

A Balanced Application of Anti-discrimination Law in the Games Industry

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Abstract: This paper explores the successes and failures of "Black Myth: Sun Wukong" and "Concord," two games that highlight the complex implications of enforcing anti-discrimination laws within the gaming industry. It assesses how the drive for diversity and inclusivity, when combined with an overemphasis on political correctness, can gradually estrange users and detract from the overall gaming experience. Furthermore, the paper challenges the potential adverse consequences of anti-discrimination laws on attaining equality, arguing that legal enforcement should strike a balance between creative freedom and social justice to avoid imposing undue restrictions on the industry. Ultimately, the study concludes that, as a prominent medium of cultural expression, the creative space for games must be appropriately protected. Simultaneously, society and the law should strive for more nuanced and balanced approaches to promote the healthy development of the gaming industry and ensure its harmonious integration with societal progress.

Keywords: Anti-Discrimination Laws, Gaming Industry, Legal Impact, Creative Freedom, User Acceptance.

1. Introduction

The gaming industry, propelled by the rapid advancement of technology and the widespread adoption of the Internet, has become a significant and influential component of the global cultural sector. It has particularly thrived within the realm of digital entertainment, where its influence continues to grow exponentially. However, despite its remarkable progress and widespread appeal, the gaming industry has not been immune to inherent social issues that persist in many other sectors. Gender discrimination, cultural biases, and conflicts between creative freedom and social justice are among the challenges that the industry must address.

Recognizing these challenges, this study focuses on the intricate implications of implementing anti-discrimination laws within the gaming industry. By analyzing the cases of two popular games, "Black Myth: Wukong" and "Concord," this study aims to explore how to promote diversity and inclusivity without causing a decline in user experience due to excessive intervention. "Black Myth: Wukong," which draws heavily from Chinese mythology and culture, has faced criticism for perpetuating cultural stereotypes and biases. Meanwhile, "Concord," which explores themes of social justice and equality, has been criticized for being too heavy-handed and interventionist.

This study seeks to navigate these complex issues by examining the potential benefits and drawbacks of implementing anti-discrimination laws in the gaming industry. By striking a balance between promoting diversity and inclusivity and maintaining a high level of user experience, the study aims to create a more equitable and inclusive gaming industry that reflects the diverse perspectives and experiences of its players.

The aim of this research is to delve deeply into the aforementioned cases, uncover the potential issues arising from the enforcement of anti-discrimination laws in the gaming industry, and urge policymakers, industry practitioners, and all sectors of society to reflect on how to respect and support the free expression of game creators while ensuring social progress, thereby fostering the healthy development of the gaming industry and its harmonious integration with societal advancement. The findings of this study will provide a theoretical basis for legal practice, educational policies, and corporate decision-making within the gaming industry, contributing to the construction of a healthy gaming ecosystem that protects vulnerable groups while encouraging innovation.

2. "Anti-Discrimination" Laws in the Gaming Industry: The Tense Relationship with Game Cultural Creation

2.1. Potential Over-Intervention of Anti-Discrimination in Game Artistic Creation

Both "Black Myth: Wukong" and "Concord" are recent, highly anticipated game titles that have been influenced by political correctness. In particular, "Concord" has been widely regarded by players as a "failed" work.

It is alleged that SweetBoy.inc (SBI) attempted to influence the development of games such as "Black Myth: Wukong" through high fees and mandatory inclusivity requirements. Specifically, there are rumors that SBI extorted Game Science, the developer of "Black Myth: Wukong," demanding millions of dollars in guidance fees to ensure the game's content adhered to specific politically correct standards. Although the authenticity of these rumors has yet to be confirmed, they have sparked extensive discussions among gamers and the media, impacting the freedom of game cultural creation to some extent. Despite facing controversies related to political correctness issues such as gender and race during its development, "Black Myth: Wukong" did not significantly alter its game content and style. The game focused more on storytelling, character development, and innovation in gameplay mechanics rather than deliberately catering to politically correct standards. Set against the backdrop of the classical Chinese novel "Journey to the West," the game delves deeply into and reinterprets classic characters and stories such as Sun Wukong. While retaining the essence of the original work, the game incorporates numerous original elements, demonstrating profound cultural heritage and artistic innovation, and has been well-received by players.

On the other hand, "Concord" has been criticized by players for its excessive emphasis on political correctness. The design of characters in the game has been deemed aesthetically unappealing to most, including the over-representation of black individuals, ethnic minorities, and LGBTQ+ groups. This design choice may stem from the development team's overzealous pursuit of political correctness, but it has sacrificed the game's fun and appeal.

It should be noted that although China lacks specific anti-discrimination laws, the root of anti-discrimination law lies in the right to equality, which is listed as the first fundamental right in China's Constitution. This means that the right to equality is not only a right that individuals can claim from the state but also one of the most important "objective value orders" in China's constitutional system, serving as an "objective norm" or "objective law" that directly constrains public power[1]. Public power must consciously abide by this value order and do everything possible to create and maintain the conditions for the realization of this fundamental right. Therefore, the creation of "Black Myth: Wukong" in China is also subject to anti-discrimination regulations.

Regarding legal research works related to anti-discrimination laws, there is only the Academic Proposal for the Anti-Discrimination Law of the People's Republic of China [2] .

2.2. The Negative Effects of "Concord's" Over-Accommodation to Anti-Discrimination Laws

When creating "Concord," the Neon Future team emphasized innovation and inclusivity, aiming to build a virtual world without gender or racial biases where all players could find their own role. The game features diverse character designs encompassing various cultural backgrounds and gender characteristics to encourage players to express themselves while opposing any form of discrimination. The character designs incorporate elements with distinct racial features. However, under the influence of excessive political correctness, players may develop aversions, leading to defamation and discrimination against groups represented by such characters, despite the fact that there is no distinction between superior and inferior genes[3]. During the internal testing phase before the game's release, Neon Future encountered a public relations crisis. Some players found during trials that certain tasks and character settings in the game were considered to contain potential gender stereotypes and cultural misunderstandings. In response to the criticism, the developers of "Concord" were overly cautious in accommodating political correctness, forcing them to be excessively conservative in their design decisions and sacrificing some innovative elements that could have excited players. For example, to avoid accusations of gender discrimination, certain characters in the game may have overly adhered to gender equality, resulting in a loss of character uniqueness and depth. This led to limited innovation in the game's artistic expression and storytelling, while weakening its entertainment value, making the gameplay overly serious, and eliciting backlash from some players, ultimately affecting the game's market acceptance and commercial success. This case further reveals the complexity of anti-discrimination laws in the gaming industry and the challenges in balancing creative expression with regulatory requirements.

2.3. Over-Expression of Political Correctness in Games

In the case of "Concord," political correctness became a significant consideration in game content design. The development team, Neon Future, attempted to create a utopia without gender or racial biases. However, this excessive pursuit of political correctness somewhat restricted the game's innovative space and story depth. The character designs in the game strive for diversity and inclusivity, incorporating LGBT elements to avoid legal risks. According to the Masterpiece Cakeshop, Ltd v. Colorado Civil Rights Commission case, baker Phillips told an LGBT couple that his shop, based on his religious beliefs, would not sell wedding cakes to LGBT groups, which violated the Anti-Discrimination Law [4]. This may cause some players with religious beliefs to have obstacles in character identification and emotional investment. The game's task settings were also affected, as tasks might become overly formulaic, lacking depth and complexity, thereby reducing the game's immersion and challenge.

The development team overreacted when responding to criticism, frequently modifying game content in an attempt to eliminate all potentially controversial elements. This strategy resulted in limited artistic and innovative qualities when the game was launched. Players may perceive the impact of this "overcorrection," believing that while the game was accommodating political correctness, it sacrificed the game's entertainment and the integrity of artistic expression. This approach may also inadvertently reinforce stereotypes, as emphasizing avoidance of controversy may make players more attentive to potential issues.

2.4. Market Feedback and Reasons for User Rejection

After its release, "Concord" did not receive the expected market response, and user feedback indicated that the game's popularity was much lower than the development team's expectations. The low market acceptance is closely related to the strategies adopted in the implementation of anti-discrimination laws, particularly in the following aspects:

Users responded coolly to the game's character and story designs. To avoid gender discrimination and cultural misunderstandings, the development team overly pursued equality and inclusivity in character portrayal, resulting in characters with indistinct personalities and background stories, lacking depth, making it difficult for players to resonate with the roles. In terms of story missions, excessive caution led to bland plot designs, lacking tense and captivating elements, thereby reducing players' immersion and game challenge.

There was a shift in market strategy focus. "Concord" used anti-discrimination and inclusivity as its main promotional points, which may have attracted some players who pay attention to social issues but also alienated those who prioritize the game's entertainment and competitiveness. This blurred market positioning made it difficult for the game to find a stable audience, leading to inaccurate target market positioning.

"Political correctness" has gone too far, impacting the value of "equality for all." Initially, "political correctness" required only speech, but later it demanded that policies and behaviors should not "offend" ethnic minorities and vulnerable groups, reflecting "extreme care" (privileges) for these groups and even requiring the majority to constantly accommodate, tolerate, and yield to them. In fact, the intention of "political correctness" is not to restrict and deprive the basic rights of the majority, but because it emphasizes different treatment for different ethnic groups, this "fighting fire with fire" and "combating discrimination with discrimination" approach somewhat undermines social justice[5].

3. Challenges Faced by Anti-Discrimination Laws in the Gaming Sector

3.1. Legal Significance of Applying Anti-Discrimination Laws in the Gaming Field

The purpose of legally prohibiting discrimination is to protect the fundamental rights of minority groups or individuals possessing characteristics of such groups. The "right to non-discrimination" is a legal right derived from and gradually legalized after defining discrimination and enumerating prohibited types of discrimination in legislation [6]. In the gaming industry, these laws aim to eliminate discrimination based on gender, race, religion, sexual orientation, or other identity characteristics, creating an inclusive environment where all players and developers can experience and create games without prejudice. These regulations are formulated to protect vulnerable groups from malicious behavior and promote social harmony and progress.

The fundamental principles of anti-discrimination laws are based on the principle of legal equality, which asserts that everyone should be treated equally and not differently due to specific identities. It emphasizes the elimination of direct and indirect discrimination, including but not limited to employment, service provision, education, and entertainment. In the gaming industry, this may manifest in character design, storylines, marketing materials, and community management. For instance, characters in games should not be assigned specific roles solely based on gender, and storylines should not reinforce or stereotype gender, race, or cultural prejudices.

Anti-discrimination laws also emphasize prevention and correction, requiring gaming companies to eliminate potential discriminatory tendencies in recruitment, training, and promotion processes while addressing any occurred incidents of discrimination. This is typically achieved by establishing internal complaint mechanisms, providing education and training, and implementing fair company

policies. Companies are also encouraged to promote proactive diversity and inclusion strategies to facilitate cooperation and innovation among employees from diverse cultural backgrounds.

3.2. Challenges Faced by Anti-Discrimination Laws in the Gaming Sector

The application of anti-discrimination laws in cultural creation aims to foster an unbiased, inclusive space, protecting all individuals from unjust treatment based on gender, race, religion, or other identity characteristics. Anti-discrimination laws do not require the elimination of all personal preferences, treating everyone as undifferentiated abstract individuals, but rather define applicable categories and domains where everyone should be treated according to non-discriminatory standards[7]. However, when such laws are implemented in the gaming industry, they pose a delicate balance between innovation and compliance. On one hand, games, as an important form of cultural expression, should reflect societal diversity and promote inclusivity in their stories, characters, and experiences, and anti-discrimination laws serve as the legal guarantee for this pursuit. On the other hand, excessive legal intervention may cause game developers to be overly cautious in their creative process, constraining innovation and potentially sacrificing the entertainment and artistic expression of games in the pursuit of perfect balance.

Under the guidance of anti-discrimination laws, character design and storylines in games need to avoid stereotypes and discrimination, ensuring inclusivity and diversity. This requires developers to deeply understand different cultural backgrounds, respect various gender expressions, and maintain sensitivity and depth when addressing sensitive topics in stories. However, these requirements may limit the exploration of character personalities and the complexity of storylines, as an excessive pursuit of political correctness may lead to bland characters and stories, weakening player immersion and game appeal.

In marketing and public relations strategies, the application of anti-discrimination laws also faces challenges. Game companies may overly emphasize the inclusivity of games in their promotions to avoid potential legal issues, but this may make some players feel that games are overly politicized, reducing their attractiveness as entertainment products. Game companies must find a way to convey their commitment to diversity without compromising the core experience of the game itself.

3.3. Conflict and Balance between Political Correctness and Cultural Creative Freedom

In the contemporary gaming industry, the pursuit of political correctness to promote diversity and inclusivity has become a trend. However, this trend somewhat conflicts with the artistic freedom of games as cultural expressions. In the creative process, game developers must satisfy societal expectations and comply with anti-discrimination regulations while maintaining the artistic integrity and innovation of their works. The cases of "Black Myth: Wukong" and "Concord" reveal the complexity of this conflict.

"Concord" is an extreme example where, from the outset, the game emphasized gender and racial inclusivity, but in practice, to cater to political correctness, the innovativeness of the game content was constrained. Character design overly pursued equality, resulting in indistinct personalities, and mission design was overly mediocre and lacking depth. These constraints may have reduced player immersion and game appeal.

For other games, many creators are not racists and genuinely want to address racial inequality. Due to the constraints of political correctness, players have become increasingly sensitive, and many descriptions that should not be considered "offensive" have become highly "offensive." Because game creators are not from minority ethnic groups, it seems to imply that their portrayal of minority lives is stereotypical[8].

To resolve this conflict, game developers need to find an appropriate balance in their creative process. On one hand, they need to respect and uphold societal diversity and inclusivity to avoid legal risks and public opinion pressure. But at the same time, they must also maintain the freedom of artistic creation, allowing games' stories and characters to have their unique expressions to satisfy players' pursuit of fresh content and deep experiences. This requires developers to adopt a cautious attitude towards sensitive topics while having the courage to explore and experiment, maintaining the artistry and innovation of games.

4. Conclusion

The implementation of anti-discrimination laws in the gaming industry has brought complex impacts, both promoting equality and eliciting user backlash against excessive political correctness, affecting the gaming experience. The cases of "Black Myth: Wukong" and "Concord" reveal that in the pursuit of equality, a balance needs to be found between anti-discrimination legal protection and respecting artistic expression. On one hand, the implementation of anti-discrimination laws is crucial for maintaining a fair gaming environment, protecting players from discrimination, and promoting industry diversity. However, the enforcement of laws needs to be cautious to avoid excessively constraining the innovativeness and entertainment of games. From the perspective of the legal system, anti-discrimination laws should consider the systemic nature of the legal system and avoid contradictions with other laws[9]. A delicate balance is needed between law, art, and market demand to ensure that the gaming industry can both promote social justice and maintain the vitality of artistic expression and market competitiveness. Meanwhile, from the perspective of legal academic research, it is still necessary to conduct deeper theoretical research on anti-discrimination and equal protection, seeking legally applicable standards for anti-discrimination and equal protection in the future. As society develops, it is anticipated that malicious and explicit discrimination will gradually decrease, and discrimination will exist more in subtler forms [10].

The key to solving these issues lies in legal clarity, educational popularization, and ongoing dialogue among all parties. Lawmakers and regulatory agencies need to formulate more specific and guiding regulations, providing clear creative space for game developers and encouraging them to boldly innovate while complying with the law. Only in this way can the gaming industry respect the law while continuously providing players with rich and profound gaming experiences, achieving harmony and integration among art, commerce, and law.

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