption. Transparency at the point of purchase of virtual currency is provided to the consumer by clearly showing the price of various products and bundles available. By requiring that an equivalent 'real-world' price is shown at the point of use of in-game virtual currency, the draft Guidance regulates point of consumption which we submit should be outside of advertising and marketing regulation.</p>	
	MGIF, UKIE	<p>There is a clear regulatory overlap between the draft Advertising Guidance and the OFT principles for in-app purchases. Indeed, there is a conflict between showing the 'real-world' price of an in-game item with reference to the price of in-game virtual currency (as the draft Advertising Guidance requires) and separating the point of purchase with 'real-world' currency from gameplay (as the OFT principles require). This is not dealt with in the draft Guidance. We submit that it is essential that the draft Guidance clarifies how companies can be compliant with both regimes.</p> <p>We consider that some of the specific requirements of the draft new guidance – specifically setting a real world equivalent price next to in-game items - will require publishers, developers and platforms to be at odds with these principles. We would recommend that guidance is clarified so that it does not create two separate regulatory regimes at odds with one another.</p> <p>We believe that the guidance should clearly distinguish between prompts to acquire in-game items with premium currency the consumer has purchased, and prompts to purchase premium currency. The former is not an exhortation to make a purchase, as the purchase has already happened.</p>	
	GHA	<p>Supported proposals on odd-pricing</p>	
	MGIF, UKIE	<p>There is little research into into odd-pricing, particularly in in-game purchases. Seeking to regulate granular activity without substantive research or proper regulatory scrutiny is not proportionate and potentially damaging.</p> <p>The only way to avoid "odd-pricing" would be to have all in-game items cost the same amount of in-game virtual currency (which itself would be odd and economically</p>	<p>As it is a matter of pricing and business practice, CAP and BCAP do not object to, and are not seeking to prohibit, the act of odd-pricing itself. However, as explored in the consultation, odd-pricing can, in some specific instances, make the</p>

		<p>unworkable for publishers), or provide some sort of virtual ATM or bank facility that would allow consumers to purchase the exact amount of in-game virtual currency they desired, which would introduce huge logistical and game balancing problems that are wholly unreasonable for publishers to be expected to incur in order to avoid any “odd-pricing.” We also strongly reject the use of the term “odd-pricing”.</p> <p>We believe that requiring external ads for items to state the lowest-priced currency bundle that could be used for the purchase would cause confusion for the consumer. They could be led to think that they would have to buy the minimum purchasable bundle of a currency multiple times in order to afford several items, when in reality a single purchase would cover all those other items</p>	<p>actual cost to the consumer of an item unclear and therefore potentially mislead.</p> <p>This is particularly the case in ads external to the game where a virtual currency price is stated, as outside of the game environment a consumer may not know that in order to purchase that item they would need to purchase more than the stated virtual price. Therefore, they may make the transactional decision to start the purchase, when they otherwise might not have done if they were aware of the extra cost. This would make the relative cost of the virtual currency amount material to the consumer’s decision. CAP and BCAP note concerns about consumer interpretation of a footnote about the cost of currency, but consider that clear wording would adequately mitigate such a risk.</p> <p>Nonetheless, CAP and BCAP also acknowledge that, in an in-game situation, odd-pricing is unlikely to mislead. In this scenario, the player sees the ad in the context of readily available information about how much virtual currency they have and how much it would cost to buy more.</p> <p>The guidance has been revised to amend and clarify the above.</p>
	<p>PZ, GHA</p>	<p>As well as countdown timers, there are other aspects that drive impulse purchasing decisions, such as near-misses, pop-ups, offers displayed after a loss, and artificial scarcity.</p> <p>Queried the suggestion that ‘what constitutes a short countdown timer and a significant sum of money’ should vary by ‘style of game and the usual cost of items for that game’. It is more important to consider the experience of the user, and the psychological impact of countdown timers upon those who play the game, and the risk they present to their overspending, than it is to consider the flow or integrity of the game from the designers’ point of view. Countdown timers are a well-known pressure-selling tactic, creating a sense of urgency, of scarcity and fear of missing out (FOMO) in consumers. CAP has cautioned marketers against using countdown clocks within gambling marketing, and we therefore argue that these techniques should be banned in the marketing of loot boxes in games with an audience of under-18s. Children and adolescents are especially susceptible to feelings of FOMO, and therefore marketing which incites fear of scarcity should not be</p>	<p>CAP and BCAP have revised the section of the guidance that covered countdown timers to incorporate references to mechanics that may place undue pressure onto players and potentially prevent them from making an informed decision.</p> <p>In the absence of robust evidence relating to the effects of particular lengths of countdown timers (or similar specific mechanisms), CAP and BCAP’s view is that this is a highly contextual aspect of marketing which must be considered on an individual basis, and have therefore retained a broad principle rather than a prescriptive</p>

		used in games where they make up part of the consumer base. In games aimed at adults, recommended a consistent approach to the length of countdown timers, so that it is easier for players, regulators and third sector organisations to hold the games industry to account	limitation. Advertisers must, however, ensure that their marketing is responsible and not misleading.
	GELY	The prohibition on pop-up offers and the like with short countdown timers implies that psychological mechanisms might be being exploited, but the field is in dire need of more research into these mechanisms before any regulations are implemented.	As discussed above, because random-item purchasing is not considered to be a gambling activity, CAP and BCAP's stance on gambling marketing does not have a bearing on this issue.
	GELY, HXN	Limited time offers were identified as potentially unfair, misleading, or aggressive from the player perspective. In particular, players believe that some products are promoted as being only available for a set amount of time to artificially create a sense of fear of missing out and anxiety, and push them to engage. While in some situations this may stem from genuine product scarcity or be appropriate (e.g. for seasonal events), guidance should look to occurrences in which the limited time is untruthful.	Limited time offers are usually considered to be a form of promotional marketing; the CAP Code contains a comprehensive set of rules on the fair administration of promotions, which would apply to the circumstances described in the comment. For clarity, a reference to these rules has been added to the guidance.
<i>Comments relating to the experiences of children</i>			
	5R	The CAP Code and accompanying guidance such as that under consultation should define all young people under the age of 18 as children, in line with the UNCRC.	<p>General definitions of “a child” used in the UK Advertising Codes and those used or defined by other bodies or legislation, are important reference points. The Advertising Codes have adopted under 16 as a general definition of a child, but employ specific, stated age categories for particular rules. This recognises that different groups of children have different vulnerabilities.</p> <p>CAP and BCAP's definition of a child as a person under the age of 16 is long-standing and well established; as such, any amendment to this definition would require a standalone consultation and is outside the scope of consulting on this guidance. Although CAP and BCAP note the objection to this definition in the context of the guidance, without evidence to support a specific stated age category for in-game purchases, it is important that the guidance has regard to the existing definitions in place in the Codes.</p>
	GHA	Agreed that advertisers should not directly encourage children to make in-game purchases. The ability of games developers to manipulate young players, such as by having a favourite character look upset when players do not make an in-game purchase, should not be underestimated. Therefore, adverts encouraging in-game purchasing should only be permitted in games with a PEGI rating of 18.	The CAP and BCAP Code restrictions on directly exhorting children to buy (i.e. using “buy now” messaging) relate to ads that are addressed to or targeted directed at children. In the context of in-game purchasing, this would generally mean ads

			<p>within games that are specifically likely to be used by children, rather than adults. The ASA has received complaints about ads in such contexts and has taken enforcement action.</p> <p>CAP and BCAP understand that PEGI ratings are set on the basis of game content, such as the degree of violence or other age-inappropriate themes. However, although a low PEGI rating would mean that nothing in the game's content is likely to be offensive or harmful, it would not in itself mean that the game would particularly appeal to children. For example, a crossword puzzle game may receive a low PEGI rating because it only has innocuous content, but would not generally be considered children's media.</p> <p>As such, to prevent direct exhortations to purchase from appearing in all but the most highly-restricted games would be disproportionate.</p>
	5R	The draft guidance does not adequately protect children from the advertising of in-game purchases because it does not apply to adverts that indirectly market in-game purchases to children. The guidance should explicitly state that 'in-game purchases should not be marketed on services likely to be accessed by children'.	The prohibition on marketing directed at children relates only to 'direct exhortation' and the rules allow advertisers to advertise more generally in children's media. Children's media, as outlined above, is media that is more likely to appeal to children rather than adults.
	5R	In-game purchases continue to be advertised in games directed at children, despite existing rules set out in the CAP and BCAP Codes to prevent children being directly targeted by advertising Recommend robust enforcement of existing regulation in response to harms created by the advertising of in-game purchases.	While CAP and BCAP acknowledge the objections made by respondents, consideration of whether to allow advertising to children in the in-game purchasing market (or at all) is outside the scope of the current consultation.
	5R	The stated aim of this guidance is to define 'what responsible and truthful marketing looks like for in-game purchases'. This implies that advertising for in-game purchases is inevitable for all users, despite specific restrictions on marketing directly to children in the CAP Code and other relevant guidance. The guidance sets out measures to address specific concerns, but these measures are based on an understanding that children will not be targeted directly by advertising, as per the CAP code. The consequence of this is that the proposed measures may prevent harm or consumer detriment to adults, but not to children. The guidance must recognise that children are exposed to the advertising of in-game purchases, whether directed at them or not, and the proposed measures must address their specific needs and developmental capacity.	

	Advertisers, game designers, and the ASA in their capacity as administrators of the Codes should ban the marketing of in-game purchases whether this is direct or indirect to prevent children's exposure to detrimental marketing.	
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