

Video Gaming Litigation

The Risks The Liabilities

Why Look at this subject

- Why look at violent video games liability issues?
 - Emerging Risks Group
 - Growth of the industry
 - Opinions of psychologists, politicians & the public
 - Subject of court actions
 - The Subject has moved so has the technology
 - Longitudinal Study
 - Who we are

“Of course it is happening inside your head, Harry, but why on earth should that mean that it is not real?” — J.K. Rowling,

- My wife told me to stop playing Pokemon as it was childish.
- I started rolling around and replied “You don’t have enough badges to control me!”

- My pastor asked me the other day, why I believed in evolution?
- I said “ But how else did Charmander become Charizard”.

Some numbers

1. What percentage of video game players are boys under the age of 18?
2. What percentage are women over the age of 18?
3. What percentage of gamers are women?
4. Average age of a gamer?

The Entertainment Software Association

1. 17% of video game players are boys under the age of 18
 2. 36% are women over the age of 18.
 3. 48% of all gamers are women
 4. The average age of a gamer is 31
- survey of 1,102 children between 12 and 17 years of age found that 97% are video game players who have played in the last day and 75% of parents checked the censor's rating on a video game before allowing their child to purchase it. Of these children, 14% of girls and 50% of boys favored games with an "M" (mature) or "AO" (adult-only) rating.^[3] 32% of American adults play video games

2002 CIA study

- A 2002 study of forty-one individuals who had been involved in school shootings found that twelve percent were attracted to violent video games, twenty-four percent read violent books and twenty-seven percent were attracted to violent films.[\[34\]](#) Some scholars have indicated that these numbers are unusually low compared to violent media consumption among non-criminal youth.[\[35\]](#)

The Science

- **Pro-link**
- Craig Anderson & Brad J. Bushman of the Iowa State University
- Extensive research overview
- Learned behaviour and training

The Science

- **Unconvinced by the extent of the link**
- Video Game Voters Network
- Dr. Joanne Savage: “Does Viewing Violent Media Really Cause Criminal Violence? A Methodological Review”
- Williams, D. & Skoric M. “Internet Fantasy Violence: A Test of Aggression in an Online Games” 2005
- Olson C. “Media Violence Research and Youth Violence Data: Why do They Conflict” 2004
- Bensely, L & Van Eenwyk J. “Video Games & Real Life Aggression”
- Journal of the American Medical Association 2004
- Dr. Sternheimer
- Office of the General Surgeon

Longitudinal Study

- a longitudinal Japanese study in 2008 found playing violent video games lead to lower levels of aggression and attitudes among 591 children.
- A longitudinal study in Germany in 2011 found that whilst aggressive pupils selected more violent games that there was no evidence of causation

2015 The American Psychological Association

- Mark Appelbaum & the committee found that violent video games increased aggression but that the size of the correlation was “not very big”.

The Science

- **Neutral – Bernard Cesarone**
- Some research triggering epileptic seizures to causing heart rate and blood pressure changes
- Physical rehabilitation & oncology
- Rating video game violence subjective and contextual problem
- Effects of violence in video games

The Science

- **Neutral – Mark Blackmore**
- “What drives people to commit unspeakable violent acts?”
- Alcohol and drugs
- Media
- Early childhood (deprivation)
- Current environment
- Genetics
- (Influence of Peer Group)

The Problems of Research

- Home Office
- Needs for longitudinal research recording development features rather than cross sectional or retrospective studies
- Very varied research findings in terms of violence
- Addiction: a dearth of research
- Small samples, especially those using observational techniques
- Culturally specific
- Modelling influences
- Computer games & toys
- Time
- Psychology
- Surveys

Legal Views

- Some research shows a causal link between violent games and aggressive behaviour – growing body of evidence to suggest a link
- Other injuries have been recently established
- Hand arm vibration
- Negligence
- Burden of proof
- Potential risk that cannot be ignored
- UK problems
- Potential defence
- Cited as contributing factors in some horrific crimes
- But no one has succeeded

Do we need violent games at all?

- **LICC Jason Gardner “Video Game Violence”**
- “Violence is Cool”
- Values
- Games that are not violent
- Question whether violence is normative male behaviour

Where are we now?

- Virtual Reality EMF exposure - headsets

Where are we now?

- Distraction
- Claims have succeeded.
- “We now have proof: Pokemon Go can be dangerously distracting.”
CNN A. J. Willingham, 16 September 2016.

Illness

- Motion sickness, headaches , nausea.
- Roccaforte v. Nintendo 2009 – epilepsy link

Violent Acts

- Excessive virtual reality linked to personality changes:
- James v. Meow
- Wilson v. Medway Games

Intellectual Property

- The state of the art hardware & software associated with virtual reality.
- Zenimax v. Oculus

Virtual Assault

- Potential claim by Avatars within games
- Virtual sexual assault & sexual harassment.

Addiction Litigation

- Johnson & Johnson 2019

World Health Organization

- The World Health Organization (WHO) had proposed and later included "gaming disorder" in the 11th revision of the International Statistical Classification of Diseases and Related Health Problems (ICD-11), released in June 2018, which was approved by the World Health Assembly in May 2019. The use and enforcement of ICD-11 is expected to start on January 1, 2022.

Academic Research

- Oxford University, Johns Hopkins University, Stockholm University and the University of Sydney, sponsored by The Association for UK Interactive Entertainment argues that while there may be potential addiction associated with video gaming, it is premature to consider it a disorder without further study

Conclusion

- Less movement than we would have anticipated
- However, some significant developments
- Still an emerging risk

Positive Note

- Values
- Art
- Music
- Economy