

## Book Review

### Consumer Ethics in Video Game Policy

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#### **Stuck in the Middle with You – Consumer Ethical Interpolations on Policy in the Digital Game Complex**

*Video Game Policy – Production, Distribution, and Consumption*

Edited by Steven Conway and Jennifer deWinter. New York: Routledge, 288 pages.

\$39.96 paperback; \$124.00 hardback.

While driving through Liberty City, expat from the Yugoslavian War, and now mercenary-for-hire, Niko Bellic, is afforded the option of listening to a variety of themed radio stations. Between songs, an advertisement for Koala Brand toilet paper runs instructing the listener to use the product and “tell Australia what we really think of them”. The average player of Rockstar’s Grand Theft Auto 4 (2008) may miss the nuances of the sneer and choose to change the station for Niko and find a song that fits the mood of the moment, but Rockstar was not careless in forwarding their disdain through representations in game content. The toilet paper spot references the 2001 decision by the Australian government’s Classification Review Board to deny GTA III a classification rating (Finn, 102). This decision reflected policy which would affect the distribution, and later consumption of the game, as well as having an inevitable impact on future production (as the radio ad for the sequel game attests to). Mark Finn considers the consequences of policy when it is so powerful that only hegemon game studios such as Rockstar are able to find creative challenges and openly question the currency and logic of decision-making justifications. This is a single case study among several, analyzed by the authors of the Video Game Policy anthology, edited by Steven Conway and Jennifer deWinter.

The effect of policy on the digital game complex is determined through power relationships between the different aspects of the institutional apparatus of gaming that constitutes that complex. These relationships must be properly understood for games to be analyzed effectively. The authors of the anthology ask how policy, by setting the rules

governing production, distribution and consumption, affect our understanding of the medium. Conway and deWinter write, “digital games as cultural artifacts are some of the most technically complex, intellectually provocative, ethically challenging, and politically contentious products in contemporary society” (Conway and deWinter, 1). This distinction as a media form can often occlude the importance of more abstract mechanisms which govern games, such as policy. Policy can dictate limitations for creative freedom when producing a game (through NDAs, policies on “crunch time”, or development of IP) while distribution is subject to sales policies interpreted by the buyers of major companies such as Walmart. The game product’s availability and content then shape consumer habits as do policies that regulate that content and availability (such as age restrictions and region-specific rating systems). All of these contingencies determine how the medium operates discursively within the public sphere, yet political rhetoric becomes an active force for remediation. Task forces can be formed to advise necessary regulation for the game industry.

With so much to consider for policy in an evolving industry and burgeoning field of study, the editors of the anthology suggest that the book is an “ethical interpolation” for the inner workings of a complex network that often remains opaque to the public and scholars through the protectiveness of game studios who must maintain secrecy on game projects to ensure the economic viability of their products in the markets of the industry. The book is concerned with answering important questions regarding national and local policies that regulate the game industry as well as examining the international nature of the market that affects those policies. Other questions of the authors concern how policies govern play and how policies are enforced. The book is organized into four sections: privacy/ownership; cultural politics; representation through game content; regulation and politics.

Mark Methenitis introduces the nuances of the IP regime for games noting that software is a rare example of media that has copyright, trademark and patent protections available to developers and owners. The brief history of the IP regime for games distinguishes the game industry as a multi-faceted and multi-layered environment for protecting IP rights. Some features of game IP (such as hardware patents or game title trademarks) are protected rigorously, while others (such as software patents or theme-based copyright) are seldom areas of legal contention as the latter allow for a proliferation of artistic expression by game creators which takes precedent in the industry. Owen Livermore examines the efficacy of policy that attempts to curb game piracy. He argues that there are different “languages” at play between the business of making games and the communities which play them. The differences can result in moments of tension,

destabilization, and disruption (Livermore, 28). The interstitial discursive regions which emerge for policy realms that either privilege free market ideology or government control and intervention, can lead to consumer confusion with respect to understanding their rights over the game products which they purchase. Piracy, which should be as black and white as the skull-and-cross-bones it connotes, actually produces a dense, foggy grey region difficult to navigate and traverse for the average consumer. Policies which seek to deny these shades of interpretation for consumers have revealed that heavy-handed approaches (such as through digital locks on games) leave consumers drifting toward engaging in piracy as a means of ensuring the realization of fair use exemptions afforded them in copyright law.

Theo Plothe examines Nintendo's WiiWare online market and argues that, "restricting a technology's capacity for generativity significantly restricts the market for developers as well as for consumers" (Plothe, 42). There is a thinly-veiled Levian hacker ethic present in the Plothe position (as well as for other authors of the anthology) which tends to characterize governments as dinosaurs, their agencies as relics, their policies as fossilized, and corporations as haunting boogeymen presenting an unclear future for the game consumers who are seemingly stuck in the middle of spatiotemporal forces beyond their ability to control and often influence. The anxieties strike this reviewer as being overwrought, if not reflecting a questionable dogmatic approach to theorizing the relationships between producer, consumer, and regulator. Plothe adamantly promotes participation over governance as a political principle for policy making. I have to wonder whether the authors may be conveniently ignoring other relevant questions such as how gamers might abuse their access to games and game products, or how they might abuse the generative capacities of game software or the internet as a platform which links players and games. Freedom is only "free" (in a democratic sense) if no one is using their individual freedom abusively.

Stephanie Vie examines how policy can be used to protect player privacy as we begin shifting through the stages of what Jesper Juul has named the "casual revolution". Increasingly more players use games for their social networking functionality as well as using devices which link games to other platforms and storages which contain private user information. Vie demands that an atrophied government begin to show consistency in creating and enforcing policy that wards off the corporate boogeyman from rendering the game consumer to a spiritless husk. The soothsaying pessimism present in the rhetoric and ideology of the authors threatens to undermine consolidating the disparate aspects of the game complex which are recognized to define gaming as a cultural artifact.

In the next section of the book, Ruggill & McAllister examine the history of ESRB rating systems for games in North America. The ESRB is compared with similar ratings systems devised by the MPAA in the film industry. The authors claim that ESRB reflects a moral code ingrained in the consumer's imagination, but one which primarily serves economic interests of the game industry. That the ESRB is an example of self-regulation in gaming becomes problematic for how the government is side-lined in mediating the interactions between producers and consumers of games. The authors argue that such self-regulation policy carries only a patina of independence but that it's "spirit" emanates from within the production complex of gaming (Ruggill & McAllister, 80). Conway & Crawford are also concerned with top-down control, but specifically for censorship of game content and games. The authors question whether the automation of classification systems for the purposes of government fiscal restraint then leads to a silencing of voices in the community regarding censorship. They suggest a current situation of restrictive discursive formations on violence and sexuality as represented in games.

Mark Finn sees such restrictions as problematic because they reveal how regulatory systems for rating games are lagging behind in adapting to the new demographics of game players. Policies which resist these changing demographics can create "choke points" in distribution. At times, it is only the most powerful game studios (such as Rockstar) that can challenge the government policy, and this requires that it is worth their while economically to fight those battles – if those battles are not fought, then consumers have no recourse in challenging policy. Ren Reynolds also understands that policies can lag behind the development of the industry and that gaming policies often rely too heavily on understanding games as simple remediation of more stable forms of media such as cinema. Policies can reflect hypodermic models in explaining the relationships between product and consumer. Reynolds suggests that the development of E-sports may turn game policy in a new direction which would rely on sports law.

The third section of the book addresses representation in game content with Schott & Mäyrä contending that representation of game violence challenges our moral-based notions of what makes violence something appropriate to be regulated against by the state and through law. However, the control and agency of a player in determining whether to engage in a representation of violence through games complicates the relationships and produces legitimate ethical dilemmas. Policy has yet to demonstrate a firm grasp on what distinguishes the rules of the virtual and simulated violence from actual violence in daily life. Classical political philosophy is not sufficient for understanding what makes game violence unique and policy must start to look toward new areas of discourse for guidance. Ivory & Ivory see this classical political philosophy

that guides current policy as primarily serving as distraction for the public and rendering games a scapegoat for the state with respect to their negligence in properly addressing the root causes of violence in society. The authors argue for policies that establish significant connection between virtual violence in games and actual violence, as opposed to hanging on to the archaic scholarship common to effects model studies which speculatively correlate virtual and actual violence abstractly. To date, such studies have tended to follow a syllogistic fallacy: Jane became aggressive after playing a violent game; crime is characterized by aggression; therefore playing violent games causes crime.

Michael Perret acknowledges the aforementioned issues for how policy addresses the effects of violent representation in games, and he poses the question as to how national-based or local communities imagine themselves as moral enforcers for the state's policies on violence in games. How are the public mobilized as agents for the state and when information is misleading, how does this lead to bad policies being entrenched in the public's imagination as functional and necessary? Busch, Boudreau & Consalvo conclude the discussion on representation through suggesting how player communities can become successfully enfranchised to self-regulate. The authors are concerned with how corporations have been dictating the discourses on game morality and ethics, and thus influencing how the players imagine themselves as agents in video game policy and regulation. What are the limitations that players experience, and how can certain game communities and games liberate players toward more democratic forms of identity, expression, and organization?

The final section opens with Tom Apperley examining the importance of access to games. The right to digital play must be universal in order to sustain equitable development for people internationally. Policies that regulate access to games must attend to the global participatory culture emerging through digital technologies. Carly A. Kocurek forwards a discourse on regulation attentive to spatiotemporal specifics of the medium of games. She notes that the history of game regulation has demonstrated that local codes in policy as well as historical imaginations of policy makers can target new media and technologies potentially stifling their potential for culture enrichment and their capacity to be developed and evolved. Randy Nichols echoes Kocurek when examining how policy for gaming can often apply redundant and inappropriate standards borrowed from experience with other "related" industries. Game studios operate in unique ways that governments have to understand in order to provide responsible funding packages to studios and to reduce risk for companies and their workers. Liboriussen, White & Wang demonstrate how the ideology of the institutional state apparatus can operate schizophrenically. Policies in gaming can reflect a fantasy reality based in idealized

morality and historical-based cultural values, while at the same time attempt to support pragmatic reality that is concerned with economic and industrial organization as well as cultural priorities of active citizens. The contradictions can lead to blockages in production management, distribution channels, and consumer knowledge for game products. Game culture can become anemic while game products can stagnate in the marketplace. DeWinter closes the section with a warning on how unregulated distribution of games can lead to moral panics as ideologically problematic game content crosses international borders and enters markets with policy unprepared to deal with such unknown content.

The book closes with an afterword by Ashely S. Lipson who reminds the reader that unpredictability characterizes the workings of the game complex and as such, policy must reflect forward-thinking in a responsible manner, guided by the input of energetic and hopeful consumers of games. This anthology on video game policy is comprehensive providing within its case studies an extensive history of policy that affects game production, distribution, and consumption, as well as regulating the relationships between them. In that respect, the book is highly-accomplished and the work correctly demonstrates that answers are needed while new solutions will not come easy for policymakers. Policymakers are but a single gear in the machinery, but they must understand how their movement affects, and is affected by every other gear in the operations of this complex mechanism of gaming.

Where the book disappoints is through some of the perverse inversions of Frankfurt School type analysis on culture industries, whereby the user is now deemed inherently competent and responsible through their democratic freedom to create and participate in personal ways. This blind optimism fails to recognize what contemporary culture has already offered us by means of unbridled democracy: musical forms such as dubstep, dance forms such as shuffling, literary forms such as creepypastas, or illustrative forms such as the OC. The entertainment market is saturated with paltry fare reflecting a lack of ingenuity or talent, and each contribution is worth less and less for its lack of distinction among the competition – it then takes valuing a lottery of viral fame to at least propel some of the better offerings to the forefront and maintain an illusion of competence for the cultural products. The consumer-producer is arguably diminished, products lack aura, and culture is made poor when cultural curators are non-existent. Alternatively, I would suggest that culture is most enriched when its curators are the primary innovators working with the latest developments in technology and art for an industry.

We can recognize the dangers of genius and experts resting on their laurels by becoming complacent, jaded, and decadent. Perhaps, this is where policy can be most useful: making sure antitrust law has teeth, that companies produce equitable unique experiences for players, and that experts are pushed at the level of education and training. But to relinquish control of creativity and production to the user is a recipe for mediocrity in culture, which we have already seen too much this millennium. I recall in the lore of the Wachowski's *The Matrix*, that at first the AI masters let the human power cells have their own virtual heaven and the result was that motivation disappeared leading to people producing nothing of significance – no energy output, necrotized spirit, and introspective zombification. And so the AI let there be structure, hierarchy, and meritocracy... and suddenly humans got to work.