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Convergence of gambling and gaming: implications

Gaming and gambling are beginning to converge, as illustrated by the emergence of computer games where players are paid to kill other players or survive as long as possible. Professor Mark Griffiths of the International Gaming Research Unit at Nottingham Trent University, comments that as more gambling operators start to utilise gaming technology, the Gambling Commission may be forced to re-examine the exemption of such 'skill-based' games from Great Britain's Gambling Act 2005.

Over the last 15 years I have written various papers looking at the convergence between various technologies, most notably in the crossover between gambling, videogame playing and internet use (see Griffiths, 1991; 2006; Griffiths & Wood, 2000; 2004; de Freitas & Griffiths, in press). In some countries, video game technology has been used in gambling products for a number of years (such as some of Loto Quebec's use of videogame technology in lottery products in Canada). Conventional wisdom says that two things have the power to drive consumer technology - sex and gambling. These activities helped satellite and cable television, video, and the internet. They are also being increasingly used by the online video game industry. The successful operators will be those that 'mobilise' and then 'monetise' within online communities.

One very interesting development is that videogame players are now being paid to kill within gaming environments (Harper, 2007). On one level, this can be seen as the next phase in the evolution of gaming as game developers are constantly looking for new ways to increase revenue. Since 2006, a number of servers aimed at the adult gaming market have launched services that pay videogame players every time they kill within the game they are playing. On another level, this activity is akin to some types of online gambling, like online poker. As Harper (2007) points out, the prospect of gaining revenue 'from playing videogames makes online poker seem as old-fashioned as its physical equivalent' (p.3).

One of the legal implications of being paid to kill within the confines of a computer game is that the activity is defined as a skill-based (as apposed to a chance-based) activity and is therefore exempt from the regulations set down in the 2005 Gambling Act. It is likely that more and more gambling companies will start to utilise videogame technology within their products and this will then become an issue that the Gambling Commission will almost certainly have to re-examine in terms of the gambling legislation.

One of the problems within online computer gaming is that cheating can be common. Harper (2007) highlights the case of a 'semi-professional gamer' who played Tournament.com for several months, but stopped playing in this gambling-type computer game because he claimed other players had installed third party computer programmes to help them to play well (and win more money as a consequence). The player reported to Harper (2007) that 'it would take more than a month before (the gaming company) actually caught a cheater who ended up raking thousands of dollars from other gamblers' (p.3).
Tournament.com has now ceased trading, but other gaming companies (such as kwari.com) are now setting up similar first-person shooter games and are learning the lessons from those sites where allegations of cheating occurred.

On the Kwari.com website it says: 'Kwari has been designed with a singular purpose in mind - to give you the opportunity to translate your shooter skills into some serious cash. Everything about the game has been tailored to that effect, so much so that even an average player should be able to get ahead in the game quickly. Every time you hit another player in Kwari you make money. Every time you are hit by another player it costs you. Every shot counts. How much is down to the stake level you play in. But this is not the only way to win. Doing damage to yourself, breaking crates, use of certain map features or picking up additional weapons, pickups and health packs may have a fractional cost attached. This cost is transferred between a series of jackpots, prizes and awards available in the game, all of which can be won by any player, regardless of the skill or stake level of game they prefer to play. At no point, however does Kwari take any of this money. 100% of the cash generated through playing the game goes back to the players in the form of prizes. The most frequent of these prizes is the Pill Jackpot, which is split between the player who carries the Pill the longest, and the player who finishes the round with the Pill. Other jackpots in the game are won by collecting Kwari keys which spawn regularly in the game until the prize has been won. Depending on the length of the key series required to win, different jackpots will pay out over different periods, ranging from one hour to six months, and once a jackpot has been won all the key chains for that prize start again'.
Kwari.com make their money via subscriptions to play and in this

way, the product is very similar to online poker sites who take a very small commission on winnings. *Kwari.com* says it wants to appeal to casual players who normally use online poker sites (Harper, 2007). They also claim that they want people to play the game for no more than an hour two times a week and say they will put a cap on the amount a user can spend a month unless they have been vetted as suitable for their high-stakes tournament. These types of action are akin to the social responsibility practices found in more traditional online gambling sites and emphasise that these types of game are really forms of gambling in all but name. Many gaming companies will be observing whether sites like *Kwari.com* succeed financially. If it turns out to be a success, a lot of the bigger computer game companies will want to get in on the act and this could change the way in which people game online.

Another slightly different way that gambling and gaming have started to converge (and raise interesting legal questions) is in environments like the 'metaverse' Second Life. Second Life has its own currency (Linden dollars) that can be converted into real currency outside of the game. In the US, following introduction of the Unlawful Internet Gambling Enforcement Act (UIGEA), the question arose about whether it is technically illegal to gamble in the Second Life environment and then convert the winnings into real US dollars. As soon as Second Life was up and running, a number of online casino and online poker companies set up gambling operations in Second Life. As Duncan Calow of DLA Piper notes: 'Second Life exemplifies the challenge of translating real-world law into the digital arena. But with the emergence of virtual spending

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and gambling - not to mention the fact that organised crime is reportedly operating in some virtual worlds - where the lines should be drawn has become increasingly blurred' (p.1; cited in Wade [2007]).

However, it is a mistake to think that the law only exists outside of virtual worlds. As David Naylor of Field Fisher Waterhouse LLP says: 'There may sometimes be questions about which jurisdiction's laws apply to a particular matter, and there can certainly be some enforcement issues, but statutes and case law have shown that national governments and courts do not take the view that just because something is done digitally, it is unregulated. Second Life and the conduct of people who inhabit it are undoubtedly subject to law' (p.1; cited in Wade [2007]).

Gambling is clearly one of those behaviours that is engaged in inside many different metaverses including popular online games like *Everquest* (Griffiths, Davies & Chappell, 2005). The rise and challenges of convergent gambling and computer gaming cannot be seen in legal isolation given the ever-increasing multi-media integration. The examples of convergent gaming in this article highlight that commercial operators always appear to exploit new market opportunities in emerging media and that they are often two steps ahead of current legislation. Given these new types of gambling experience fall outside the new Gambling Act, this - at the very least - is an area that will need monitoring in terms of social responsibility by the gaming operators.

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