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A Regulatory Framework for the Online Gaming Sector

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List of Abbreviations

AIGF	All India Gaming Federation
AMFI	Association of Mutual Funds
AML	Anti-Money Laundering
AVGC	Animation, Visual Effects, Gaming and Comics
ASCI	Advertising Standards Council of India
CAGR	Compounded Annualised Growth Rate
EGF	E-Gaming Federation
FATF	Financial Action Task Force
FIFS	Federation of Indian Fantasy Sports
FIU	Financial Intelligence Unit
IBA	Indian Banks' Association
INR	Indian Rupee
KYC	Know Your Customer
MeitY	Ministry of Electronics and Information Technology
PLI	Production Linked Incentive
PMLA	Prevention of Money Laundering Amendment
PPIs	Prepaid Payment Instruments
RBI	Reserve Bank of India
SROs	Self-Regulatory Organisations
STRs	Suspicious Transaction Reports
UK	United Kingdom
USA	United States of America



Executive Summary

Evolution of Online Gaming in India

Digital India was launched in 2015 under the aegis of the Ministry of Electronics and Information Technology (MeitY) with the intent of improving digital infrastructure and connectivity for the people of India. An ecosystem of budding entrepreneurs and a generation of tech-savvy young Indians have emerged because of the low rates of mobile data in India.

The online gaming sector has seen unprecedented growth in India in the last couple of years, partly accentuated by the lockdown on account of the pandemic. A Lumikai Report (2022) stated that the gaming market in India was USD 2.6 billion in FY22 and is expected to hit USD 8.6 billion by 2027. Real Money Games (RMG) revenue accounted for 57 per cent of the market. There were 507 million active gamers in India, of which 120 million were paying users. India accounted for 15 billion games downloads in FY22, which was 17 per cent of global downloads, the highest in the world with 2 billion cumulative Monthly Active Users (MAUs).

The sector is a sunrise sector and can benefit immensely with the right regulatory framework. To this end, appointing MeitY as the nodal ministry is a step in the right direction. New age sectors require a more light-touch regulatory framework that is a combination of principles, rules, and self-regulation, and this is what the regulatory framework for the online gaming sector should aspire towards.

Need for Regulation

The sector suffers from several challenges including perception issues, lack of proper definition, and the constant problem of clubbing games of skill with games of chance/gambling. These uncertainties often impede growth and stymie any kind of potential innovation in the sector.

Over the past few years, gaming operators, through their associations, have attempted to put together guidelines for effective consumer protection and responsible gameplay. While the industry has been proactive in putting place these guidelines, the government holds the right to license and monitor all online gaming operators, but it became imperative to develop a more robust and holistic framework of regulation. To this effect, an Inter-ministerial Task Force was set up, to review the sector, and offer suggestions on what such a regulatory framework would encompass.



More recently, on 2nd January, 2023, MeitY published its draft amendments to the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 (henceforth known as Amendment Rules). The focus of the Amendment Rules is to protect the end consumer, and it also provides the much-needed clarity and legitimacy to the sector.

Regulatory Structure for Online Gaming Sector

Good regulation for any industry is determined by the balancing of responsibilities between policymaker, industry, and end consumers. A consumer is best placed to understand their personal circumstances, skill level, and their risk-taking abilities, but requires help from an ethical operator to ensure positive and sustainable levels of play. Thus, statutory regulation is required to protect consumers as well as the operators.

A good regulatory framework must be robust, while ensuring that innovation continues to happen. A regulatory governance structure for the online games of skill sector should begin with an overarching regulation, through which other regulatory bodies such as a gaming commission and self-regulatory organisations (SROs) can be set up.

Need for a Gaming Commission

A central regulation is necessary for this sector. However, what this regulation must do is to define games of skill, allow for the setting up of a gaming commission or regulator, and describe its functions and role in regulating the sector. The said regulator should then be responsible for setting standards, rules, and guidelines that regulate the everyday functioning of the sector. The regulator can also lay down the terms for registering online games of skill operators, granting them licenses, lay down detailed disclosure norms, and conduct compliance audits from time to time.

Creation of Self-Regulatory Organisations (SROs)

It is also important for the industry to regulate itself. The online games of skill sector has three industry associations, namely, Federation of Indian Fantasy Sports (FIFS), E-Gaming Federation (EGF), and All India Gaming Federation (AIGF). Currently, these associations lay down guidelines and rules that their members are expected to follow. This mandate includes best practices such as assistance of vulnerable players, thorough know your customer (KYC) norms to prevent underage play, data protection, and responsible gaming tools, to name a few. The fundamental role of an SRO is to ensure that the law is followed by the industry not just on paper, but also in spirit. In a regulatory framework that is both rule based and principle based, while



the regulation or regulator can enforce the rules, it will be the responsibility of the SRO, at the primary level, to enforce the principles.

Mitigating Risks

Good regulations mitigate risks. There are several risks that exist in this sector. Some of these pertain to money laundering concerns, possible addiction, and inappropriate marketing content, amongst others. A rigorous regulatory framework for India will help in mitigating these risks.

The essence of the regulatory framework for the online games of skill sector must be to encourage responsible play. There are broadly five areas that merit regulation. These are around marketing and advertisement, safeguarding minors, providing tools for responsible play, anti-money laundering and financial fraud safeguards, and grievance redressal mechanisms.

Recommendations

New age sectors require a more light-touch regulatory framework that is a combination of principles, rules, and self- regulation. A regulatory structure for the online games of skill sector should be have both SROs and a gaming commission.

Advertisements must not be targeted towards minors or those exhibiting addiction behaviour. Marketing and advertising material should not be misleading. Necessary disclaimers, information, and warnings must be made visible in all forms of marketing and advertising material.

Games of skill operators must ensure that KYC and age verification takes places before any money can be deposited to safeguard minors. New gamers must provide unique identifying details (name, address, date of birth, email address, phone number, and card or bank details) to the operator before being allowed to play with real money. These details must be confirmed and validated by the operator.

Operators must use behavioural monitoring techniques using technology and big data techniques to prevent/detect addiction. New players should go through a responsible playing tutorial before they begin participating in games of skill. All players must set self-determined limits on both deposit and time to begin participating on platforms. There must be an option for the player to set either daily, weekly, monthly, or yearly limit at the player's discretion.



All online gaming operators must be brought under the ambit of the PMLA. This would ensure certain reporting criteria and audit requirements that will have to be met. Gaming operators must be able to effectively flag suspicious transactions and report these to the concerned authorities. Deposits made to the gaming platform should not be made through either cash or cryptocurrency. High value deposit or withdrawal transactions must be reported to the concerned authority.

All operators should have robust grievance redressal mechanisms in place. Suitable emails and phone numbers for grievances along with details on the procedure with timelines on how complaints will be handled must be published on all platforms. Operators should also have a 24/7 helpline that can help with consumer complaints and enquiry.



1. The Evolution of Online Gaming in India

Digital India was launched in 2015 under the aegis of the Ministry of Electronics and Information Technology (MeitY) with the intent of improving digital infrastructure and connectivity for the people of India. India has since seen a spectacular spurt in the internet connectivity across the nation, owing to steadily growing smartphone penetration. The Production Linked Incentive (PLI) scheme to encourage manufacturing has also resulted in low-cost smartphone production.

A Deloitte report predicts that the total number of smartphone users in India will reach one billion by 2025 from its current 750 million in 2022. With a compounded annualised growth rate (CAGR) of 6 per cent in rural India and 2.5 per cent in urban India for smartphones, along with lower costs for data, it is no surprise that data consumption in India has increased. The recent pandemic also played a significant role in spurring this increase in data consumption.

Over the last decade, the government has made significant progress towards ensuring that technology reaches every Indian across geographical barriers. An ecosystem of budding entrepreneurs and a generation of tech-savvy young Indians have emerged because of the low rates of mobile data in India.

With inexpensive smartphones and inexpensive data at their disposal, many people turned to online games of skill during the pandemic period. A Lumikai Report (2022) stated that the gaming market in India was USD 2.6 billion in FY22 and is expected to hit USD 8.6 billion by 2027. Real Money Games (RMG) revenue accounted for 57 per cent of the market. There were 507 million active gamers in India, of which 120 million were paying users. India accounted for 15 billion games downloads in FY22, which was 17 per cent of global downloads, the highest in the world with 2 billion cumulative Monthly Active Users (MAUs).

However, the sector is a sunrise sector and can benefit immensely with the right regulatory framework. To this end, appointing MeitY as the nodal ministry is a step in the right direction.



2. The Need for Regulation

The online gaming sector has seen unprecedented growth in India in the last couple of years, partly accentuated by the lockdown on account of the pandemic. Users extend beyond urban centres to tier two and tier three cities as well. The sector is a sunrise sector and one that could potentially be one of the largest contributors to India's digital economy. However, the sector is still young and suffers from several challenges including perception issues, lack of proper definition, and the constant problem of clubbing games of skill with games of chance/gambling. These uncertainties often impede growth and stymie any kind of potential innovation in the sector. Furthermore, till very recently, on account of confusion in definitions, it was unclear whether regulating the sector would fall under the ambit of the central government or state governments.

Over the past few years, gaming operators, through their associations, have attempted to put together guidelines for effective consumer protection and responsible gameplay. While the industry has been proactive in putting place these guidelines, the government holds the right to license and monitor all online gaming operators. However, with the prevailing confusion over definition and the inability of the state governments to regulate online games of skill, it became imperative to develop a more robust and holistic framework of regulation.

Recognising the potential of the Animation, Visual Effects, Gaming and Comics (AVGC) in general and that of online games of skill in particular, the central government began to consider creating a central overarching regulation to regulate the online games of skill. To this effect, an Inter-ministerial Task Force was set up, to review the sector, and offer suggestions on what such a regulatory framework would encompass.

More recently, on 2nd January, 2023, MeitY published its draft amendments to the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 (henceforth known as Amendment Rules)¹. The industry has been expecting these draft rules for some time now, and after various consultations with different government departments and relevant stakeholders, the Amendment Rules have been placed on public domain for comments and feedback.

The focus of the Amendment Rules is to protect the end consumer , and it also provides the much-needed clarity legitimacy to the sector.

¹ <https://www.meity.gov.in/writereaddata/files/Draft%20notification%20for%20amendment%20to%20IT%20Rules%202021%20for%20Online%20Gaming.pdf>



3. Regulatory Structure for the Online Games of Skill Sector

Good regulation for any industry is determined by the balancing of responsibilities between policymaker, industry, and end consumers. For the online games of skill industry, this is at the heart of an effective regulatory strategy. A consumer is best placed to understand their personal circumstances, skill level, and their risk-taking abilities, but requires help from an ethical operator to ensure positive and sustainable levels of play. Thus, statutory regulation is required to protect consumers as well as the operators.

A good regulatory framework must be robust, but it also needs to be nimble in order to be able to assimilate the changes that take place in the sector, while ensuring that innovation continues to happen. For this purpose, a single central all-encompassing legislation may not be a prudent choice; instead, what would be more suitable for India would be a tiered approach to regulation. India's rule making process is structured in such a way that amendments to central legislations take time. This has often resulted in India missing the bus on either regulatory supervision or in capitalising on a growth trajectory that is taking place globally.

Several laws for important sectors have been written and discussed in parliament extensively, but have never seen the light of day. The Micro Finance Bill is an excellent case in point. Even the proposed form of the Digital Personal Data Protection Bill (2022) is an amended version of its earlier form of Personal Data Protection Bill. Newer versions of the proposed law are being propounded mostly because of the difference in the pace at which the sector it proposes to regulate is developing. In this day and age of digital development, any regulation that is formulated has to be forward thinking and must take into account future innovations.

A regulatory governance structure for the online games of skill sector should begin with an overarching regulation, through which other regulatory bodies such as a gaming commission and self-regulatory organisations (SROs) can be set up.

3.1 The Need for a Gaming Regulator

A central regulation is necessary for this sector. However, what this regulation must do is to define games of skill, allow for the setting up of a gaming commission or regulator, and describe its functions and role in regulating the sector. The central regulation must also specify who the stakeholders are in the sector and broadly state the principles upon which the newly established regulator will create guidelines and rules.



The said regulator should then be responsible for setting standards, rules, and guidelines that regulate the everyday functioning of the sector. These can and should be a combination of both rule based and principle based regulations. The regulator can also lay down the terms for registering online games of skill operators, granting them licenses, lay down detailed disclosure norms, and conduct compliance audits from time to time. It would also be the responsibility of this gaming commission or regulator to interact with other regulators where necessary and undertake detailed consultations with industry for a more collaborative approach to rule making. This way, amendments to existing rules are easier to make and regulations per say are less rigid and more nimble.

3.2 The Importance of Self-Regulatory Organisations (SROs)

While the aforementioned regulator will lay down rules and guidelines, it is also important for the industry to regulate itself. Self-regulatory organisations (SROs) have become an important part of any regulatory framework. SROs facilitate better interaction between industry and policymakers. SROs tend to set standards for their members and ensure that each member adheres to guidelines and best practices laid down by them, usually in line with industry and global best practices. Many regulators also encourage the setting up of SROs because the SROs are able to build consensus across the sector. An important pre-requisite for an SRO to be successful is its acceptability amongst the industry. An SRO must have a reasonable level of acceptability amongst industry participants.

The online games of skill sector has three industry associations, namely, Federation of Indian Fantasy Sports (FIFS), E-Gaming Federation (EGF), and All India Gaming Federation (AIGF), act as SROs. These associations lay down guidelines and rules that their members are expected to follow. This mandate includes best practices such as assistance of vulnerable players, thorough know your customer (KYC) norms to prevent underage play, data protection, and responsible gaming tools, to name a few. For any online gaming operator seeking legitimacy, it is best to be part of any of the existing industry associations, so as to bring about some semblance of uniformity in practices by the sector. Continued memberships have been incumbent upon compliance and in some cases, clearing the audit conducted by an external third party.

The fundamental role of an SRO is to ensure that the law is followed by the industry not just on paper, but also in spirit. In a regulatory framework that is both rule based and principle based, while the regulation or regulator can enforce the rules, it will be the responsibility of the SRO, at the primary level, to enforce the principles.



4. What to Regulate?

Even though the gaming sector in India has been growing at a phenomenal rate, the ecosystem is still behind international markets, such as, UK, United States of America (USA), and Europe, to name a few. While USA is predominantly a rules based regulatory system, the UK follows a more principle based approach, and may therefore be a better benchmark for the Indian ecosystem.

Good regulations mitigate risks. There are several risks that exist in this sector. Some of these pertain to money laundering concerns, possible addiction, and inappropriate marketing content, amongst others. A rigorous regulatory framework for India will help in mitigating these risks.

While players can reasonably be expected to take proper responsibility for themselves, companies also must ensure that they have systems in place, either through self-regulation or through statutory regulations or guidelines, to understand potential risks involved and a methodology to mitigate these risks.

The essence of the regulatory framework for the online games of skill sector must be to encourage responsible play. There are broadly six areas that merit regulation.

4.1 Marketing and Advertisement

Marketing and advertisement is a big part of the online games of skill market. A 2021 Deloitte report estimates that market size of advertisements for this sector to be INR 36.2 billion in 2021, and that it is likely to increase to INR 98.9 billion by 2025. Multiple channels of marketing and advertising are available today. While the traditional formats of print and media and offline advertisements still abound, it is the age of digital marketing. Given the extent of the market for advertisements for this sector, certain kinds of safeguards are imperative.

There are broadly three areas that must be regulated. First, advertisements must not be targeted towards minors or those exhibiting addiction behaviour. Second, marketing and advertising material should not be misleading. Third, necessary disclaimers, information, and warnings must be made visible in all forms of marketing and advertising material.



First, when it comes to minors² (or persons at risk), advertising and marketing initiatives cannot occur in any format that caters to them. The legal age for playing must be specified on every advertisement or marketing initiative, as well as the main website of the operator at all times. Advertisements must not be allowed on television, radio programs or websites accessed by minors, such as channels and programmes that are predominantly meant for minors. Minors should not be a target group for any form of advertisement or marketing through any kind of platform, but particularly online marketing. Suitable changes to algorithms must be made. Similarly, newspapers or publications meant for minors should not carry such advertisements. No company memorabilia carrying either the company's name and/or logo or details of games must be made available to children. Similarly, sponsorship and advertisements at events that are viewed extensively by minors also must also be carefully considered. Minors may not be permitted to appear in any advertisement or endorsement. Similar safeguard should also be applied for players who are identified as risky.

Second, advertisements and marketing material cannot be misleading about the likelihood of winning. Operators can only claim a gift or prize or freebie to be free if it is indeed so and can be fulfilled completely to that extent. Advertisements and marketing material cannot imply that playing games of skill as a solution to financial woes or as a means to make a quick profit.

Third, the industry must include suitable disclaimers, warning, and information in all their advertising and marketing material, and on their website. These would typically include publishing minimum age eligibility to participate in games of skill, information on what responsible play means and where to find more information, information on how to ask for help in the event a consumer feels themselves at the risk of addiction, and that these games are for entertainment only and not a means to solving financial woes or making a profit. Warnings must also include that there is a possibility of users losing money. The disclaimers put in place by the mutual fund industry in all their advertising and marketing material, has been extremely effective in preventing mis-selling.

India must look at international experience to see how advertisements from this sector have been regulated. An "Advisory Paper on Regulation of Skill Gaming for Player

² The United Kingdom has been focussed on the protection of minors. Two papers have dealt with this in detail. The first is "Advisory Paper on Regulation of Skill Gaming for Player Protection," by Gambling Integrity and the second is "Gaming in the UK (England and Wales): overview." The latter can be accessed here" [https://uk.practicallaw.thomsonreuters.com/6-634-9345?transitionType=Default&contextData=\(sc.Default\)&firstPage=true](https://uk.practicallaw.thomsonreuters.com/6-634-9345?transitionType=Default&contextData=(sc.Default)&firstPage=true)



Protection” by Gambling Integrity, a UK based company, looks at various international regulations that have been put in place to regulate advertisements from this sector. Internationally, there has been a call for moderation in advertising for real-money games. In the USA, all operators are required to provide details of their sites to parent control software providers to prevent advertising or marketing to minors. In Europe, there are guidelines to moderate real-money advertising to avoid appealing to minors. In France, an “advertising moderator” has been created that allows people to set their own limits on the number of ads they see online. In India, this responsibility can easily be taken up by the Advertising Standards Council of India (ASCI), an SRO that sets advertisement standards and guidelines for India.

4.2 Safeguarding Minors

Online games of skill, particularly those that use real money, are meant for adults. While regulating advertisements so that minors are not targeted is one important aspect, regulations are required to address other important issues pertaining to minors. A mandatory minimum age eligibility is a must and must be fixed through regulation. This means that the platforms and operators will have to ensure that proper age verification is undertaken by collecting suitable know your customer (KYC) documents and validating the same, before a player is permitted to deposit money.

Children above the age of ten are allowed to open and operate their own bank accounts without a guardian subject to limits on withdrawal than can be imposed at the bank’s discretion. It is also common to see children use mobile wallets for everyday transactions. While these are all excellent initiatives undertaken by the government to encourage financial literacy, games of skill operators must ensure that monies that are being used do not come from either bank accounts or wallets of minors. Similar restrictions must also be put in place by mobile wallet providers and banks.

Through the customer identification process there should be a clear message regarding underage play and the steps the operator takes to check on age. This means that customers must provide unique identifying details (name, address, date of birth, email address, phone number, and card or bank details) to the operator before being allowed to play with real money. The customer also must agree to the terms and conditions, including the section that outlines that one must be over the legal age to begin playing. These details must be confirmed and validated by the operator.



4.3 Providing Tools for Responsible Play

Online games of skill are a new age source of entertainment to many, particularly the younger generation. With many traditional forms of social entertainment and interactions ruled out on account of the pandemic and the lockdown, many chose to keep themselves entertained by participating in online games of skill. This is a sector that has demonstrated incredible growth and it is not likely to stop. It is therefore important to ensure that users are educated about responsible play to mitigate any downside risk of addiction.

When approaching policymaking for responsible play, one must start on the premise that individuals, if not guided properly, are not likely to play responsibly. The complete onus of playing responsibly cannot be placed on the consumer alone. The operators must play a significant role in encouraging and guiding their consumers.

International operators offer a variety of tools that encourage responsible play, many of which are adopted by the larger Indian operators. These include features that allow for setting self-determined limits on deposits and time while playing. The foremost downside risk that responsible gaming tools must account for is mitigating financial loss. It is this loss that eventually leads to other problems, including possible addiction. Giving players the option to set limits in terms of money deposited and in terms of time spent on playing can help mitigate the risk of financial harm.

A large operator in UK and Ireland³, has set monthly deposit limits for players below the age of 25. This allows new young players to participate in games of skill in a controlled manner and learn how to play responsibly before all limits are self-determined. Platforms could also follow this example and set a monthly deposit limit for new players under the age 25, for an initial pre-determined period of them joining any platform. This would also allow for younger players to learn how to play responsibly and will automatically limit any possible losses. Another tool that could be adopted is to allow for players to set either daily, weekly, monthly, or annual deposit limits.

In India, regulations will be ineffective in setting limits for either deposits or for time spent on the platform. This is because India does not have a system through which transactions and playing patterns across all platforms can be viewed collectively.

³ <https://www.flutter.com/news-and-insights/press-release/flutter-uk-ireland-launches-policy-to-enhance-protections-for-under-25s/>



Instead, regulations can mandate operators to mandatorily provide for limits on deposits and time spent on their platforms. What could also be considered is for new players to mandatorily go through a responsible playing tutorial before they begin participating in games of skill and for every consumer to go through the same tutorial every once in a while.

The tutorial should clearly explain the responsible play tools available on the platform and also explain possible downside risks of not playing responsibly. All players must set self-determined limits on both deposit and time to begin participating on platforms. These may be reviewed and changed at player discretion, but limits must be set.

This will also allow operators to collect data on player behaviour to identify potentially risky consumers. India could also consider restricted/limited use of credit cards for making deposits for the purpose of playing games of skill.

4.4 Anti-Money Laundering (AML) and Financial Fraud Safeguards

The risk of money laundering is an important risk to mitigate and one that can only be done through regulation. India already has a Prevention of Money Laundering (Amendment) Act (2009) and a Financial Intelligence Unit (FIU), Ministry of Finance. As a first step, all online gaming operators must be brought under the ambit of the PMLA. This would ensure certain reporting criteria and audit requirements that will have to be met.

The biggest concern over money laundering is over the origin of funds. Gaming operators must be able to effectively flag suspicious transactions and report these to the concerned authorities. Several tools already exist across geographies, including India, and across sectors to monitor transactions.

As a first rule, deposits made to the gaming platform should not be made through either cash or cryptocurrency. Acceptable modes of payment must be through registered financial entities, typically banks, credit and debit cards, and few mobile wallets. The first round of checks on source of funds would have already been carried out by such regulated financial entities.

However, it would be prudent to also place some onus of identifying suspicious activity on the operator as well. Most international jurisdictions, already have strong Anti-Money Laundering laws in line with the Financial Action Task Force (FATF).



For operators in India, a few processes must be made mandatory in the interest of PMLA. These could include no use of cash for any kind of transaction (as already mentioned), no duplication of accounts on one platform, linking banking accounts and wallets details from which consumers deposit money to get a holistic idea of spending patterns, conducting regular KYC and updating documentation regularly, reporting high value deposit or withdrawal transactions to the concerned authority, and creating a closed loop for transactions, which means, money withdrawn will return to the same source as deposit (except in the case of debit and credit cards, where monies should be transferred back to bank account). It would be ideal if platforms could limit the number of channels through which deposits can be made to a maximum of five, including banks, debit cards, and wallets.

While these should be mandatory, it is up to the operator to put in place suitable technology and algorithms to flag problematic transactions and spot duplicate accounts on the platform and as a source of deposit across multiple accounts.

In this day and age of data analytics, big data, machine learning, artificial intelligence, technology can be greatly leveraged to track player behaviour and transactions. Unlike many international jurisdictions, including the UK where gaming operators include access to several forms of personal financial information including bank accounts and payslips, in India, this would not be possible. Hence it becomes important to use technology to identify any red flags that may exist based purely on transactions details and patterns and report any suspicious activity to the concerned authority.

4.5 Grievance Redressal

Grievance redressal is an important part of consumer protection. Robust grievance redressal mechanisms invariably prevent escalations and help manage expectations better for the consumer and the operator. It also ensures that the operator remains accountable not just to the regulator but also to its consumers.

All operators should have robust grievance redressal mechanisms in place. This should ideally include publishing suitable emails and phone numbers for grievances along with details on the procedure with timelines on how complaints will be handled. Operators should also have a 24/7 helpline that can help with consumer complaints and enquiry. They must also be equipped to provide consumers who have queries on responsible gaming tools.



In the UK, comprehensive guidelines for online games have been developed. There is also a regulatory authority in place to handle complaints received from the general public. Further, there is a mandatory social responsibility audit that members must undertake. This could also be the responsibility of the recommended gaming regulator for India.

4.6 Doing Away with Social Taboo

It has only been in the very recent past that India has been talking openly about mental health. For many years, asking for help to deal with a mental problem had a strong stigma attached to it, leading to many suffering silently and as a result several succumbing to it.

While operators and the government can do everything possible to mitigate risks of addiction by encouraging responsible play, it would be folly to assume that the system is fool proof.

Operators, through technology, should look out for consumers who are at risk and ensure that suitable messages about where to seek help and whom they can talk to are prominently displayed for reasonable periods of time. Internationally, whole teams are set up as part of management to track consumer behaviour and pattern so that at risk consumers are identified early on and remedial measures may be suggested to them.

As part of encouraging responsible playing, it is also the responsibility of the operator to market these aspects of responsible play so that the stigma against problems relating to addiction are reduced and eventually disappear over a period of time. The UK gaming watchdog, UK Gaming Commission, in fact levies steep fines on platforms that have failed to ensure player protection. A similar mechanism must also be considered for India.



5. Summary of Recommendations

When tasked with creating a regulatory framework for any sector, it is important to answer the following questions of whom to regulate, why there is a need for regulation, how to regulate, and what aspects to regulate.

The online gaming industry needs a regulatory framework. It needs one because it is a sunrise sector, with immense potential for growth and innovation. However, it has also faced its share of challenges in terms of perception, fly by night operators, and money laundering apprehensions. There is a need for regulation to ensure that the sector grows well, the industry develops and innovates responsibly, and ultimately the end consumer is protected.

5.1 How to Regulate?

1. New age sectors require a more light-touch regulatory framework that is a combination of principles, rules, and self- regulation.
2. A regulatory structure for the online games of skill sector should be contain the following:
 - a. A statutory regulator or Gaming Commission which would be responsible for granting licenses, setting standards, rules and guidelines, and conducting compliance audits that regulate the everyday functioning of the sector.
 - b. Self-Regulatory Organisations, which would set standards for their members and ensure that each member adheres to guidelines and best practices laid down by them, usually in line with industry and global best practices. SROs will ensure that the principles of regulation are met. The SRO can also help enhance rules over time as it understands the industry best.
3. An important pre-requisite for an SRO to be successful is its acceptability amongst the industry. An SRO must be reasonably well accepted by the participants in the industry.
4. SROs must develop frameworks for assistance of vulnerable players, thorough KYC norms to prevent underage play, AML procedures, data protection, and responsible gaming tools.



5.2 What to Regulate?

Good regulations mitigate risks. There are several risks that exist in this sector. Some of these pertain to money laundering concerns, possible addiction, inappropriate marketing content, amongst others, and it is these risks that require regulation.

5.2.1 *Marketing and Advertisement*

- A.** Advertisements must not be targeted towards minors or those exhibiting addiction behaviour.
- i. Advertising and marketing initiatives cannot occur in any format that caters to minors or persons at risk.
 - ii. The legal age for playing must be specified on every advertisement or marketing initiative, as well as the main website of the operator at all times.
 - iii. Advertisements must not be allowed on television channels, radio programs or websites that are predominantly meant for minors.
 - iv. Minors should not be a target group for any form of advertisement or marketing through any kind of platform, but particularly online marketing.
 - v. Newspapers or publications meant for minors should not carry such advertisements.
 - vi. No company memorabilia carrying either the company's name and/or logo or details of games must be made available to children.
 - vii. Sponsorship and advertisements at events that are viewed extensively by minors also must also be carefully considered.
 - viii. Minors may not be permitted to appear in any advertisement or endorsement.
 - ix. Similar safeguard should also be applied for players who are identified as risky.



- B.** Marketing and advertising material should not be misleading.
- i. Advertisements and marketing material cannot be misleading about the likelihood of winning.
 - ii. Operators can only claim a gift or prize or freebie to be free if it is indeed so and can be fulfilled completely to that extent.
 - iii. Advertisements and marketing material cannot imply that playing games of skill as a solution to financial woes or as a means to make a quick profit.
- C.** Necessary disclaimers, information, and warnings must be made visible in all forms of marketing and advertising material.
- i. Industry must include suitable disclaimers, warning, and information in all their advertising and marketing material, and on their website.
 - ii. Minimum age eligibility to participate in games of skill must be displayed at all times.
 - iii. Information on what responsible play means and where to find more information, information on how to ask for help in the event a consumer feels themselves at the risk of addiction, and that these games are for entertainment only must also be easily visible.
 - iv. Warnings must also include that there is a possibility of users losing money.

5.2.2 *Safeguarding Minors*

- A.** Games of skill operators must ensure that monies that are being used do not come from either bank accounts or wallets of minors. This can be done by ensuring that KYC and age verification takes places before any money can be deposited.
- B.** New gamers must provide unique identifying details (name, address, date of birth, email address, phone number, and card or bank details) to the operator before being allowed to play with real money.



- C. Gamers must also agree to the terms and conditions, including the section that outlines that one must be over the legal age to begin playing. These details must be confirmed and validated by the operator.

5.2.3 *Providing Tools for Responsible Play*

- A. The complete onus of playing responsibly cannot be placed on the consumer alone. The operators must play a significant role in encouraging and guiding their consumers.
- B. Operators must use behavioural monitoring techniques using technology and big data techniques to prevent addiction.
- C. New players to mandatorily go through a responsible playing tutorial before they begin participating in games of skill and for every consumer to go through the same tutorial every once in a while.
- D. Operators to mandatorily provide for limits on deposits and time spent on their platforms.
- E. All players must set self-determined limits on both deposit and time to begin participating on platforms. These may be reviewed and changed at player discretion, but limits must be set.
- F. There must be an option for the player to set either daily, weekly, monthly, or yearly limit.
- G. India could also consider restricted/limited use of credit cards for making deposits for the purpose of playing games of skill.

5.2.4 *AML and Financial Fraud Safeguards*

- A. All online gaming operators must be brought under the ambit of the PMLA. This would ensure certain reporting criteria and audit requirements that will have to be met.
- B. Gaming operators must be able to effectively flag suspicious transactions and report these to the concerned authorities.
- C. Deposits made to the gaming platform should not be made through either cash or cryptocurrency. Acceptable modes of payment must be through registered financial entities, typically banks, credit and debit cards, and few mobile wallets.



- D. No duplication of accounts on one platform must be permitted.
- E. Banking accounts, wallets details, and cards from which consumers deposit money must be linked to get a holistic idea of spending patterns.
- F. KYC must be regularly updated.
- G. High value deposit or withdrawal transactions must be reported to the concerned authority.
- H. A closed loop for transactions should be mandated, which means, money withdrawn will return to the same source as deposit, except in the case of debit and credit card transactions, in which case, it should be transferred into the bank account.
- I. It would be ideal if platforms could limit the number of channels through which deposits can be made to a maximum of five, including banks, debit cards, and wallets.

5.2.5 *Grievance Redressal*

- A. All operators should have robust grievance redressal mechanisms in place.
- B. Suitable emails and phone numbers for grievances along with details on the procedure with timelines on how complaints will be handled must be published on all platforms.
- C. Operators should also have a 24/7 helpline that can help with consumer complaints and enquiry. They must also be equipped to provide information to consumers who have queries on responsible gaming tools.

5.2.6 *Doing Away with Social Taboo*

- A. Operators, through technology, should look out for consumers who are at risk and ensure that suitable messages about where to seek help and whom they can talk to are prominently displayed for reasonable periods of time.
- B. As part of encouraging responsible playing, it is also the responsibility of the operator to market these aspects of responsible play so that the stigma against problems relating to addiction are reduced.



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