

Nigel Huddleston MP  
Parliamentary Under-Secretary of State for  
Sport, Tourism and Heritage  
Department for Digital, Culture, Media and Sport

Your ref: INT2020/28610/DC

22 December 2020

Dear Minister,

**House of Lords inquiry into the  
Social and Economic Impact of the Gambling Industry**

Thank you for your further letter of 21 December 2020 in reply to mine of 11 December. I am grateful for your reassurance that the Government appreciates the need for urgent action, and for your explanation of the action already taken. I am also glad to know that the Committee's report, and the evidence the Committee received, will be treated as part of the evidence informing the Government's Gambling Act Review.

I am however utterly surprised by one passage in your letter, where you state:

“You are correct that many of the recommendations made by your Committee could be made without primary legislation, although some – including changes to bring loot boxes within scope of gambling regulation by defining their contents as money or money's worth – cannot be achieved through secondary legislation and would require the Gambling Act 2005 or other legislation to be amended should we decide to take them forward.”

My Committee did not suggest that loot boxes could be brought within the scope of gambling regulation “by defining their contents as money or money's worth”. We referred to section 6(6) of the Act which provides:

“The Secretary of State may by regulations provide that a specified activity, or an activity carried on in specified circumstances, is or is not to be treated for the purposes of this Act as—

- (a) a game;
- (b) a game of chance;
- (c) a sport.”

What the Committee said (para 446) was:

“We recommend that Ministers should make regulations under section 6(6) of the Gambling Act 2005 specifying that loot boxes and any other similar games are games of chance, without waiting for the Government's wider review of the Gambling Act.”

There is no suggestion in paras 55 and 56 of the Government's response that it would not be possible for you to make regulations under section 6(6) of the Act providing that loot boxes are to be treated as games of chance, so that they can be regulated by the Gambling Commission. A definition of “loot box” which the industry could not escape might be difficult, but not beyond the wit of your lawyers.

My Committee were not alone in making that suggestion. The House of Commons DCMS Committee, in its report on *Immersive and addictive technologies* (15th report of session 2017-19, 9 September 2019, para 98) recommended: “The Government should bring forward regulations under section 6 of the Gambling Act 2005 in the next parliamentary session to specify that loot boxes are a game of chance.”

The Government, in its response to that report (CP 241, June 2020), quoted that recommendation, and pointed out that the Children’s Commissioner also suggested this in her report *Gaming the System* (October 2019). The response did not suggest that regulations under section 6 would not be adequate to bring loot boxes within the purview of the Act.

Ministers were unable to give oral evidence to my Committee, but when we asked instead for further written evidence we quoted the recommendation of the Children’s Commissioner that “The Government should take immediate action to amend the definition of gaming in section 6 of the Gambling Act 2005 to regulate loot boxes as gambling”, and asked for your views. You supplied these on 29 April 2020. Again, there was no suggestion in your reply that this could not be done by regulation.

It may be that you are suggesting, for the first time, that even if loot boxes are treated as games of chance, they could not be regulated as gaming because the prize involved would not be regarded as “money or money’s worth”. If that is indeed now your view, it would of course have been helpful if you could have said so in your evidence to my Committee, in your response to the DCMS Committee, or in the response to my Committee’s report, rather than in this exchange of correspondence.

If it is now your view that primary legislation would be needed to bring loot boxes within the purview of the Act, I would be glad to have your reasons for believing this, as I am sure would the Chair of the Commons DCMS Committee. Until then, I repeat my Committee’s recommendation that you should make regulations under section 6(6) of the Act without waiting for the Government’s wider review of the Gambling Act.

As evidence of the need for urgent change you have the evidence given to the Children’s Commissioner, to the Commons DCMS Committee, and to my Committee. The research demonstrating the link between loot boxes and problem gambling is in my view incontrovertible. Additionally you now have the replies to your own consultation, and I would expect many of those who responded to have taken the same view.

You say in your letter: “Making sure we have the right protections in place for the safety of children and vulnerable people remains an essential priority for the government.” If this is so, surely there cannot be any justification for delaying making these regulations.

I am sending a copy of your letter of 21 December 2020 and of this reply to Neil McArthur.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Tom', followed by a large, stylized signature that is difficult to decipher but likely belongs to Lord Grade of Yarmouth.

Lord Grade of Yarmouth  
Chair of the Select Committee on the Social and Economic Impact of the Gambling Industry