



**Date:** 22 April 2022  
**To:** digitalgames@treasury.gov.au  
**Subject:** Submission of feedback for DGTO draft legislation

Firstly, I want to echo the thoughts and appreciation of IGEA and all Australian video game developers by saying how grateful and excited we are about the upcoming DGTO. We truly appreciate all the hard work and commitment that has been invested by all those involved in the Federal government and those working with the Federal government in making this a reality. Thank you. It will be a game changer.

Overall, the proposed legislation is excellent. It's clear much care and effort has been taken to create something that suited the Australian video game industry. With that said, there is a clarification and/or potential improvement that could make the DGTO significantly more appealing to existing Australia developers/investors and more importantly international developers/publishers/investors. Without significant international investment, Australia will not be able to achieve an effective video game development ecosystem which is critical to maintaining and growing the development industry in Australia.

The rule/section I would like to discuss is:

***378-20 Minister must issue certificates for the digital games tax offset***

***(2) A \*digital game is completed on the earlier of:***

***(a) when the game is first released to the general public (other than for testing purposes); or***

***(b) if the game is developed by a company under a contract entered into at \*arm's length with another entity—when the company first provides a version of the game to the entity in a state where it could reasonably be regarded as ready to be released to the general public.***

The key change I would like to recommend is the inclusion of cancelled projects in DGTO eligibility. Cancelled projects are a critically important and sometimes expensive component of successful video games. In most cases, developers/publishers cancel more projects/games than they release. In fact, we development teams are encouraged to fail, fail quickly and fail often. This is a key difference between film/tv production and video game development and is a result of the interactive nature of video games.

Creating successful video games is a very tricky business. Many factors determine whether a project will be started, continued and completed, let alone commercially successful. This determination process requires significant tangible deliverables. These include:

- Many high quality art assets - concept art, characters, environments, story boards, animations, User Interface
- Animatics or Trailer Videos - animated short videos that demonstrate what the game would look and play like. These videos require final product quality assets including art and audio.
- Multiple Prototypes - playable prototypes are required to demonstrate gameplay, user interface, key game experience moments, etc.
- Various Types Testing

**These deliverables require a significant amount of resources, effort and cost. Gameloft Brisbane has released 3 games since it opened 7 years ago. During that period we have cancelled more than 7 projects totalling over \$6.5M in costs.**

There are many reasons why a game/project can be cancelled:

- **Does the concept translate to something that is actually fun?** Often ideas on a white board just don't work out in a prototype. For example, even though The Oregon Trail has become Gameloft Brisbane's most successful title to date, it was not the first time we attempted to make a game based on The Oregon Trail IP. In 2018 we attempted to make a Freemium (in app purchases) version of The Oregon Trail. We spent several months and over \$500k creating several prototypes but decided we could not make a successful Freemium version, so we cancelled the project. The key reason we were successful the second time was that it was a Premium format, ie. no in app purchases. A Premium model was possible via the creation of Apple Arcade which is a subscription based model.
- **What exactly will our demographic and market size be?** Often we cannot know exactly what our customer demographic is until we have a working prototype that we can beta test. And typically we need to invest \$500k or more in order to create something substantial and high enough quality to accurately test the market.
- **What will it cost to make?** Often we cannot determine the estimated development costs until we flush out what the game will require in order to be successful. This includes gameplay, features, art assets, audio, etc. At any point along the development process we may determine the project will not be fiscally viable.
- **What are the revenue forecasts?** This changes depending on what HQ, licensor and third party think of the game, which can change over the course of development. Another significant contributing factor is appeal or beta tests. Sometimes early prototypes test well but as the game develops appeal diminishes. If we don't know why or the drop is significant enough, we will decide to cut our risk and losses.

- **What will marketing (user acquisition) cost?** This is an enormously important factor for Freemium games (in app purchases). In today's market, Freemium games cannot succeed without user acquisition. And user acquisition is typically very expensive. We do not know exactly how much user acquisition will cost until we can release some sort of working prototype of the game. And we do not know how much money the game can generate until we can beta test it. Based on these results we may determine the game is not fiscally viable.
- **Third party & Licensor negotiations** - In most cases development must begin prior to agreements being fully executed. The negotiations and legal process typically take 6-12 months and third party companies like Apple will expect the game to be delivered within a year of opening initial discussions. Which means we are often already 6 months into development by the time an agreement is fully executed. Also note that there are clauses in the agreements that allow third parties like Apple to cancel projects if they are not satisfied with the quality or direction of the project/product. Often licensors will not agree to terms until they can get an idea of what the game will be like. They want concept images, high/game quality animated concept videos (animatics), story boarding, prototypes, etc. If licensors and/or third parties are not satisfied or convinced, they will cancel further negotiations. This has happened twice at Gameloft Brisbane. In one case the licensor decided they were not interested after a \$250k investment. In another case, Apple changed their mind and decided they were no longer interested in our Royal Rising game after Gameloft had spent \$5M in development. Note neither of these decisions were based on quality concerns.

Alternatively, if cancelled games cannot be included in the DGTO, perhaps the definition of (2) could be modified to include games that are released for testing or at least certain types of testing. From a development perspective there are a number of different types of testing purposes, including:

- Art Style - Facebook ad tests to gauge public appeal
- Demographic - test the type of demographic appeal for a concept
- General bugs
- Retention - determining how to keep players playing a game over a longer period of time
- Churn Points - identifying and resolving points in a game where large numbers of players quit a game
- Revenue potential - determining how to maximize a game's revenue
- User Acquisition cost
- Player spending habits and behaviour - determining how to maximize game revenue

There are also different testing phases over the course of a project:

- Concept testing via Facebook ads
- In house prototype play testing - we invite a small group of people to our offices/studios
- Closed Beta testing - public testing but invite only
- Open Beta testing - public testing. Sometimes limited territories. Often parts of game turn off, like monetization.
- Soft Launch testing - public with potential territory restrictions.

- Live Operations testing - fully public, on going and constant testing until the product is end of life

A couple other important notables related to cancelled projects/games:

- Rarely does an employee or team lose their jobs due to a cancellation. In fact, game development companies would much rather a cancel game early, than release a game that fails commercially. So in most cases, cancellations do not negatively impact jobs or the revenue injected into local economies from those jobs.
- The fastest way to learn is to fail. So even though a project may get cancelled, the team is now smarter and wiser which means their future efforts will be even stronger. Which in turn increases the probability of a team delivering multiple commercially successful games in the long run.

Thank you for the opportunity to share my thoughts. Please let me know if you have any questions as I am more than happy to discuss further.

Sincerely



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