

Game Over for Modders?

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When the smoke clears around the Grand Theft Auto sex scandal, the innocent bystanders of the collision between politics, puritans and corporate dissembling may prove to be the community of "modders" who tinker with game content for their own amusement.

Game hackers have probed, tweaked and enhanced everything from Halo to The Sims 2 over the years without incurring the wrath of game makers -- despite widespread click-wrap contracts prohibiting unauthorized modifications, and ambiguities in copyright law that make distributing the hacks legally uncertain.

All that changed last week when game industry opponents and some Democratic lawmakers raised a furor over a sexually themed mini game baked into Rockstar Games' best-selling PC and console title GTA: San Andreas. The raunchy bonus material was hidden from normal play, but could be unlocked by a downloadable mod titled "Hot Coffee" developed by hacker Patrick Wildenborg of Deventer, Netherlands, last month.

Rockstar's parent company, Take Two Interactive, was quick to blame the modder and disavow responsibility for the racy content. In a July 13 press release, the company claimed that "a determined group of hackers" had gone to "significant trouble to alter scenes in the official version of the game," a process that the company said involved disassembling, recompiling and "altering the game's source code."

But on Wednesday, an investigation by the Entertainment Software Ratings Board concluded that Take Two was, in fact, responsible for the sex content, which was found in all three versions of San Andreas: the PC, Xbox and PlayStation2 discs. Wildenborg's Hot Coffee download merely made the scenes accessible.

The industry group revoked the game's M rating, which labeled it appropriate for players 17 or older, and re-filed it under AO for "adults only" -- raising the minimum age to 18, the year at which a delicate teen becomes less susceptible to the harmful influence of computer-generated cartoon sex.

The new rating has major retailers pulling the game from their shelves, while Take Two preps a replacement version that will satisfy the ESRB requirements for an M rating. The company now acknowledges that the sex scenes were shipped on the game discs, but describes them as vestigial code that was cut from gameplay before release, and was not intended to be accessible to players.

Sen. Hillary Clinton has called for an FTC investigation of the whole affair, but Take Two is trying to keep attention on the modders. Spokesman Jim Ankner won't say whether the company is removing the sexual content from the new discs (it is if it wants an M rating, the ESRB says) but instead emphasizes that the next release will have "enhanced security" against hackers like Wildenborg.

The company also said, in a Wednesday press release, that it's "exploring its legal options as it relates to companies that profited from creating and distributing tools for altering the content" of the game. Ankner declined to elaborate on what that might mean, but the PlayStation2 version of the Hot Coffee hack required the use of a consumer cheat device called "Action Replay" that allows players to tweak console games, typically to get extra lives or unlimited ammo.

The U.S. subsidiary of the company that makes Action Replay, Datel Design & Development, didn't return phone calls Thursday. A spokesman for U.S. distributor Intec says it's watching the controversy closely. "We're definitely staying on top of the issue to see how this plays out," said VP of marketing Mark Stanley.

In 1992, Nintendo lost a lawsuit against the maker of a similar customization tool called Game Genie, when a federal appeals court found that the device didn't infringe Nintendo's copyrights.

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