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ESRB Issues Labeling Requirement for Video Games Containing Loot Boxes

The Entertainment Software Ratings Board (ESRB) issued a new labeling requirement for games containing "loot boxes" in April 2020. As discussed in more detail below, these games must be labeled with "[In-Game Purchases \(Includes Random Items\)](#)." "Loot boxes" are common in the video game industry and refer to in-game virtual items that players can purchase with real money. These purchased items award the player virtual items and/or modifications based on chance. However, the ESRB did not use the industry phrase "loot box" in the labeling because it determined that a majority of parents were not familiar with the term and because they felt the term was not broad enough to capture all in-game purchases with randomized items.

Any video game with in-game purchases including a randomized element must be labeled to indicate it contains the interactive element of "[In-Game Purchases \(Includes Random Items\)](#)". This designation should be placed on any game containing in-game purchases of digital goods with real world currency (or virtual currency that can be purchased with real world currency) in which the player does not know the specific digital goods the player will receive prior to purchase. It should be displayed in association with the applicable game, including in-store on physical game packages, wherever games and apps can be downloaded, in advertisements and social media, and on websites where games are reviewed.

The ESRB has clarified that this new requirement applies to games that include "loot boxes, gacha games, item or card packs, prize wheels, treasure chests, and more." The European equivalent of ESRB—Interactive Software Federation of Europe's Pan European Game Information rating system—[introduced a similar labeling requirement](#) for games published in Europe: "(Includes Paid Random Items)" on the same day that the ESRB guidance was published.

The "In-Game Purchases (Includes Random Items)" designation replaces "In-Game Purchases" for games that have loot boxes or comparable items, even if there are non-loot box purchases in the game. The "In-Game Purchases" label is used for games that have in-game purchases without any randomized elements. This rule is currently effective for any games submitted to the ESRB. If a publisher does not fully disclose content to the ESRB during the ratings process (for example, disclosing that there are in-game purchases, but not that those purchases have randomized elements), the ESRB may impose sanctions and fines up to \$1 million on that publisher.

In order to avoid fines or sanctions from the ESRB, companies that create games with "loot boxes" or other elements covered by the new labeling requirement will need to fully disclose all content necessary for the ESRB to determine whether the new designation applies. Additionally, they should consider whether this new ESRB requirement will affect the decision-making process of parents purchasing games on behalf of their children.

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