Chandler MHM

Newsletter

GACHA AND LOOT BOXES: INSIGHTS ON GAME MONETIZATION FROM CRANE GAMES AND UFO CATCHERS

Monetization of games has been fast evolving. Traditionally revenue was derived from selling games consoles and software for a one-off fee. More recently freemium schemes have become popular whereby players can download and play games for free but are encouraged to pay for additional in-game goods and downloadable content. Subscription models have also become popular. The "Gacha" or "loot box" method of monetization raises many legal questions as it encourages players to pay real money for random or unknown in-game goods. Therefore, one of the frequently asked questions is whether this "Gacha" or "loot box" scheme is similar to or considered as "gambling".

The Gambling Act, B.E. 2478 (1935), which was last amended in 1962, specifies what are restricted activities in two lists. The activities as specified in List A are the types of gambling activities which are prohibited. List B lists game activities which anyone wishing to organize for any benefit of his own must obtain a license before doing so, e.g. darts, bingo, drawing lots. In addition, the Thai Gambling Act also generally prohibits gambling or any game of chance promising money or other benefit to any of the players even if such games are not listed on either List A or B. This is unless otherwise allowed by the Ministerial Regulation. The Thai gambling regulations have not yet been revised to take into account the evolving digital economy. It is therefore difficult for online game business operators to comply with the law. In addition, the scope of Thai gambling regulations are also unclear which results in many models of game monetization falling into grey areas.

Earlier this year, the Ministry of Interior issued a letter clarifying its position on crane games (or originally in Japanese the "UFO catchers". This provides us with some insights that can be applied to the monetization of games. According to this letter, the Ministry of Interior is of the view that a crane game is a form of gambling. This is because on each occasion, the player may or may not receive the goods. Therefore, the business operator of a crane game needs to obtain a permit from the Ministry of Interior. The Ministry of Interior also mentions that, to the contrary, crane games whereby the players pay a fixed price, play a fixed number of rounds and will receive the goods regardless of the outcome are not gambling. Where a player effectively pays a fixed price for the goods this would be considered as a sale and purchase of goods but not a gamble between the business operator and the player.

"Gacha" and "loot box" are types of game monetization that fall into a grey area due to the difficulties in applying these to Thailand's current gambling regulations which have not been revised to take into account digital and online gaming. However, we believe that the aforementioned view of the Ministry of Interior tells us about the authority's approach to gaming and entertainment activities. We may expect that the "Gacha" or "loot box" type of game monetization would be regulated in Thailand in accordance with the same view and approach.

In addition, the Thai government has recognized that the Gambling Act is outdated and not suitable given technological developments. A new Gambling Bill is under consideration. We will provide updates on further developments in this area.

If you would like to discuss the issues raised in this article further or related issues, please contact the authors listed in the right-hand column.

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