

GAMING LAWS IN INDIA: FUTURE PROSPECTS OF THE DIGITAL GAMING REVOLUTION

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Abstract

Since the government defines online gaming as those that are made available online and made available to users through digital platforms or intermediaries, playing games online is not illegal in India. The landscape of online gaming has changed dramatically as a result of the increasing use of smartphones, even in isolated rural areas, and the broad availability of internet services. By 2024, the nation's online gaming market is predicted to be worth ₹25.3 billion, according to reports from KPMG India. Due to the industry's explosive growth, a number of foreign businesses have chosen to open offices in India, and numerous others are considering doing the same. India still lacks comprehensive, unified laws to regulate online gaming, despite the industry's explosive growth and potential to significantly boost economic growth. For those involved in the industry, the lack of a regulatory framework breeds uncertainty and difficulties. Traditional forms of play are gradually being replaced by mobile gaming, which has a big impact on how internet users pass their leisure time. The ease of access to gaming platforms and digital distribution channels is a major contributing factor to the growing popularity of online games. A flourishing new industry has emerged as a result of the widespread adoption of online gaming. This industry has grown in popularity recently due to its inventiveness and inventiveness. A growing number of dual-income households, rising interest rates, and rising disposable income all contribute to the gaming market's continued growth as consumer preferences change. In the future, the industry is anticipated to expand further due to the growing usage of gaming consoles and smartphones as well as the wider integration of cloud technology. Examining the legal, social, and economic ramifications of this digital revolution, this paper investigates how gaming laws are changing in India. State-by-state legislative differences, the difficulties presented by real-money gaming and addiction, and the differences between games of skill and games of chance are all included in this critical examination of the

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current regulatory framework governing online gaming. The study also explores recent attempts to create a central regulatory mechanism, important court rulings, and policy initiatives. The paper addresses the need for a consistent, forward-looking legal framework that promotes growth while guaranteeing consumer protection, data privacy, and ethical standards, highlighting the conflict between innovation, the public interest, and regulatory oversight. In order to successfully traverse the dynamic and intricate landscape of digital gaming in India, it concludes by outlining future prospects and possible policy reforms.

Introduction

Digital gaming has quickly become a major part of contemporary popular culture and a dominant form of entertainment. The COVID-19 pandemic's effects, combined with technological developments and reasonably priced internet access, have greatly accelerated the expansion of India's online gaming market. By 2022, the industry had grown from ₹79 billion in 2020 to ₹135 billion. With an estimated 220 million gamers as of 2023, India is the second- largest market in this sector; by 2026, that figure is expected to rise to 338 million. Examining the leisure preferences of the Indian populace—which have historically included storytelling- based entertainment like music, television, and movies—is crucial to understanding this quick growth. By enabling users to interact with and affect the plot of stories, online gaming improves this narrative engagement. Additionally, the communal aspect of online gaming has resonated with Indian society's emphasis on collective values, especially during the isolation of pandemic-induced lockdowns. As gaming became a major social connection tool nationwide, this shared virtual experience helped to drive a noteworthy 21% compound annual growth rate.³

Technological developments, the expansion of high-speed internet access, and the rising popularity of smartphones and other portable electronics are all major contributors to this increase. Console, PC, and mobile gaming are just a few of the formats that make up the digital gaming landscape. A mainstay of the gaming industry for a long time, console gaming—which uses specialised devices like the Xbox and PlayStation—remains a favourite among enthusiasts. Despite being established as well, PC gaming has seen a resurgence in popularity due to the popularity of online multiplayer games and the improved capabilities of contemporary computers. However, due to the increasing popularity of smartphones and the

³ Alaukik Shrivastava and Kashish Siddiqui Khan, Online Gaming Laws in India: An Analysis of the Legislative Intent vis-a'-vis the Future Roadmap, Vol.14 Issue 2, UNLVGLJ, 161-177 (2024)
https://scholars.law.unlv.edu/cgi/viewcontent.cgi?params=/context/glj/article/1224/&path_info=Khan_Online_Gaming_Laws_in_India.pdf

ease with which games can be downloaded and accessed through mobile applications, mobile gaming has experienced the biggest growth in recent years.⁴

The legal framework governing online gaming and esports in India is complex and fragmented, with different laws addressing various aspects of the industry. For example, the Public Gambling Act 1867 prohibits gambling, but it does not specifically address online platforms, creating uncertainty regarding the legality of online gambling. In reaction to the rapid growth of the sector, numerous self-regulatory organizations have arisen, such as the Esports Federation of India (ESFI) and the All India Gaming Federation (AIGF). These bodies strive to set ethical benchmarks, guarantee fair play, promote responsible gaming, and tackle issues related to gambling addiction. A major challenge in regulating online gaming and esports in India is the inconsistency in legislation across different states. While some states have accepted and legalized online gaming and esports, others have enforced total bans. This variation in state-level regulations has resulted in confusion, obstructing the creation of a cohesive and regulated industry landscape.⁵

India's online gaming industry has seen swift growth, characterized by the emergence of various gaming startups that are driving a vibrant atmosphere of innovation and entrepreneurship. These enterprises are bringing fresh game concepts to the table and adopting cutting-edge technologies like augmented reality (AR) and virtual reality (VR), while also exploring niche areas such as fantasy sports and competitive e-sports. The rise of e-sports on both international and domestic stages has notably altered the sports industry's landscape, evolving into a cultural phenomenon with broad appeal. This transformation gained traction especially after 'e-sports' was officially recognized in the Oxford Dictionary in 2015. Since that time, the industry has experienced continuous growth, with discussions surrounding e-sports possibly becoming an event at the 2024 Olympic Games. The key demographic driving this digital shift comprises young adults aged 18 to 25, which clarifies the increasing trend of youth spending considerable time gaming in communal locations. Once viewed as simply a leisure activity or youthful hobby, gaming has now transformed into a legitimate professional field with tangible career opportunities. E-sports uniquely attracts the youth, providing a limitless platform for players to reveal their skills and cultivate personal brands within a global virtual

⁴ Karun Sanjaya, Rushil Chandra & Jimmy Jose, The Digital Gaming Revolution: An Analysis of Current Trends, Issues & Future Prospects, Vol.21 Issue 1, RLJ, 18-29 (2023)
<https://www.russianlawjournal.org/index.php/journal/article/view/288/285>

⁵ Singh, Aneesh, Laws on Online Gaming and Online Gambling in India: Future Market of India (June 15, 2023). Available at SSRN: <https://ssrn.com/abstract=4480470> or <http://dx.doi.org/10.2139/ssrn.4480470>

community. The rapid ascent of e-sports has led the entertainment industry to fully embrace this cultural shift towards digital engagement.⁶

Despite its expansion potential, India's online gaming sector is faced with various challenges. Issues such as excessive gaming, mental health impacts, and the threat of scams have triggered calls for a comprehensive regulatory framework. Ongoing legal discussions over whether games should be classified as 'skill' or 'chance' influence their legal standing, taxation, and governance. Furthermore, the wider societal ramifications of gaming—including its effects on academic performance, addiction, and the necessity for ethical gameplay—have initiated collaborative efforts among developers, policymakers, and NGOs to advocate for player safety and responsible gaming habits. Considering the rapid advancements and transformative characteristics of online gaming in India, it is crucial to assess its trends, opportunities, and regulatory requirements. This examination will provide stakeholders with the necessary insights to formulate effective policies, promote ethical participation, and ensure the long-term viability of this flourishing industry.⁷

While the terminology of gaming and esports is frequently utilized synonymously, these concepts denote markedly different phenomena within the realm of video gaming. Gaming constitutes an overarching term that incorporates any engagement with video games, irrespective of the medium or intent. This encompasses leisurely pursuits such as playing Candy Crush on a mobile device, in addition to more rigorous activities such as participating in a competitive match of CS: GO with peers. The degree of competition in gaming is wholly contingent upon the player's discretion—some individuals may engage solely for recreation, whereas others pursue a more competitive endeavor. In summary, gaming pertains to amusement and individual satisfaction. Conversely, esports—abbreviated from "electronic sports"—specifically denotes organized, competitive gaming at either a professional or semi-professional echelon. It encompasses formalized tournaments, high-stakes confrontations, and often, extensive audiences alongside significant prize pools. Esports events parallel traditional athletic competitions in that they emphasize definitive outcomes: one competitor triumphs, another is defeated, with the occasional potential for ties. The origins of competitive gaming can be traced back to the 1970s; however, esports garnered substantial momentum during the 2000s, coinciding with the proliferation of internet accessibility.

The essence of esports resides

⁶ Ranojoy Middya, Legal Framework regulating eSports in India, iPleaders (October 12, 2018, 06:16 PM) <https://blog.ipleaders.in/esports-in-india/>

⁷ Makam, Ganesh, Regulatory Landscape of Online Gaming in India: Challenges and Prospects (June 19, 2023). Available at SSRN: <https://ssrn.com/abstract=4484558> or <http://dx.doi.org/10.2139/ssrn.4484558>

in the competitive nature, the strategic intricacies of gameplay, and the concrete incentives—ranging from recognition and rankings to considerable monetary rewards, exemplified by Valorant tournaments offering prize pools exceeding INR 1.15 million. Ultimately, the essential distinction lies in the fact that gaming represents an activity, whereas esports constitute a formally organized competitive sport within that activity. One pertains to the manner in which individuals play, whereas the other pertains to the manner in which individuals compete.

Evolution of Gaming Laws

According to current gaming regulations, the terms “gambling” or “gaming” refer to “the act of wagering or betting” with money or another item of monetary value. In Telangana, “gaming” is defined as “engaging in a game for the chance to win prizes in money or otherwise, and includes games such as mutka or satta or online gaming.” The primary legislation governing gaming is the Public Gambling Act of 1867. This Act makes no distinction between online gambling and gambling conducted outside of physical venues. Although the Public Gambling Act (PGA) does not specifically define “gambling” or “gaming,” the Supreme Court of India has noted that “gambling” entails putting money down for a chance to win a prize that is determined by chance or accident, or in games where skill is not the main factor. It is important to recognize that the definition of gaming can vary depending on the state laws and specific regulations involved. Most gaming laws were created before the rise of the internet and primarily focus on limiting gambling activities in physical locations, typically referred to as “gaming houses” or “common gaming houses.”

India has a rich and diverse gaming history that has evolved over time. A mix of deep-rooted cultural traditions, historical influences, and contemporary regulatory frameworks has collectively shaped the nation’s gaming laws. Gaming has played a significant role in India’s cultural heritage, having a substantial impact on society. Ancient Indian epics, such as the Mahabharata and the Ramayana, created thousands of years ago, include mentions of gambling and games of chance, underscoring their lasting importance. The legal framework governing gambling began to emerge during the colonial period when India was under British rule. To curb gambling activities, the British colonial administration implemented the Public Gambling Act in 1867. By prohibiting gambling in public spaces, this law also banned the operation of gaming venues. However, the act did not address online or virtual gaming since those concepts had not yet emerged.

After gaining Independence, the Indian Constitution granted individual states the authority to create laws related to gaming and betting under Entry 34 of the State List in Schedule VII. As a result, laws regulating gaming vary across different states in India; some governments permit specific types of gaming while others impose strict restrictions or outright bans. According to rulings from the Supreme Court, skill-based games are considered legal commercial activities that are sheltered under Article 19(1)(g) of the Indian Constitution.⁸ In most Indian states, “skill-based gaming” is largely exempt from gambling regulations. Conversely, states like Meghalaya, Nagaland, and Sikkim have established a regulatory framework for the online gambling sector, while Goa allows licensed land-based gaming operations. One of the notable aspects of the Public Gambling Act (PGA) is its exception for games based purely on skill. Consequently, games defined as purely skill-based are not subject to the PGA’s restrictions and enforcement. Nevertheless, both the PGA and state gambling laws lack a clear definition of “pure skill” or detailed guidelines concerning the principles that align with skill-based games. The Supreme Court of India defines a game of skill as one where success largely relies on the player’s superior knowledge, training, focus, experience, and skillfulness, even though an element of chance is inherently involved in all games. For instance, in the Satyanarayan case, the Supreme Court deemed rummy to be a game of skill. However, some states, including Assam, Andhra Pradesh, Telangana, and Odisha, have denied this exemption for skill-based games, declaring all real money games illegal. In contrast, other states, such as Sikkim and Nagaland, have implemented a licensing framework for the operation of real money gaming.⁹

The introduction of personal computers into Indian homes in the mid-1990s was a turning point in the country's gaming history. Young people were drawn to popular PC games like Street Fighter II, Doom, and Age of Empires, especially in cities. At this point, most of the gaming was done in private settings or at nearby PC cafes, which soon developed into gathering places for young players. With the introduction of gaming consoles like the PlayStation in 1999 and the Xbox later, home entertainment gained a new dimension and users' gaming experiences were improved. At about the same time, online multiplayer games like Quake and Warcraft became more and more popular in urban internet cafes. Even though broadband internet access was still scarce, it helped people become familiar with online gaming and connected them to a larger gaming community. The way that games were played changed significantly during this

⁸ The Constitution of India, 1949, Art.19(1)(g)

⁹ Sumit Kochhar, Gagandeep Singh Vig & Shivam Gera, Navigating the Evolving Landscape: An Analysis of Gaming Laws in India, Taxmann (May 23, 2025, 06:07 PM)

<https://www.icci.edu/media/webmodules/CSJ/July/14.pdf>

time, setting the stage for the development of an urban gaming culture. Mobile gaming had become a major force in changing the gaming scene in India by the late 2000s. Gaming has expanded beyond PCs and consoles thanks to the widespread use of smartphones and progressively more reasonably priced data plans. Due to their straightforward and captivating gameplay, classic mobile games like Candy Crush Saga, Temple Run, and Angry Birds have become incredibly popular across a wide range of demographics. More smooth online experiences were made possible by the advent of 3G and later 4G networks, which increased the availability of digital game downloads through sites like Google Play and the Apple App Store and broadened the appeal of multiplayer games. Because it became accessible to people from a wide range of socioeconomic backgrounds, this era democratized gaming. Millions of people from tier-2 and tier-3 cities as well as rural areas were able to engage in mobile gaming thanks to inexpensive smartphones and inexpensive internet. Mobile gaming quickly took over as India's most popular digital entertainment due to its ease of use and accessibility.

The 2010s marked the rise of eSports and professional gaming in India, fuelled by the success of competitive games like Counter-Strike, Dota 2, PUBG Mobile, and Free Fire. These games fostered a competitive environment that drew in large audiences, sponsors, and professional teams. Indian players began participating in both national and international tournaments, which offered substantial prize money and greater visibility. Platforms such as Mobile Premier League (MPL) and Dream11 significantly contributed to the rise of real-money gaming and fantasy sports, merging gaming with mainstream entertainment. The Indian eSports sector started to formalize, with events like the Indian Gaming Show and eSports India Nationals becoming essential happenings. This organization of the industry attracted investments and encouraged the development of a lively competitive gaming scene. Consequently, Indian gamers gained international recognition, marking the nation's entry into the global professional gaming landscape. Alongside the increased engagement in gaming, the Indian game development sector began to gain traction. Local developers started creating culturally relevant games that resonated with Indian players, such as Ludo King, Teen Patti, and RummyCircle. These games gained immense popularity not only in India but also among the global Indian community. Numerous Indian companies like Nazara Technologies, Zynga India, Octro Games, and Dream11 emerged as significant contributors to the casual and real-money gaming markets. Indian developers are becoming more involved in international partnerships and are generating higher-quality games, highlighting India's expanding potential as a worldwide center for game development. With an emphasis on localized content and creativity, the Indian

gaming industry is establishing a distinct presence in both local and global markets. Despite its swift expansion, the Indian gaming sector confronts considerable regulatory hurdles. Issues regarding gaming addiction, the psychological effects of violent or age-inappropriate content, and the legal uncertainties surrounding real-money gaming have led some state governments to implement regulatory measures. In some regions, out of concern for user welfare, popular games like PUBG Mobile and Free Fire have even faced bans. The legal framework for online gaming in India is inconsistent, with disparate regulations across states, particularly for games involving monetary stakes, such as online poker, fantasy sports, and skill-based games. This absence of a unified legal approach has spurred calls for a centralized regulatory system to guarantee data protection, user safety, and industry accountability. As discussions about legality and ethical gaming practices evolve, the industry finds itself at a pivotal point where clearer regulations could influence its future development and structure.¹⁰

Laws governing Gaming in India

Digital gaming operates under various legal frameworks that include intellectual property rights, consumer protection regulations, online safety protocols, data privacy laws, accessibility standards, and content oversight. Intellectual property legislation, encompassing copyrights and trademarks, provides developers and publishers with the authority to manage the use and distribution of their works. These laws are vital for preventing unauthorized use and ensuring that creators receive the commercial and moral recognition for their products. Consumer protection regulations are essential for maintaining transparency and fairness in the marketing and selling of video games. These legal measures safeguard consumers from misleading advertising, false claims, and unfair business practices, allowing gamers to make knowledgeable purchasing choices. At the same time, laws that address harmful online activities, including cyberbullying, stalking, and harassment, are important for creating a safe and respectful gaming environment.

In certain regions, there are specific laws designed for the digital gaming sector. For example, the Children's Online Privacy Protection Act (COPPA) in the U.S. regulates the collection and handling of personal data from children under 13. In Japan, the Japan Game Rating and Administration Committee (JGRAC) supervises game content and establishes regulatory

¹⁰ Pratibha Tripathy, Saurabh Tiwari and Huma Kauser Waheed, An Analysis of Online Gaming Industry in India, Vol.7 Issue 1, IRLMETS, 2381-2395 (2025)

https://www.irjmets.com/uploadedfiles/paper//issue_1_january_2025/66343/final/fin_irjmets1737058120.pdf

standards through a self-regulatory approach. Moreover, games that include gambling or betting elements are subject to gambling laws, which aim to protect users from fraud and promote responsible gaming behavior. Data privacy and protection are also major issues in the realm of digital gaming. Regulations such as the General Data Protection Regulation (GDPR) in the European Union and the California Consumer Privacy Act (CCPA) in the U.S. govern how personal data is gathered, stored, and processed by game developers. These frameworks strive to safeguard players' sensitive information from misuse or unauthorized access. Accessibility represents another crucial legal aspect. Laws like the Americans with Disabilities Act (ADA) in the U.S. and the Equality Act in the U.K. require that games be developed in a manner that ensures accessibility for players with disabilities. Adhering to such legislation guarantees that digital entertainment is inclusive and available to a broader audience.

Additionally, laws concerning the age classification of games help protect children and younger audiences from unsuitable content. Regulatory organizations like the Entertainment Software Rating Board (ESRB) in the U.S. and the Pan European Game Information (PEGI) in Europe provide mandatory age and content ratings that game publishers must comply with. The legal environment surrounding digital gaming is complex and differs considerably from country to country. However, these regulations have common objectives: securing consumer rights, ensuring player safety and well-being, encouraging ethical game development and marketing practices, and advancing accessibility and inclusivity within the gaming community.

The regulation of gaming and betting in India is mainly governed by several important laws. The Indian Contract Act of 1872 states in Section 23 that the purpose or consideration of an agreement is considered lawful unless it is specifically banned by legislation or would undermine the intentions of any legal provision if permitted.¹¹ Furthermore, Section 30 of the Act asserts that agreements made in the form of wagers are invalid and cannot be enforced.¹² However, these agreements are not categorized as illegal by default, which means while they cannot be enforced through judicial actions, they are not subject to criminal penalties either.

According to the Foreign Exchange Management Act, 1999 (FEMA), remittances resulting from activities like lottery wins, horse racing, and sweepstakes are expressly prohibited. This is in line with Rule 3 and Schedule 1 of the Foreign Exchange Management (Current Account Transaction) Rules of 2000. Moreover, India's Foreign Direct Investment (FDI) policy

¹¹ The Indian Contract Act, 1872, § 23

¹² The Indian Contract Act, 1872, § 30

disallows any investment or FDI from non-resident individuals or entities in businesses related to lotteries, including online formats, as well as gambling or betting ventures, such as casinos. Similarly, technological partnerships with foreign companies for the purpose of gambling or betting operations are also not allowed.

The Public Gambling Act, 1867, which is based on earlier British laws like the Gaming Act of 1845 and the Betting Act of 1853, was enacted to prevent public gambling and the running of common gaming houses. Importantly, Section 12 of the PGA offers an exception for games that rely entirely on skill. Despite being a principal piece of legislation, its implementation is restricted due to India's federal framework.¹³ The Constitution of India categorizes "betting and gambling" under the State List, empowering state governments to legislate on this issue. As a result, the central government is unable to enact a comprehensive national law on gambling unless it utilizes special powers under Articles 249,¹⁴ 250,¹⁵ or 252¹⁶ of the Constitution. Due to this, the Public gaming Act ceased to be a Central Legislation, meaning that it was no longer a law that applied to the entire country of India, as the States were granted the sole authority to create rules pertaining to "betting and gambling" as well as regulations pertaining to its taxation. India's territory. It can only still be deemed applicable under the existing framework if the state legislature adopts it voluntarily.

Prize competitions in India fall under the Prize Competitions Act 1955, which is applicable to certain states such as Andhra Pradesh, Maharashtra, Tamil Nadu, Odisha, Uttar Pradesh, Madhya Pradesh, Gujarat, Punjab, Delhi, Himachal Pradesh, Tripura, and Manipur. The Act defines a prize competition as any contest where participants engage in solving puzzles—like crosswords or missing-word games—in return for rewards. Nonetheless, there are distinct legal restrictions: the cumulative value of the prizes offered in a single competition must not exceed ₹1,000, and organizers are required to secure a license in order to legally conduct such competitions.¹⁷ Given that this law was established before the rise of the digital age, applying it to contemporary internet-based puzzle games—like Wordle—poses a challenge for judicial interpretation. Since the Act does not explicitly specify the format or medium through which the puzzle is presented, its broad wording may indeed cover online puzzle games. Therefore, if a digital puzzle game is deemed a "prize competition" under the Act, its creators or operators

¹³ The Public Gambling Act, 1867, § 12

¹⁴ The Constitution of India, 1949, Art.249

¹⁵ The Constitution of India, 1949, Art.250

¹⁶ The Constitution of India, 1949, Art.251

¹⁷ The Prize Competitions Act, 1955, § 4

might be obligated to comply with the regulatory requirements established by the law, including obtaining licenses and adhering to prize value limits.

The structure and content of video games frequently involve a range of creative components—including characters, stories, music, and design—that can be eligible for protection under Indian intellectual property legislation, particularly the Copyright Act and the Trademark Act. These laws enable creators to protect their proprietary material, and any unauthorized usage of such content without the appropriate licenses can result in legal repercussions. Beyond intellectual property issues, advertising practices within the gaming industry are monitored under the Consumer Protection Act, which aims to protect consumers from misleading marketing and unfair business practices. While there is no specific law directly regulating advertising in India, industry participants generally follow the guidelines established by the Advertising Standards Council of India. With the advent of internet technology in gaming, advertisements have become an integral aspect of the gaming experience, appearing during gameplay, within mobile applications, or on associated websites. Nonetheless, there is always a chance that such advertisements may include deceptive representations or surrogate promotions, making compliance with existing consumer protection regulations essential. Additionally, the Information Technology Rules, 2021, mandate that advertisements targeting games with addictive features or monetary aspects must include appropriate disclaimers, primarily to protect minors.

On the technological front, the Information Technology Act was originally established to oversee digital transactions and combat cybercrimes. Although this legislation does not specifically address online gaming, certain provisions are relevant, particularly those relating to cyberbullying, a significant concern in online multiplayer settings. In reaction to the increased prominence and economic implications of online gaming, modifications to the IT Act were made in 2023 to fill regulatory gaps specific to the sector.¹⁸

The rise of mobile gaming in India has skyrocketed, with a significant number of gamers utilizing smartphones, mainly due to the accessibility of low-cost internet services. As a result, promotional tactics often include SMS-based marketing. This form of communication is governed by the Telecom Commercial Communications Customer Preference Regulations,

¹⁸ Swardeep Singh and Yatan Pal Singh Balhara, Rules for Online Gaming Regulation in India: The Endgame or We need to Level Up? Vol.46 Issue 6, IJPM, 589-592 (2023)

https://www.researchgate.net/publication/376277612_Rules_for_Online_Gaming_Regulation_in_India_The_Endgame_or_We_Need_to_Level_Up

2018, established by the Telecom Regulatory Authority of India. These regulations oversee the provision of SMS-based services, including those related to Value Added Services or frequent SMS interactions initiated by games. Therefore, game developers must ensure compliance with these telecom regulations when integrating such features into their offerings.

Another critical area of concern is the management of personal data by gaming and esports companies. These organizations often handle sensitive information to enhance multiplayer functionalities and manage user profiles. Gamers typically need to provide personal information such as names, birth dates, contact details, payment information, IP addresses, and performance statistics during registration. As online gaming continues to gain traction in India, it is crucial that personal data is managed responsibly and within a well-defined legal framework. The recently implemented Digital Personal Data Protection Act addresses these issues by introducing measures to ensure the secure and lawful management of user data within the online gaming environment.

The regulation of gambling and betting in India varies widely, with many States adopting the Public Gambling Act (PGA), while others such as Andhra Pradesh, Delhi, Gujarat, Maharashtra, Jammu and Kashmir, Meghalaya, and Goa have chosen to create their own unique laws that cater to local interests. Some States have a special exemption for skill-based games, but others, such as Telangana, Andhra Pradesh in Tamil Nadu, Odisha in Odia and Assam, have implemented ambiguous prohibitions that make no distinction between skill or chance games. In certain States, unique statutory structures have been established to interpret and handle gambling regulations autonomously. For example:

Nagaland has implemented a novel and progressive legislative strategy with the implementation of the Nagaland Prohibition of Gambling, Promotion and Regulation of Online Games of Skill Act, 2015. There is a clear differentiation between games of skill and gambling in this law. It also defines games of skill, including those that require strategic decision-making, selection of teams or virtual stocks based on analysis, and even the application of mental and physical dexterity. The Act outlines a list of skill-based games, including Chess, Rummy, Poker, and online sports fantasy leagues. While gambling is prohibited by the Act, the operation and regulation of games like skill are permitted, as long as they are not illegal and can only be played online in areas where such games are considered gambling. The Act aims to establish a widespread application in States where these games are legally recognized as being played regardless of level of skill.

Goa opted for a different approach with the implementation of the Goan, Daman and Diu Public Gambling Act in 1976, which not only allowed gambling but also permitted it under controlled conditions. Amendments in the 1990s introduced Section 13A, which gave the State Government the power to allow electronic slot machines onboard gaming vessels and in five- star hotels. The legal status of casinos and games of chance in Goa is a rarity in India.¹⁹

The Sikkim Online Gaming (Regulation) Act, 2008 and accompanying 2009 have been implemented by Sikkim to regulate gaming. Rules. Licensed operation of certain online games like Poker and Blackjack is permitted by these laws. Online games were confined to registered gaming parlors using intranet-based systems under the 2015 amendment, which limited access to the State'. Additionally, a notification issued by the State government in 2016 prohibited Sikkim residents from engaging in casino activities within the state.

Game classification and regulation of gaming are not uniform across States, leading to regulatory obstacles and strategic opportunities for the industry. As online and competitive gaming become more prevalent in India, the divergence in legal approaches highlights the need for consistent policies that are clear and equitableGaming's popularity as a form of entertainment and business ventures remains strong, despite the complicated legal system, which may be influenced by changing consumer tastes.

The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021and its 2023 Amendment

The Rules of Information Technology, 2021 were significantly revised to incorporate provisions for online gambling. On April 6, 2023, the Government of India introduced a comprehensive regulatory framework to regulate online gaming in the country. This marked a major policy change towards accepting and dealing with the challenges of online gaming platforms, particularly those related to money transactions. In 2022, the central government made clear its intention to establish a systematic oversight body for online gaming, which was preceded by specific proposals to regulate this industry. A preliminary step was taken in December 2022 through the amendment of the Government of India (Allocation of Business) Rules, 1961. Online gaming was placed under the jurisdiction of the Ministry of Electronics and Information Technology (MeitY) through this amendment, which resulted in administrative control being centralized within a single ministry. Following this structural

¹⁹ Goan, Daman and Diu Public Gambling Act 1976, § 13A

shift, the public was invited to review and consult on draft amendments to the IT Rules related to online gaming in January 2023. During this period, industry players, civil society organizations and citizens were all allowed to provide feedback and raise concerns. The government made public the new Online Gaming Rules on April 6, 2023, following a review of the responses received during this consultation. A comprehensive strategy has been put in place to tackle issues related to user protection, monetary efficiency, and regulatory accountability in the fast-growing realm of online gaming. The new regulations essentially establish intermediaries who offer online games with real money transactions as part of the MeitY regulatory structure. MeitY must acknowledge the Self-Regulatory Bodies (SRBs) that regulate these intermediaries and are accountable for establishing standards of ethical conduct, safety, and operational transparency. These separate SRBs operate as independent bodies under the obligation to monitor and oversee online gaming intermediaries of their member companies and to ensure that they meet regulatory requirements. Games that don't require payment, which are often free to play, are typically not included in this regulation. However, MeitY has the authority to designate certain free-to-play games as legitimate money games if they involve indirect monetization or pose similar risks.²⁰ An 'Online Gaming Intermediary' is defined as any online service that allows users to access one or more online games through its computer resources. A comprehensive definition permits regulatory oversight to be applied to a diverse range of entities, including dedicated gaming platforms and multifunctional applications that include gaming features. To be considered SRBs, certain prerequisites must be met in relation to the organization's structure, functional duties, and governance arrangements. Their composition should be of independence, technical competence, and sectoral knowledge to effectively supervise the member platforms.²⁰

The SRBs must verify online real money games, but only with their own members. This is done by the verification that a particular game adheres to the defined principles of fairness, user protection and responsible gaming. The label 'approved online game scope' is applied to any game that, following verification, meets the legal and ethical standards established by the SRBs and approved by MeitY. The category encompasses both free-to-play games and those that offer real money, but the latter are subject to more stringent compliance standards, including Know Your Customer (KYC) procedures like complaints handling, grievance redressal, and age restrictions. In essence, these regulations represent a significant step towards formalising

²⁰ Saurav Ghosh, Recent Developments in India with Respect to Gaming Laws, Vol.9 Issue 5, IJL, 187-189 (2023) <https://www.lawjournals.org/assets/archives/2023/vol9issue5/9177-1697190398494.pdf>

the governance of online gaming in India, with an emphasis on driving innovation and growth within the industry while maintaining consumer rights and market integrity.

The Ministry of Electronics and Information Technology (MeitY) has recently introduced updated regulations governing the online gaming sector in India. These new rules apply to all digital gaming platforms, including those operating on mobile devices, gaming consoles, and desktop systems. A key feature of the regulatory framework is the establishment of self- regulatory organisations (SROs), which will be responsible for evaluating and certifying the legitimacy of online games. This initiative aims to promote a safer, more accountable digital gaming environment. One of the most significant provisions in the new guidelines is the mandatory implementation of know-your-customer (KYC) procedures by online gaming intermediaries. This requirement is designed to ensure proper verification of user identities during the account registration process. The primary objective is to prevent minors from gaining access to age-inappropriate games, while also tackling issues such as identity theft and fraudulent behavior. Platforms are required to use government- approved verification mechanisms, and they will be held liable for any violations. While these regulations mark a step forward in bringing clarity and structure to a rapidly growing sector, there are concerns that the rules may also hinder innovation and slow down industry growth. Additionally, despite the regulatory progress, certain definitions within the framework remain vague, creating potential for varied interpretations and compliance challenges. Given the recent implementation of these rules, it is crucial to critically assess their effectiveness, identify any gaps, and evaluate the broader implications for stakeholders within the gaming industry. Understanding the potential shortcomings and the areas these regulations may have overlooked is essential in determining their overall impact on the future of digital gaming in India.²¹

Online gaming concept and regulatory fairness are based on the "Duck Principle," which states that when two entities operate at similar risk levels, they should be subject to the same level of regulatory scrutiny, regardless as technical categories or not. The focus should be on the nature of the activities rather than the type of entity conducting them. However, the recently implemented IT Rules seem to deviate from this principle in significant ways. There are ambiguous definitions for various types of online games, which is problematic. An online game, as per the rules at the time, involves users making deposits to earn money. However, this

²¹ Sudhanshuman Naruka, Critical Analysis of New Online Gaming Rules of India, Vol.3 Issue 4, IJIRL, 1-9 (2023) <https://ijirl.com/wp-content/uploads/2023/08/CRITICAL-ANALYSIS-OF-NEW-ONLINE-GAMING-RULES-OF-INDIA.pdf>

definition does not specifically apply to games which are in-app purchases despite being "free" initially. The explanation is made more complex by the fact that "deposit" and "winnings" are not necessarily monetary. The regulatory environment created by this creates a situation where games that do not involve real money transactions may be subject to excessive regulation. A game that requires a subscription fee to access content but does not offer any prize may not be in line with the regulatory framework. The absence of rewards for these games despite their payment component may prevent them from being regulated. The rules may unintentionally take advantage of free games that have later monetized elements.¹ This discrepancy challenges the fundamental principle of the Duck Principle by regulating games that have similar gameplay but different business models in different ways.

Esports regulation is also affected by regulatory ambiguity. Competitions on these online platforms often involve competitions that reward the purchase of games. These activities are usually not related to gambling, but the inclusion of incentives makes them more difficult to categorize. Legal uncertainty could hinder the growth and innovation of esports, as companies may not offer incentives due to unclear legal terminology when it comes to online games. Several other countries have taken measures to regulate esports in a specific way, alleviating some of the concerns expressed by Indians. Almost all the new provisions seem to prioritize direct payment games. Despite this, a lot of free-to-play games can incorporate monetization strategies that mimic paid models. This fact serves as evidence that a regulatory approach that disregards the gaming industry's changing structure is flawed. Regulating should be balanced against the risks to consumer welfare and market stability. Without a well-defined risk assessment, implementing rigorously in the regulatory system can lead to inefficiencies and stifle growth. To attract investment and increase user confidence, market integrity requires a fair and transparent functioning of markets. Intermediaries are commonly characterized as those who solely assist in the exchange of information, rather than owning it or guaranteeing its accuracy. Nonetheless, gaming platforms frequently operate in a manner like publishers, engaging directly with users and shaping the gaming experience. This distinction prompts questions about whether such platforms should be subject to the same liabilities as traditional intermediaries, especially given their increased role. A gaming platform that is classified as an online gaming intermediary under the current framework may be held accountable for its actions and the content it provides. This contrasts with the traditional intermediary model, where platforms have safe harbor provisions if they maintain due diligence. These safeguards could weaken the faith of game developers and publishers, potentially harming the market's

authenticity and dynamism. Additionally, the regulatory framework introduces new due diligence requirements for gaming platforms, which include greater transparency, mandatory publication of compliance information and mandate the hiring of specially designated staff. Although these measures are designed to protect user interests, the encompassing KYC requirements (such as having Aadhaar verified documents or digital signatures) may discourage new users from taking part, especially those from communities where such documentation is not easily accessible. While these steps aim to prevent children from engaging in inappropriate gaming, they fail to tackle more serious issues such as addiction or the misuse of verified accounts by minors.

Furthermore, platforms that use digital technology such as DigiLocker may unwittingly exclude certain individuals, leading to a loss of inclusivity. Platforms, particularly those with a smaller or newer user base, may be subjected to unjust consequences without proportionate enforcement mechanisms. This would be a more equal approach, distinguishing between transactions of high value and low value with strict checks only where such an effort is required.". Certain gaming sites have already established their own KYC procedures that are geared towards the specific type of game. Financial concerns are a concern that arise from the fact that digital entities, particularly big technology firms, are involved in gathering and processing vast amounts of user data. Often, the activities of these platforms go beyond facilitation: they use user information to provide specific service offerings and influence consumer behaviour. Data collection, privacy, or security are not explicitly addressed in the New IT Rules. Why? While the IT Act's Section 72A provides for the disclosure of unlawful information, it does not fully address the issues surrounding data protection in gaming environments, particularly those involving minors. As a result: Regulatory measures have been intensified globally. For example, U.S. officials fined Epic Games for violating children's privacy. Laws such as HIPAA and GDPR provide more robust protections, focusing on safeguarded data handling and informed user consent. These worldwide systems highlight the necessity for India to establish a comprehensive data protection framework for online gaming. Some of these problems are addressed by India's Digital Personal Data Protection Act, but there are still a lot of unanswered questions. The Act's requirement for parental consent is ambiguous and does not sufficiently differentiate between age groups. Furthermore, businesses are not required by the Act to reveal their third-party data sharing policies or storage durations. Concerns regarding a lack of oversight and accountability are also raised by the provision for delegated legislation. These drawbacks demonstrate how a specific section of the IT Rules

geared towards the gaming sector could act as a *lex specialis*, guaranteeing uniformity and clarity. Although the updated IT Rules are intended to improve the online gaming industry's safety, accountability, and transparency, their current version has poor data protection measures, inconsistent application of regulatory principles, and ambiguous definitions. Aligned with global best practices, an enhanced and activity-based regulatory approach could better support industry growth while protecting consumer interests.²²

Conclusion and Suggestion

Digital gaming is a rapidly developing industry and widely enjoyed form of entertainment worldwide. Even so, the advancement has triggered various anxieties and difficulties that demand careful consideration. Gaming addiction is a significant concern. Why? Those who are addicted to video games, especially younger users, may find it difficult to concentrate on basic daily tasks like school or work. One more issue that has been widely discussed is the potential correlation between playing violent video games and exhibiting aggressive behavior, with some studies suggesting a decrease in empathy among those who play these games frequently. Moreover, the interactive nature of online multiplayer games can lead to cyberbullying, where individuals exploit the anonymity of virtual sites to harass or threaten others. The inclusion of explicit or otherwise inappropriate content in certain games can be a risk, particularly for children and teenagers, who may be unknowingly exposed to inappropriate material. In addition, certain features of in-game games, such as microtransactions like loot boxes, have been criticized for being gambling-like and causing ethical and legal questions to be asked in countries that do not permit or would ban gambling. Why is this? Another significant matter is data privacy.¹ When gaming sites collect and process large amounts of personal user data, privacy can be compromised or otherwise violated, which is a common concern. Despite efforts to improve game content, the gaming industry remains underrepresented and less inclusive, with women from marginalized communities being more prevalent in development teams and executive positions. The cost of in-game purchases and subscription-based services can quickly mount, causing financial difficulties for players, particularly those who are younger. Furthermore, the gaming industry's self-governance model has prompted calls for more stringent regulations to ensure games meet safety, appropriateness, and ethical standards. Despite the benefits of technological advancement, innovation still faces obstacles. Developing

²² Anay Mehrotra and Puneet Srivastava, Online Gaming Platforms and Self-Regulation: Exploring the Feasibility of the Mechanism, Vidhi Centre for Legal Policy (November 6, 2024, 08:41 PM)
<https://vidhilegalpolicy.in/blog/online-gaming-platforms-and-self-regulation/>

experiences that are both secure and responsible is becoming increasingly difficult for developers due to the rapid pace of development. These challenges necessitate a collaborative effort among players, families, educators, and developers in addition to regulators and other stakeholders.

Given the federal framework of India and its extensive geographical territory, individual States are endowed with the jurisdiction to legislate on matters categorized as State subjects, which encompasses gambling and betting activities. Consequently, diverse States have implemented distinct regulatory strategies regarding gaming activities, resulting in a fragmented legal environment. Furthermore, judicial interpretations throughout the nation exhibit inconsistency, particularly in relation to the differentiation between games of skill and games of chance. This variation in legal interpretation has engendered substantial ambiguity concerning the legal standing of online gaming. At present, the regulatory framework governing online gaming in India remains inadequately developed and lacks definitive clarity. Among the various States, only Nagaland has instituted specific legislation that authorizes online gaming on a national basis, contingent upon the operator obtaining a valid license. No other State or central legislative framework currently furnishes a comprehensive legal architecture for online gaming enterprises. In view of this legislative lacuna and in the absence of explicit governmental prohibitions or judicial edicts that restrict online gaming within particular States, it is generally acceptable to offer online games that can be demonstrably substantiated as predominantly reliant on skill. If a game necessitates strategic reasoning, experience, and a considerable degree of skill as opposed to mere chance—and is conducted in adherence to principles of fair play—then it is likely to be legally permissible. Nonetheless, operators must still ensure adherence to any additional stipulations or regulations that may be pertinent within individual States.