

Consumer Protection in Mobile Gaming

Computer games („gaming“) have established themselves as **an important global economic sector**. Global sales are estimated at 184 billion dollars in 2023 with almost half being generated by computer games on mobile devices („mobile gaming“).¹ **Smartphones** are also by far the most popular gaming platform among children and young people. **Spending money in digital games** has become normal for many minors. 55 percent of students in Austria between the ages of ten and 19 state that they have already spent money on games, on average 170 euros per year.²

The increasing success of mobile gaming has also been accompanied by a **change in business models**. Whereas in the past, a one-off purchase price had to be paid to acquire a game, the installation of the game is now usually free of charge (so-called „free-to-play“ games). Monetisation only takes place during the game - mainly via **in-app** or **in-game purchases**. To persuade players to make in-game purchases, game manufacturers use manipulative designs and techniques that are often summarised under the term „dark patterns“. Such „dark patterns“ are described, for example, with the keywords „wait-to-play“, „playing by appointment“, „artificial scarcity“, „anchoring“, „daily rewards“, „narrative/emotional pressure“ and „randomised content“ (e.g. so-called „loot boxes“). Overall, it is noticeable that a number of **problematic and emphatic methods** are used in mobile games to entice players to spend as much

as possible. This impression is reinforced in particular with regard to **the vulnerable target group of children and teenagers**.

Because of these developments, mobile gaming is increasingly being **focused on by consumer protection**. For a long time, the consumer protection debate centred on the phenomenon called „loot boxes“. However, the game tests conducted for the study „Konsumentenschutz im Mobile Gaming“ (Consumer Protection in Mobile Gaming)³ revealed **several other problematic business practices in the gaming industry**:

- No sufficient information regarding costs for free-to-play games,
- manipulating practices while purchasing in-game currency,
- lack of cost transparency during purchases using in-game currency,
- advertising aimed at children,
- simulated gambling and loot boxes,
- manipulation through the use of artificial scarcity and nudging,
- social and algorithm-based dark patterns,
- weak methods for age verification.

These business practices can lead to **vulnerable groups such as children or people at risk of gambling addiction** into making purchasing decisions that they would not otherwise make. Four general prob-

1 Wijman, T. (2023, 19. Dezember). Newzoo's year in review: the 2023 global games market in numbers. <https://newzoo.com/resources/blog/video-games-in-2023-the-year-in-numbers>

2 Meschik, M., Fussl, J., Stuhlpfarrer, E., & Wächter, N. (2024). Insert Coin to Continue. Nutzung aktueller Finanzierungsmodelle digitaler Spiele von Kindern und Jugendlichen in Österreich. Universität Graz. <https://doi.org/10.25364/401.2024.1>

3 ÖIAT – Österreichisches Institut für angewandte Telekommunikation. (2024). Konsumentenschutz im Mobile Gaming. https://www.oiat.at/konsumentenschutz_mobilegaming

blems are highlighted below and possible measures to solve these problems are outlined.

General problem: **Minors fall victim to manipulative techniques and provocations to spend money particularly easily.**

The solution to this problem requires a combined approach of law and self-regulation. On the one hand, the use of certain manipulative game mechanics ('dark patterns'), such as 'artificial scarcity', could be defined as an unfair commercial practice in the Annex to the UCP Directive. On the other hand, game manufacturers must commit to higher consumer protection standards and ethical game design. In particular, game providers should effectively check the age of their users and not offer minors access to certain games or limit spending. For effective age verification, the mandatory use of e-ID or alternatively the creation of a uniform standard for effective online age verification within the gaming industry could be considered. The operators of app stores may have a particular responsibility in this regard due to their central role in the purchasing process.

General problem: **In the free-to-play model, it is difficult for the player to estimate the average costs incurred when starting to play a game and, due to the large number of (small) transactions, they can easily lose track of their total expenditure.**

To counter this problem, app store operators, as central players in the processing of transactions in mobile gaming, would have to offer clear information about the average costs of an (active) user of this game and provide each player individually with information about their total expenditure in a game to date. In this way, greater cost transparency could be achieved in the free-to-play model.

General problem: **It is difficult for the player to assess the value of in-game currency and the value of digital content.**

Game providers should need to offer clear information about the price of a unit of in-game currency at the time of purchase and provide information about the price of digital content in real currency when purchasing with in-game currency. This would make it easier to compare offers when purchasing in-game currency and ensure greater cost transparency when purchasing with in-game currency.

General problem: **Gamers at risk of addiction are provoked into repeated spending by simulated gambling.**

In the context of simulated gambling, player protection measures from the traditional gambling sector (self-limitation and third-party limitation tools) should be utilised. Games that include simulated gambling should only be authorised for persons over the age of 18. In addition, problematic high-frequency purchasing behaviour should be prevented through the incorporation of inhibition thresholds (e.g. compliance with information requirements when purchasing random content or redirection to in-game stores or app stores for the purchase of digital content).

Overall, unfair business practices in mobile gaming are increasingly in the spotlight on the consumer protection agenda. **Coordination and expansion of consumer protection activities at European level** is therefore recommended (from market monitoring and in-depth analyses to the concrete development of possible legal measures).

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