

April 26, 2021

Senator Heather Sanborn, Chair
Representative Denise Tepler, Chair
Members of the Health Coverage, Insurance and Financial Services Committee

RE: Testimony Regarding LD 1466, An Act to Improve the Efficiency of Certain Consumer Credit Protection Laws

Dear Senator Sanborn, Representative Tepler and members of the Health Coverage, Insurance and Financial Services Committee:

I am writing on behalf of the Entertainment Software Association, the makers of video games. I apologize for not presenting at the public hearing, but I was taking some family time-off last week. We have some concerns about Section A-9 of the proposed bill, but believe these concerns can be addressed with some suggested language.

Prior to the public hearing, I reached out to Will Lund, Superintendent of the Bureau of Consumer Credit Protection and Mark Susi, staff attorney for the Bureau, specifically to section A-9 of LD 1466.

The concern of the video game industry is the term “digital currency” and how that can be interpreted to include in-game currency (things like tokens, coins, gold, etc) that can be used to improve game play, or earn new levels or tools. These are specific to the game platform and hold no value outside of the game.

The Bureau has made it clear that their intent is to not include in-game currency. Their intent is to regulate the emerging industry of cryptocurrencies like Bitcoin, Ethereum, or Dogecoin, for example. In Superintendent Lund’s testimony, he wrote, *“Regarding this proposal – Last week the video gaming industry raised a question as to whether it was the Bureau’s intent to regulate “tokens” that are earned in video games, as digital currency. As a general matter, if such tokens are not redeemable for cash and cannot be bought and sold on the open market as an equivalent of cash, then it’s not our intention to regulate in-game tokens as digital currency.”*

The industry would like to offer some suggested language to help clarify the difference between digital currencies like cryptocurrencies and in-game currencies that are used in video games.

Recommendation: strike “digital currencies” and replace it with “virtual currencies,” with the request to define that term as this:

“Virtual currency”:

(A) means a digital representation of value that:

- (i) is used as a medium of exchange, unit of account, or store of value; and
- (ii) is not legal tender, whether or not denominated in legal tender; and

(B) does not include:

(i) a transaction in which a merchant grants, as part of an affinity or rewards program, value that cannot be taken from or exchanged with the merchant for legal tender, bank credit, or virtual currency; or

(ii) a digital representation of value issued by or on behalf of a publisher and used solely within an online game, game platform, or family of games sold by the same publisher or offered on the same game platform.

I have highlighted language in (B)(ii) as that is really the meat of the clarification. Note this definition is verbatim from the ULC Uniform Regulation of Virtual Currency Businesses Act. You can find the full text [here](#).

I will note that we had a similar conversation with the State Treasurer during the re-codification of Maine's Unclaimed Property law during the 129th Legislature. A similar clarification is included in Title 33, Chapter 45, Section 2052, subsection 10¹:

10. Game-related digital content. "Game-related digital content" means digital content that exists only in an electronic game or electronic game platform. "Game-related digital content":

A. Includes:

(1) Game-play currency such as a virtual wallet, even if denominated in United States currency; and

(2) The following if for use or redemption only within the game or platform or another electronic game or electronic game platform:

(a) Points accrued through game play, which may be referred to as gems, tokens, gold and similar names; and

(b) Digital codes; and

B. Does not include an item that the issuer:

(1) Permits to be redeemed for use outside a game or platform for:

(a) Money; or

(b) Goods or services that have more than minimal value; or

(2) Otherwise monetizes for use outside a game or platform.

Thank you for the consideration of these concerns. I will make myself available for the work session when it is scheduled.

Sincerely,

Curtis Picard

On behalf of the Entertainment Software Association

¹ <https://legislature.maine.gov/statutes/33/title33sec2052.html>

