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# Need For Unionization in the Video Gaming Industry

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## ABSTRACT

*This paper talks about the video gaming industry and the urgent need for unionization in the industry. It explains the reasons and extent of the growth of the video gaming industry in the last few years. Chapter I of the paper talks about the Micro Transaction Model that is used to earn revenue by the videogame developers. Chapter II talks about the problem of 'Crunch' caused due to the micro-transaction model and how it impacts the life of video game developers and designers in the absence of labour law regulations. Chapter III talks about the role and condition of women in the video gaming industry, identifying the problems faced by them and the reasons for the same. Chapter IV explains how unionization will help solve most of the problems discussed in the previous chapters, and throws light on the contemporary situation with regards to movements and organizations pushing for unionization. The last part of the paper sums up the issues discussed in the paper and gives analyses of the future of the video gaming industry with regards to the COVID-19 pandemic.*

## I. INTRODUCTION: THE VIDEO GAMING INDUSTRY

In July 2019, the Arthur Ashe Stadium in Flushing, New York saw the first-ever Fortnite World Cup<sup>2</sup> organized by Epic Games, the owner and distributor of the sensational video game Fortnite. Fortnite, created by Epic Games in 2017 has over 250 million active players, and according to the wall street journal, Fortnite has earned a cumulative revenue of 3.9 Billion US Dollars. At the inaugural Fortnite World Cup finals, Kyle Giersdorf, aged 16 years won 3 Million US dollars in the solo event. Similarly, the video game Red Redemption developed by the gaming giants Rockstar Games earned a whopping 725 Million US Dollars on the opening weekend of its launch. The release of Call of Duty: Modern Warfare 3 in November 2011 bagged Activision 400 Million US Dollars within the first 24 hours, and a whopping 1 Billion US Dollars after just 16 days.<sup>3</sup>

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<sup>2</sup> Oscar Gonzales, *A 16-year-old just won \$3M playing in the Fortnite World Cup*, CNET (February 22, 2020, 9:15 pm), <https://www.cnet.com/how-to/a-16-year-old-just-won-3m-playing-in-the-fortnite-world-cup/>.

<sup>3</sup> Waugh Rob, *Modern Warfare 3 Hits \$1 Billion in 16 Days — Beating Avatar's Record by One Day*.

In January 2019, Bloomberg estimated the Video Gaming industry to be worth 139 Billion US Dollars. To put this to context, the entire revenue from WorldWide Box Office (\$42 Billion), Annual Music and Album sales (\$19 Billion), the National Football League (\$15 Billion), National Basketball Association (\$8 Billion), National Hockey League (\$10 Billion) and Major League Baseball (\$5 Billion) cumulatively falls short to match up to this new flourishing industry with unimaginable potential for more growth. The international community of gamers is 2.4 Billion strong and is growing every day at a speedy rate. Be it the 2008 economic recession or the 2020 global pandemic, this is one particular industry that has shown continuous growth in popularity and sales.<sup>4</sup>

These gamers are treated like professional athletes in every sense of the term. The most popular gamer on Twitch, which is a live video game streaming site, is Tyler “Ninja” Blevins, who has over 10 million followers on Twitch, and Business Insider claims Ninja earns over half a million dollars from his bedroom streaming live games. The new-age trend in Video Gaming is ‘Live Streaming’ wherein players stream themselves playing live and the viewership on that earns them revenue. Twitch alone has over 15 million active viewers every single day. The international Video Streaming game market is expected to grow by around 27% a year between 2018 and 2026 according to Zion Market Research. At this rate, the video gaming industry can grow up to a 300 Billion US Dollar industry by 2025 and that still would not be its full potential.<sup>5</sup> The budgets for the development of some of the mainstream popular AAA titled games is estimated to be up to 20 Million US Dollars, and for the notably legendary games like Star Wars and Grand Theft Auto, the budget ranges from a 100 to 300 Million US Dollars.<sup>6</sup> Not surprisingly, video games have had a huge impact on pop culture, the music industry, and Hollywood. Dr. Alistair Brown in his blog titles “Are Video Games Literature” dwells into the science fiction storylines in the video games and its impact on literature.<sup>7</sup>

All of this is a clear indication of how quickly video gaming as an industry has grown. But just as other industries do, the video gaming industry has a dark side too. At the fulcrum of this blooming sector are the video game developers who are undisputedly the most important part of the value chain.<sup>8</sup> The conditions of employees and game developers have not stayed at par

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DAILYMAIL, (25 December, 2019), <http://www.dailymail.co.uk/sciencetech/article-2073201/Modern-Warfare-3-hits-1-billion16-days-beating-Avatars-record-day.html>.

<sup>4</sup> Christoffer Larsson, “The Art Of Crunch” (Ph.D. diss., University of Gothenburg, 2018), 6.

<sup>5</sup> Liz Lanier, *Video Games Could Be a \$300 Billion Industry by 2025*, VARIETY, (March 3, 2020, 4L45 pm), <https://variety.com/2019/gaming/news/video-games-300-billion-industry-2025-report-1203202672/amp/>.

<sup>6</sup> Larsson, *Supra* note 3, at 8-9.

<sup>7</sup> Dr Alistair Brown, *Guest Blog: Are Video Games Literature?*, INTERESTING LITERATURE, (March 3, 2020, 2:30 pm), <https://interestingliterature.com/2013/08/guest-blog-are-video-games-literature/>.

<sup>8</sup> Larsson, *Supra* note 3, at 8.

with the exponential growth of the industry itself. The workings of the industry behind the screens are very different from the colourful and glamorous output on our screens. The majority of the sources that shed light on the gaming industry speak of how to get into the gaming industry but very little literature is available with regards to how it is to be employed in the same.<sup>9</sup>

## II. MICRO TRANSACTION MODEL

The video gaming industry, for the most part, works on a “Micro Transaction Model”, which is where the problems start. Micro transactions are in-game purchases that unlock specific features or gives the user special abilities, characters, or content. The in-game purchases are strictly virtual. These in-game micro-transactions can cost from anything between \$0.99 to \$99 (possibly even more).<sup>10</sup> Most of the video games now available in the market will let you download and play for free, however, there will be in-game purchases later which constitutes the major revenue for the companies developing the video games. The entire idea and excitement of a micro-transaction model is centered on the concept of fresh ‘updates’ that are regularly available. Gamers expect new updates in these games on a daily basis. These updates range from, in the case of Fortnite, Call of Duty or PUBG for example, new skins for guns or new clothing or accessories, et al. These daily and regular updates have a backdrop which is of extreme relevance to the revenue chain in the video gaming industry.

Video game developers use subtle psychological tricks to encourage purchases, for example, they create In-Game Currency to form a layer between users and purchases, the In-Game currency makes it much harder for the user to evaluate the true expenditure being made by him or her. They also create random Loot Boxes and Crates for uncertain rewards. The uncertainty of the rewards gives users a dopamine rush thereby engaging them deeper in the rewards. Often these loot boxes and crates cost in-game currency. They offer discounts leading the user to believe that they are saving through this purchase but every purchase is an expenditure. Other tricks include making the game harder as you proceed and the reward removal approach.

The fulcrum of the Micro Transaction Model of the video game developers is that the games need to have regular updates and new additional features. Websites like Steam have online communities that serve as a marketplace for the sale of items for multiple video games. These new features and updates need to be executed by the video game designers and employees of the video game developer companies. For the game developing companies to have a constant

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<sup>9</sup> Larsson, *Supra* note 3, at 1.

<sup>10</sup> Prateek Agarwal, *Microtransactions in Video Games*, INTELLIGENT ECONOMIST, (March 6, 2020, 9:40 pm) <https://www.intellegenteconomist.com/microtransactions/>.

revenue source, the game developers have to work around the clock to meet unrealistic timelines and demands for the micro-transaction model to work. The technical term for this in the industry is ‘Crunching’. Working overtime, or crunch, as it's more commonly called, has been part of the gaming industry for years. The other major contributor to long crunch hours in the video gaming industry is the over-ambitious deadlines set for the launch of new games or newer versions and sequels of the game.

### III. CRUNCH

The video games many play for leisure, or as professional gamers, or to relax from our hectic lives are built on extreme worker burnout. Osama Dorias, a game developer in an interview mentioned how in crunch time workers were asked to put in ‘16 long hours’ of work daily, majority of it being on-screen work causing numerous mental and health disorders, along with the tangible factor of a difficult family life. Crunch is extremely stressful and burdening for the video game designers and other employees, however, it is not public knowledge. Almost all individuals who have worked in the video gaming industry have gone through crunch, but it is rarely spoken about even in the relevant circles. However, in recent years, there has been some conversation regarding the problem of Crunch which was triggered by the publication of the explosive article the EA Spouse.<sup>11</sup> This was written by the spouse of an EA employee detailing the dark side of crunch on the employee’s mental and physical health as well as the lives of their families.

According to an International Game Developers Association (IGDA) report from 2017, 51% of game developers said their jobs involve crunch and 44% report to extremely long working hours in crunch time.<sup>12</sup> If a worker refuses to work this overtime without pay (crunch) then they start to receive bad reviews and eventually are fired from their jobs. The dilemma for these workers is now either to crunch in 16 hours a day or lose their jobs, which is a cross-road no worker should be standing at in this day and age.

The New York Times in 2017 reported that employees in video gaming are suffering from widespread memory loss due to crunch.<sup>13</sup> Kotaku on May 8, 2019, reported that employees in the video gaming industry are suffering from PTSD, Time Magazine reported in 2017 that workers are being diagnosed with physical health disorders and have started coughing blood due to long inhuman crunch hours. There is definitely a human cost here, and what for? Regular

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<sup>11</sup> EA Spouse, *EA: The Human Story*, (February 25, 2020, 7:10 pm), <https://ea-spouse.livejournal.com/274.html>.

<sup>12</sup> Press Release, IGDA, IGDA DSS 2017 Press Release January 8, 2918).

<sup>13</sup> Jason Schreier, *Video Games Are Destroying the People Who Make Them*, THE NEW YORK TIMES, (April 1, 2020, 5:30 pm), <https://www.nytimes.com/2017/10/25/opinion/work-culture-video-games-crunch.html>.

updates and costumes in our video games! Across companies, the videogame designers are exploited, undervalued, and taken advantage of. Designers who work with extremely violent games often end up having symptoms of post-traumatic stress disorder.<sup>14</sup>

One of the main problems with the industry is that these video games have very strict release dates, so the workers are made to crunch in huge numbers right before the release of the game. Workers are expected to put unreasonably long hours and finish designing and programming the game in time for its release in the market, after said release, due to less immediate workload, the companies' layoff their workers to cut expenditure. This lethal combination of crunch followed by layoffs is crippling the lives and careers of video game developers and designers across the globe. The average career span of a video game developer in this Hunger Games of an industry is 5 years. In industry parlance employees who have had their jobs for more than 5 years are called veterans. This only goes to show how helpless the workers are in the video gaming industry.

In an industry which is growing at this pace and has as much capital as it does, one would assume that the workers being the very fulcrum of this industry would have a very high general standard of living and must be protected to keep the industry booming and stable at the same time, but alas, market forces have overcome the basic need for protecting this labour force.

#### IV. GENDER DISCRIMINATION

Crunch and Layoffs are not all that is alarmingly disturbing about the video gaming industry. The gender divide in the video gaming network is another major problem and the specific stories are grotesque, to say the least.

As one would expect, gender discrimination is a huge problem in the video gaming industry. This affects two broad groups, one being the users, implying the female video gamers from across the globe, and second, being the female video game developers and designers who are employed in this industry. Both these groups are victims of the inherent sexist and misogynistic undertones that run in the video gaming industry.

Unlike the problem with crunch, the gender divide is a very apparent aspect of the video gaming industry. No doubt that the industry has a vested interest in attracting more gamers to increase their revenue, which means targeting female gamers should be in the interest of the industry.<sup>15</sup> Yet for some reason, the industry does not cater to female gamers in nearly the same manner

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<sup>14</sup> Joshua Rivera, *The Video Game Industry Can't Go On Like This*, KOTAKU, (March 10, 2020, 9 pm), <https://www.kotaku.com.au/2019/07/the-video-game-industry-cant-go-on-like-this/>.

<sup>15</sup> Elizabeth Gee, "Women, video gaming and learning: Beyond stereotypes," *Tech Trends* 49 (September 2005): 3.

as it does to male gamers. An obvious example of this could be how the female characters in the video games are represented. These gender differences in the industry are often deduced from the fact that men and women predominantly play very different types of games, and therefore have very different preferences and demands. This broad generalization can be detrimental in three major ways. Firstly, the preferences and demands of male and female gamers largely depend on the availability of games to them. Secondly, gender patterns in the industry are driven by psychological and biological differences between male and female players. The problem with this approach is, that it fails to take into account personal experiences, as well as the historical and sociological context when analysing this. The third problem is that there exists a great deal of diversity within female gamers on many grounds including personal preferences. But in order to fall within the ambit of the broad generalised categories of female gamers, the industry often fails to recognise the individual differences that exist between female gamers.<sup>16</sup>

There are multiple issues faced by female employees in the industry as well. Often, as corporate culture dictates elsewhere as well, women are not included in the 'Boys Club' at work and are therefore isolated. Moreover, there is a disproportionate representation of women in the offices. Look at the following statistic, in 2014, the Washington Post reported that as far as gaming audiences and gamers of the gaming industry go, 52% of the workers are male, while 48% are female. In 2017, IGDA came out with a report which said that 74% of the workers are male while only 26% of the workers are female.<sup>17</sup> Mentally, there is a feeling of isolation if you find yourself to be the only woman in a meeting after meeting. Women are often talked over in meeting rooms and their ideas are side-lined.

One relevant case study to understand the systemic gender problem can be of Riot Games, one of the biggest video game developers in the world, which has given games like League of Legends, etc. The offices at Riot Games are corrupted with 'Bro Culture' negatively impacted the working environment in general and women in particular. There have been multiple cases of women being passed over for promotions, women being sexually harassed and made to feel uncomfortable in their workplace. One of the senior employees of Riot Games was reported telling his junior female employees, "... *diversity should not be a focal point of the design of riot games products, because gaming culture is the last remaining safe haven for white teen*

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<sup>16</sup> Gee, *Id* at 2-4.

<sup>17</sup> *Male and Female Gamers: How Their Similarities and Differences Shape the Games Market*, NEWZOO, (March 9, 2020, 8:20 pm), <https://newzoo.com/insights/articles/male-and-female-gamers-how-their-similarities-and-differences-shape-the-games-market/>.

boys".<sup>18</sup>

Kotaku is one of the leading digital reporting platforms for the video gaming industry and they have been doing some responsible reporting. In an interview with the Patriot Act host Hasan Minaj, Cecilia D'Anastasio, a senior reporter at Kotaku made some alarming revelations. In her years of reporting on Riot Games, she has heard of some disturbing stories and has come across some more than inappropriate incidents. From senior male employees maintaining a list of all the 'sexy employees' they wanted to sleep with, to how women are considered incapable of hired for positions of leadership and some very inappropriate stories of the Chief Operating Officer (COO) of the company humping male employees at meetings where women were not present, and from sending explicit unwanted images to female employees to the COO 'farting in the faces of employees'. The problem is apparent from the fact that the COO of Riot Games in question here, is still serving in that position. After numerous complaints, he was suspended for 2 months without pay.<sup>19</sup>

These problems are not limited to one company, across the gaming spectrum women are disrespected and treated as inferiors. It has become a part of the systematic stereotype which glorifies toxic masculine mentality and all gender-based social stereotypes.

## V. UNIONISATION

The booming video game industry has a lot of problems as discussed in the previous chapters. These problems, if not addressed adequately and quickly will result in the downfall of this industry which has tremendous capacity. The main reason why video games are as popular as they are is that the people who develop and design them love video games and are very passionate about them. Therefore, the need of the hour is better regulation for workers and employees, so that they can have a better standard of living and humane working conditions. They need the labour laws to protect them against this horrific exploitation. The video game industry is very decentralized and is nothing like Hollywood. Hollywood has many powerful and central unions of actors, screenwriters, et al who raise the concerns of their members. Video Gaming studios do not have any unions to answer to, and therefore they work on a profit only model, often neglecting the welfare of their employees. The answer to these questions lies in unionizing.

There is an underlying notion that for the industry to produce games at the rate at which it does,

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<sup>18</sup> Andy Chalk, *Riot Games sued for gender discrimination*, PCGAMER, (April 1, 2020, (10:45 pm), <https://www.pcgamer.com/riot-games-sued-for-gender-discrimination/>).

<sup>19</sup> Kellen Beck, *More allegations of sexism and harassment hit 'League of Legends' developer Riot Games*, MASHABLE INDIA, (April 2, 2020, 9 am), <https://mashable.com/article/riot-games-harassment-allegations/>.

and for those games to be as good as they are, human resource meaning the developers and designers of these games have to be driven to long, painful, and emotionally exhausting hours of work in crunch.<sup>20</sup> However, the debate lately has shifted toward unionizing to attain better protection from the exploitation. This kind of labour activism is not uncommon for blue-collar workers in the industry of technology. We only need to look as far as Uber as an example. For years Uber workers mobilized to unite against the exploitation, and despite their status as gig workers, they were able to unite and unionize. The same goes for Silicon Valley-based technology companies. Silicon Valley workers went through a similar category of problems as video game developers with long hours of unpaid labour, and after unionization, the working conditions have bettered massively. Recent trends have shown the intent of game developers and designers to form unions as well. A 2009 survey found that more than 33% of the workers were in favour of unionizing, and that percentage increased to 47% of people saying ‘yes’ to unionization, while 26% answered with a ‘maybe.’<sup>21</sup>

Unionization will help give them more power while negotiating for contracts. Unions can help workers get better health benefits, restricted working hours at par with other sectors as well as proportionate payment for overtime work in crunch time. It will get them better job security and protection against arbitrary layoffs. The women can also better out across their problems and discuss meaningful solutions for gender equality in the industry. Trade Unions can be the solution to most, if not all of the problems that we have discussed in the previous chapters. Thankfully, some solutions are underway in this regard. Labor practices have come under scrutiny and developers are beginning to discuss organizing in earnest.

Movements such as ‘Game Workers Unite’ and the 2018 Game Developers Conference roundtable ‘Union Now?’ are movements that may very well lead to a Trade Union in the industry. The Workers’ Union Great Britain (IWGB) strikes are all positive welcoming signs.<sup>22</sup>

## VI. WAY FORWARD IN LIGHT OF THE COVID-19 PANDEMIC

Making video games is not easy, it takes skill, passion, creativity, and a lot of hard-working hours. The results are spectacular, and the video gaming industry is thriving. Even in the

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<sup>20</sup> Nick Statt, *Game developers look to unions to fix the industry’s exploitative workplace culture*, THE VERGE, (March 15, 2020, 8:30 am), <https://www.theverge.com/2018/3/23/17156472/game-developers-unionization-exploitative-toxic-workplace-culture-gdc-2018>.

<sup>21</sup> Sam Dean, *As video games make millions, the workers behind them say it’s time to unionize*, LA TIMES, (March 22, 2020, 8:30 pm), <https://www.latimes.com/business/technology/la-fi-tn-video-game-union-movement-20190412-story.html>.

<sup>22</sup> Jared McIntosh, *Gig workers and unionization in the games industry*, TAYLOR WESSING, (March 20, 2020, 2 pm), <https://www.taylorwessing.com/fr/insights-and-events/insights/2018/11/gig-workers-and-unionisation-in-the-games-industry>.

widespread pandemic, while all other sectors have taken a bump, the gaming industry has actually increased business. The sports leagues are closed, and when they do open, they will not have fans in the stadiums for a long time. Unfortunately, stadium tickets are a huge part of sports revenue. On the other hand, esports, which is competitive video gaming is the new trend. Even through the lockdowns, esports tournaments have brought in a lot of revenue as most of the profits are from advertising deals and online viewership. This business model where the revenues are driven by consumer spending can outlive the pandemic. The projected net worth of the global video game market is estimated to be around 160 billion US Dollars by the end of 2020. On the contrary to sports, the outcome of the pandemic has become a large available audience ready to consume more esports related publishing.<sup>23</sup>

Sports leagues from around the world have turned to esports to find new ways to engage with supporters and fans. Broadcasters are filling empty slots that were meant for sporting events, with esports competitions. In the future, it is evident that business partnerships between the gaming industry and other entertainment sectors will increase. Video games have greatly impacted popular culture, and a great example of this can be Fortnite hosting a Travis Scott concert in April 2020 attracting 30 million live viewers.<sup>24</sup>

All of this can only be monetised and further grown into more success if the industry stays afloat. This ship is largely dependent on the workers, meaning the video game developers and designers. As we discussed in this paper, there a variety of problems that the industry is facing. It is the need of the hour that these problems are properly identified and then dealt with in a manner that satisfies all the stakeholders. Unionisation might not solve every single problem, but it definitely is the key to better communication and coordination for all future endeavours to protect the video gaming industry from collapsing.

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<sup>23</sup> Stefan Hall, How COVID-19 is taking gaming and esports to the next level, WE FORUM, (March 25, 2020, 8:15 pm), <https://www.weforum.org/agenda/2020/05/covid-19-taking-gaming-and-esports-next-level/>.

<sup>24</sup> Anthony Ha, *Fortnite hosted a psychedelic Travis Scott concert and 12.3M people watched*, TECH CRUNCH, (April 28, 2020, 9 pm), <https://techcrunch.com/2020/04/24/fortnite-hosted-a-psychedelic-travis-scott-concert-and-12-3m-people-watched/>.