Proposal for a Fair Digital Transition of Physical Legacy Assets in Home Video Games

Executive Summary

A Transition Model Balancing the Continuity of Purchased Assets, Industrial Efficiency, Circularity, and Cultural Preservation

1. Background to the Proposal

The home video game industry is undergoing a continuing shift towards digital software distribution. However, adequate mechanisms have not yet been established to allow consumers to migrate physical game assets they already own into official digital environments.

Even where the production of new physical media comes to an end, the installed base of consoles, software, peripheral devices, and the used-game market will not disappear.

Without an official migration pathway, these assets will continue to circulate as a legacy market disconnected from the official markets of platform operators and software rights holders. This market will remain connected to used-game sales, repair services, unofficial compatible hardware, emulation, and other alternative environments.

As a result, consumers may be unable to carry their purchased assets forward, while platform operators and software rights holders remain unable to manage or monetise those assets. Demand may consequently migrate to other platforms, personal computers, or unofficial environments.

At the same time, requiring the manufacture, transportation, storage, and retail distribution of physical media to continue indefinitely in the name of consumer protection would also lack long-term social and economic rationality.

What is needed is neither the abrupt exclusion of physical media nor the permanent maintenance of the existing physical distribution system.

A formal mechanism is required that protects consumers' purchased assets while enabling their gradual migration into official digital markets.

2. Fundamental Principles of a Fair Digital Transition

The framework should be based on the following principles.

First, the discontinuation of physical media supply or compatible hardware production should not result in the de facto disappearance of legitimately purchased game assets.

Second, digital migration should remain entirely voluntary and should not prevent consumers from choosing to retain their physical media.

Third, the digital entitlement granted through migration should be equivalent to a standard buy-to-own digital version and should not depend on continued subscription to a service or on the title remaining available within a temporary digital catalogue.

Fourth, collected physical media should be permanently removed from circulation and, wherever possible, separated by material type and recycled.

Digital migration should also not automatically eliminate functions traditionally associated with physical ownership, including lending, gifting, and transfer.

Provided that duplication and concurrent use are prevented, lending and account-to-account transfer should be permitted through official procedures managed by the platform operator.

3. Proposed Migration Framework

A consumer would bring an eligible genuine physical game medium to an authorised intake point and pay the prescribed migration fee.

Eligible media would include optical discs, game cartridges, and other forms of recording media that were originally sold through authorised channels.

The basic structure would be a one-to-one asset conversion.

One genuine physical game medium would be collected and permanently removed from circulation. In exchange, one corresponding digital entitlement would be granted to a designated platform account.

At the intake point, staff would confirm the title, the apparent authenticity of the physical medium, the content of the digital entitlement to be granted, and the destination account.

Account authentication would be completed by the consumer using a smartphone or similar device. Intake staff would not handle passwords, authentication codes, or payment information.

Once the required checks had been completed, the digital entitlement would, in principle, be granted at the time of intake. Consumers would therefore be able to complete the procedure on the same day without mailing the media or waiting through a lengthy review process.

Freely transferable download codes or migration vouchers would not be issued.

Collected media would be linked to intake records in a traceable manner. After being consolidated into defined batches and reconciled against those records, the media would be permanently rendered non-circulable and sent for recycling.

Because the media would not be resold or reused, the framework would not ordinarily require full functional testing of the game or complete reading of the recorded data.

Physical game media released in the future should be designed with eventual migration in mind and should carry a standardised anti-counterfeiting certification mark established by the relevant platform operator.

A combination of holograms, microtext, machine-readable product identifiers, and similar features would allow intake staff to assess the likelihood that a medium is genuine within a short period of time.

This would further simplify intake procedures and reduce accidental acceptance and counterfeit-media fraud.

The production, distribution, collection, digital migration, and recycling of physical media could thereby be managed as a single lifecycle.

4. Intake Network and Phased Implementation

Authorised retailers that already maintain commercial relationships with platform operators should be used as intake points.

By adding the functions required for media verification, collection, storage, and shipment to existing retail networks, sales procedures, customer-service capabilities, and logistics infrastructure, the need to build an entirely new nationwide intake network could be substantially reduced.

Intake operators would receive an administrative service fee based on the number of transactions processed. They would also gain opportunities to sell consoles, peripheral devices, software, and related services.

However, where an operator holds substantial quantities of used-game inventory, a conflict of interest may arise between the disposal of its own stock and its decisions at the official intake point.

For this reason, used-game retail operations and official intake functions should, in principle, be separated.

The framework would not need to cover every title and every region from the outset.

The first phase should be limited to titles for which a corresponding digital version already exists and for which the rights position and relationship between the physical and digital versions are clear.

The framework could initially be tested in selected regions and at selected retail locations.

The pilot phase should assess intake time, authentication success rates, the burden of media verification, logistics costs, reconciliation results, consumer enquiries, and attempted misuse.

Once operations had stabilised, the range of eligible titles, participating regions, and intake locations could be expanded.

An initial concentration of demand could be managed through monthly account-level intake limits, phased addition of eligible titles, advance registration, geographical and retail restrictions, and consolidated transport of media in defined quantities.

The total quantity of eligible physical assets is finite. Intake demand and logistics burdens would therefore decline as collection progresses.

5. Lending, Transfer, and Fraud Prevention

Lending should operate as an exclusive and temporary reassignment of the entitlement to another

account.

During the lending period, the entitlement would not be usable by the lending account.

A permanent transfer would simultaneously deactivate the entitlement in the originating account and grant an equivalent entitlement to the receiving account.

Possible uses would include migration between accounts belonging to the same person, gifts to family members or acquaintances, paid or unpaid transfers between individuals, and transfers of titles no longer available for new retail purchase.

A modest administrative fee should apply to transfers.

The fee should remain low enough not to obstruct legitimate transfers between individuals, while reducing the profitability of large-scale conversion and systematic resale.

Duplicate grants of the same entitlement to the same account should not be permitted. Where necessary, limits could also be placed on the number of migrations and transfers associated with an account.

To profit from large-scale use of counterfeit media, a person would need to maintain numerous accounts, pay migration and transfer fees, and complete repeated individual procedures.

Appropriate pricing and usage restrictions could therefore reduce the economic rationality of fraudulent activity.

Fraud prevention should focus primarily on preventing duplication of entitlements, prohibiting duplicate registration, providing official account-to-account transfer mechanisms, and detecting abnormal patterns of use.

It should not depend on imposing excessive media inspection or identity-verification requirements on ordinary consumers.

6. Effects on Stakeholders and Society

Consumers would be able to reduce concerns relating to media deterioration, failure of reading devices, loss, and physical storage, while carrying purchased assets forward into future official environments.

Platform operators would be able to bring physical assets that currently remain within used and legacy markets into official account ecosystems. This would support user retention, future hardware migration, and use of related services.

Software rights holders could receive revenue from migration fees and related charges that is not available through ordinary used-game circulation.

They would also gain better evidence of actual demand for legacy titles, supporting decisions regarding rights clearance, porting, backward compatibility, and official re-release.

Used-game retailers would retain opportunities to sell existing inventory to consumers seeking to migrate those titles into digital form.

The market could therefore contract gradually without immediately eliminating the value of existing stock.

Recycling operators would receive demand for the separation, material recovery, and appropriate disposal of collected media, cases, packaging, and printed materials.

From a consumer-protection perspective, the framework would reduce situations in which the costs created by a company's change in distribution policy are transferred entirely to consumers, effectively requiring them to purchase the same title again.

From a competition-policy perspective, the framework would encourage a market in which platforms are evaluated not by how much of the existing asset base they are able to abandon, but by how fairly and conveniently they allow consumers to carry that asset base forward.

7. Preservation of Legacy Titles and Video Game Culture

Unlike titles for which a corresponding digital version already exists, legacy titles may require the creation or maintenance of an official execution environment.

Depending on technical conditions and the relevant rights position, this may involve backward compatibility, official emulation, porting, cloud streaming, or reconstruction of a version materially equivalent to the original.

Official execution environments may include optional features such as quick saving, rewind functions, resolution enhancement, display correction, reduced loading times, fast-forward functions, configurable controls, and accessibility features.

These should be provided as optional aids that improve access to the original work.

A version materially equivalent to the original should remain clearly distinguishable from a remake, altered version, or later reinterpretation.

Home video games are cultural works that combine visual art, music, writing, control systems, direction, technical constraints, and the hardware environment of their time.

Maintaining official execution environments is therefore not merely a means of reselling older products. It allows those works to remain accessible as usable cultural assets.

At the same time, representative physical media, hardware, manuals, packaging, and related materials held by museums, libraries, research institutions, rights holders, and collectors should continue to be preserved as physical historical records.

Preservation of legacy titles should cover not only the version contained on the physical medium at the time of release, but also the final official state created through post-release updates and additional

content.

The following versions should therefore be distinguished where possible:

- the original release version contained on the physical medium;
- the final officially updated version;
- a complete version including existing additional content; and
- any later supplemented or reconstructed version containing newly produced material.

Where the framework reveals sufficient demand and commercial viability for a legacy title, rights holders may also gain an opportunity to produce additional content or a supplemented version containing material that could not be implemented at the time of release because of schedule, budget, or technical constraints.

Any newly produced supplementary material should remain clearly distinguishable from the original work and from historical official updates. Its content and date of production should be disclosed to users.

8. Conclusion

This proposal neither opposes the discontinuation of physical media nor calls for the indefinite continuation of physical distribution.

Where the transition from physical media to digital environments is unavoidable, that process should not take the form of a market withdrawal that abandons purchased assets.

It should instead be designed as a structured transition that balances consumers' rights, commercial revenue, circular use of resources, fair competition, and preservation of video game culture.

The framework would not only migrate physical game assets created in the past into future usage environments.

It would also provide a model for designing future physical media from the time of release with later authentication, collection, and digital migration already anticipated.

The present transition of home video game assets, the preservation of past works, and the management of future physical media could thereby be connected within a single continuous framework.

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