**Corporate Social Responsibility in Videogames – Presentation Outline**

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**Introduction**

Framing the issue:

* **videogames have evolved** **beyond the game itself**, there are economic, social and policy implications for both the physical world and virtual that need to be addressed.[[1]](#footnote-1)
* “Referring to **[videogames] as** **worlds** captures the open-ended and broad nature of these arenas, pointing to the ever-increasing possibilities for action within them.”[[2]](#footnote-2) In this context, **videogames are better understood as metaverses – extensions of the physical world, to which “they add new dimensions and domains for economic, social, and leisure activities**.”[[3]](#footnote-3)
* “The online videogame industry has, by and large to date, escaped governmental action.”[[4]](#footnote-4)
* Possible solution? *Corporate Social Responsibility* 🡪 broad interpretation of the *Canada Business Corporations Act* to suggest videogame players and digital worlds themselves can be characterized as corporate stakeholders

**The Issue?**

A **case study** of financial, social, and physical vulnerabilities in the videogame context

***Esports***

* Economic transactions in the metaverse, according to Papagiannidis et al., extend the “range and scale of economic activities”[[5]](#footnote-5) – one instance of this is the *esports industry*
* Esports is a “soon to-be-billion-dollar industry”[[6]](#footnote-6) and there is mass entrepreneurial potential here, however, esports is also an arena of vulnerability
  + Players are subject to unfair contracts, and intense training to the determinant of their health; esports players face issues with burnout and lack of autonomy[[7]](#footnote-7)
* Due to the power asymmetries between developer-corporations like Riot Games, players often enter into “one-sided” contracts with them.[[8]](#footnote-8)

***Assetization of Video Games***

* The growth of smartphones as platforms for gaming combined with the rise of the free-to-play model has led to “new indirect monetization models [that earn] most of the gaming industry’s revenue”[[9]](#footnote-9)
* This new monetization model is referred to as the ***game as a service* (GaaS) model**.[[10]](#footnote-10)
* Bernevega and Gekker posit that the economy of videogames has followed capitalism’s “shift toward assetization” or ***rentiership*** (i.e., generating revenue from resources without sale).[[11]](#footnote-11) In free-to-play games where a monetary rent is not directly paid, players often pay a ***data rent****,* in other words, they sell their personal data, in effect, becoming the asset themselves.[[12]](#footnote-12)
* Problem? Left unchecked, these revenue generating tools can exploit vulnerabilities 🡪 see ***loot boxes***
  + Loot boxes in the context of free-to-play games are *rental devices* purchased with real-world or virtual in-game currency[[13]](#footnote-13)that “provide players with a randomized reward of uncertain value to be used in the game.”[[14]](#footnote-14)
  + Loot boxes have been described as “**predatory, manipulative, unfair, and exploitative of the player, creating an environment through psychological and data manipulation** where players are more likely to make maladaptive purchasing decisions.”[[15]](#footnote-15)
  + “Quasi-gambling activities at an early age may constitute a gateway to disordered gambling activity…causing significant harm to children resulting in professional treatment being needed.”[[16]](#footnote-16)

***Health & Harm***

* According to Griffiths, approximately 7 to 11% of gamers “seem to be having real problems to the point that they are considered pathological gamers.”[[17]](#footnote-17)
* Excessive gaming may have adverse effects on psychosocial health (e.g., cognitive development, learning and social development).[[18]](#footnote-18)
* Problem? Developers designing mechanics such as loot boxes “have cultivated an environment that promotes addictive behaviours.”[[19]](#footnote-19)
* The case of *Fortnite* 🡪 Sax and Ausloos identify two trends related to the sociocultural dominance of *Fortnite*: (1) it is actively “stimulating hyper-engagement through increasingly fine-grained social/psychological engineering”[[20]](#footnote-20); and (2) *Fortnite* is “exploiting hyper-engagement for commercial gain.”[[21]](#footnote-21)

**Corporate Social Responsibility as a Response:**

**Legal Analogies** 🡪 Seeing the videogame player and the metaverse as corporate stakeholders

* Section 122(1) of the *Canada Business Corporations Act* (“*CBCA*”) statutorily imposes a **duty of loyalty and duty of care** on directors and officers in exercising their decision making.[[22]](#footnote-22)
* Subsection (a) states these duties shall be discharged with a view to the **best interests of the corporation**.[[23]](#footnote-23)
* “Best interests” includes such factors as shareholders, employees, and the long-term interests of the corporation.[[24]](#footnote-24)
* *BCE Inc. v. 1976 Debentureholders*[[25]](#footnote-25)stands for the proposition that:
  + in discharging their duties to the corporation, managers are not confined to share value, the context of the **duty can vary depending on the situation**[[26]](#footnote-26);
  + directors are required to act in the best interests of the company “viewed as a **good corporate citizen**” and “commensurate with the corporation’s duties as a responsible corporate citizen”[[27]](#footnote-27); and
  + “**other stakeholders**, irrespective of their contractual relationships with their company, **have an interest that needs to be protected**.”[[28]](#footnote-28)
  + These three concepts may help analogize the corporate stakeholder model to players and metaverses
* To sum (1) the duty is contextual[[29]](#footnote-29); (2) videogame players and metaverses have interests that need to be protected (as evidenced by case study); and (3) “best interests” imports notions of good corporate citizenry.[[30]](#footnote-30)

**Corporate Social Responsibility in the Videogame Context**

* “CSR is generally understood to be the way a company achieves a balance or integration of economic, environmental and social imperatives while at the same time addressing shareholder and stakeholder expectations.”[[31]](#footnote-31)
* Corporate social responsibility is a balancing act where the player and the metaverse can slot into especially when understanding the social and financial imperatives involved
* Others have illustrated examples of CSR in the videogame context. For instance, developer-corporations have acknowledged the harm loot boxes can cause and have even removed them instead allowing players to purchase the random rewards directly (e.g., *Turn 10* removing loot boxes in *Forza Motorsport 7*).[[32]](#footnote-32)

1. Savvas Papagiannidis, Michael Bourlakis & Feng Li, “Making real money in virtual worlds: MMORPS and emerging business opportunities, challenges and ethical implications in metaverses” (2007) 75 Technological Forecasting & Social Change at 610 at 611 [Papagiannidis et al.].  [↑](#footnote-ref-1)
2. Papagiannidis et al, *supra* note 1 at 611. [↑](#footnote-ref-2)
3. *Ibid.*  [↑](#footnote-ref-3)
4. Shumaila Yousafzai, Zaheer Hussain & Mark Griffiths, “Social responsibility in online videogaming: What should the videogame industry do?” (2014) 22:3 Addiction and Research Theory at 182 [Griffiths]. [↑](#footnote-ref-4)
5. Papagiannidis et al., *supra* note 1 at 613. [↑](#footnote-ref-5)
6. Jehnytssa Zetino, “Out of Their League: An Antitrust Analysis of Esports Players Associations and Attempts at Unionization” (2021) 58:3 Hous L Rev 777 at 779 [Zetino]. [↑](#footnote-ref-6)
7. *Ibid* at 780-781. [↑](#footnote-ref-7)
8. *Ibid* at 784 [↑](#footnote-ref-8)
9. Alexander Bernevega & Alex Gekker, “The Industry of Landlords: Exploring the Assetization of the Triple-A Game” (2021) 17:1 Games and Culture 47 at 48 [Bernevega & Gekker]. [↑](#footnote-ref-9)
10. *Ibid* at 50. [↑](#footnote-ref-10)
11. *Ibid* at 51. [↑](#footnote-ref-11)
12. *Ibid* at 52. [↑](#footnote-ref-12)
13. Deirdre Leahy, “Rocking the boat: Loot Boxes in Online Digital Games, the Regulatory Challenge, and the EU’s Unfair Commercial Practices Directive” (2022) 45 Journal of Consumer Policy 561 at 563 [Leahy]. [↑](#footnote-ref-13)
14. *Ibid.*  [↑](#footnote-ref-14)
15. *Ibid* at 565. [↑](#footnote-ref-15)
16. *Ibid.*  [↑](#footnote-ref-16)
17. Mark Griffiths, “Call of Duty (of Care): Social Responsibility and the Videogame Industry” (February 2014), online: Game Developer <https://www.gamedeveloper.com/business/call-of-duty-of-care-social-responsibility-and-the-videogame-industry> [↑](#footnote-ref-17)
18. Sun-Jin Jo et al., “Moderating Effects of Depressive Symptoms and Self-Control Trait on the Association Between Problematic Internet Gaming and Time Spent” (2022) 25:4 Cyberpsychology, Behaviour and Social Networking 237 at 237 [Sun-Jin Jo et al.] [↑](#footnote-ref-18)
19. *Ibid.*  [↑](#footnote-ref-19)
20. *Ibid* at 26. [↑](#footnote-ref-20)
21. *Ibid.*  [↑](#footnote-ref-21)
22. *Canada Business Corporations Act,* RSC 1985, c 44, s 122(1). [↑](#footnote-ref-22)
23. *Canada Business Corporations Act,* RSC 1985, c 44, s 122(1)(b). [↑](#footnote-ref-23)
24. *Canada Business Corporations Act,* RSC 1985, c 44, s 122(1.1) (a)-(c). [↑](#footnote-ref-24)
25. *BCE Inc. v. 1976 Debentureholders,* 2008 SCC 69, [2008] 3 SCR 560 [*BCE*]. [↑](#footnote-ref-25)
26. Carol Liao, “A Canadian model of corporate governance” (2014) 37:2 Dal LJ 559 at 575 [Liao]. [↑](#footnote-ref-26)
27. *Ibid.*  [↑](#footnote-ref-27)
28. *Ibid* at 574. [↑](#footnote-ref-28)
29. Liao, *supra* note 71 at 575. [↑](#footnote-ref-29)
30. *Ibid.*  [↑](#footnote-ref-30)
31. Kerr, Richard & Pitts, *supra* note 90 at X. [↑](#footnote-ref-31)
32. Daniel James Harvey, “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” (2021) 4:1 Interactive Entertainment Law Review 48 at 60. [↑](#footnote-ref-32)