

MP-IDSA *Commentary*

Regulating India's Online Gaming Industry

Rohit Kumar Sharma

September 30, 2024

S*ummary*

The government has implemented regulations to successfully harness the potential of the online gaming industry while also ensuring user protection.

Introduction

India’s online gaming industry is rapidly expanding. With 442 million gamers, India has become the second-largest gaming market globally.¹ Despite a 28 per cent GST on online gaming, the sector is projected to reach US\$ 8.92 billion in the next five years, according to an assessment. As one of the rapidly growing segments in the entertainment industry, there are many concerns associated with the online gaming industry, such as potential addiction, cybersecurity issues, and other malicious activities.² Recently, an investigation by the Enforcement Directorate against an online gaming app has led to the disclosure of an estimated Rs 400 crore fraud.³ To tackle these challenges, the Indian government has laid down rules to support the steady growth in the online gaming sector while implementing measures to prevent illicit activities and potential pitfalls.

Security Challenges in Online Gaming

Given that the online gaming platforms operate in the digital realm, it becomes a jurisdictional nightmare for regulatory authorities to curb malicious activities such as illegal betting and gambling that operate outside the jurisdiction of the countries where the users reside.⁴ Offshore operators are free to operate as they wish, without being bound by strict cybersecurity and information security standards, increasing the risk of personal and financial data breaches. These unregulated gambling websites have reportedly been vulnerable to cybersecurity threats such as Distributed Denial-of-Service (DDoS) attacks, phishing and ransomware attacks.⁵

Online gaming platforms have also been maliciously exploited for money laundering and terror financing activities. Gaming applications based in foreign jurisdictions have served as channels for cross-border financial transfers.⁶ To address this issue, India is reportedly advocating for online gaming companies to be brought under the Anti-Money Laundering (AML) and Countering the Financing of Terrorism (CFT) framework.⁷

¹ Aryaman Gupta, “[Indian Gaming Industry to Grow to \\$8.92 billion in Next 5 Years: Report](#)”, *Business Standard*, 9 July 2024.

² “[Guardians of Safe Play: Ethical Gaming for Vibrant Bharat](#)”, GrantThornton and E-Gaming Federation, 10 July 2024.

³ Saikat Kumar Bose, “[An Online Gaming App, Promise of Big Prizes and a ₹ 400-crore Fraud](#)”, *NDTV*, 26 September 2024.

⁴ “Curbing Betting and Gambling in India: A National Security Imperative”, Report, Rashtriya Raksha University, 2024.

⁵ *Ibid.*, p. 12.

⁶ Rimjhim Singh, “[India Seeks FATF Oversight for Online Gaming to Curb Money Laundering Risks](#)”, *Business Standard*, 24 September 2024.

⁷ *Ibid.*

Key Government Initiatives

Before delving into specific regulations, it is essential to differentiate between games of skill and games of chance to implement an adequate mechanism to regulate the real-money gaming ecosystem. In numerous judicial pronouncements, it has been laid down that games of skill rely on a player’s abilities and decisions, while games of chance are primarily based on random outcomes.⁸ Courts have repeatedly recognised “skill gaming” as a protected activity under Article 19(1)(g) of the Indian Constitution.

As online games become more immersive and accessible, the Government of India has implemented significant legislative and advisory measures to promote the organised growth of the industry, aligning with its broader goal of ensuring an ‘open, safe, trusted and accountable’ internet for its users.⁹ To address the existing challenges in the industry, the government designated the Ministry of Electronics and Information Technology (MeitY) as the key authority for online gaming matters.¹⁰

The MeitY released draft amendments to the Information Technology Intermediary Rules 2021 pertaining to online gaming for public consultations. The extensive consultations included a wide range of stakeholders, including parents, school teachers, academics, students, gamers and gaming industry associations, child rights organisations, etc. Elaborating on the rationale for these regulations, the then Minister of State for Electronics and IT underlined the need for a comprehensive framework for the online gaming ecosystem. He also emphasised that regulations would facilitate the Indian online gaming ecosystem to grow and contribute to India’s one trillion digital economy goal by 2025–26.¹¹

Amendments to the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021

In April 2023, aligning with Prime Minister Narendra Modi’s vision of ‘Indian Techade’ and the goal of a US\$ 1 trillion digital economy, MeitY implemented a framework for online gaming through amendments to the IT Rules 2021.¹² The amendment aims to ease the expansion of online gaming innovation in the country while also protecting

⁸ “Guardians of Safe Play: Ethical Gaming for Vibrant Bharat”, Grant Thornton and E-Gaming Federation, no. 2, p. 12.

⁹ [“Regulation of Online Gaming”](#), Press Information Bureau, Ministry of Electronics & IT, Government of India, 16 December 2022.

¹⁰ [“Notification”](#), Cabinet Secretariat, The Gazette of India, 23 December 2022.

¹¹ [“MeitY Releases Draft Amendments to the IT \(Intermediary Guidelines & Digital Media Ethics Code\) Rules, 2021 in Relation to Online Gaming”](#), Press Information Bureau, Ministry of Electronics & IT, Government of India, 2 January 2023.

¹² [“Government Notifies Amendments to the Information Technology \(Intermediary Guidelines and Digital Media Ethics code\) Rules, 2021 for an Open, Safe & Trusted and Accountable Internet”](#), Press Information Bureau, Ministry of Electronics & IT, Government of India, 6 April 2023.

citizens from illegal betting and wagering online.¹³ It also aims to enforce due diligence by online gaming intermediaries. The initiative will also provide clarity and certainty in terms of policy framework to young entrepreneurs engaged in the online gaming industry.

The amendment defines key terms such as an ‘online game’, the meaning of an ‘online gaming intermediary’, ‘online real money game’, a ‘permissible online game’ and ‘permissible online money game’. According to Rule 2 (qa), an online game is ‘a game that is offered on the internet and is accessible by a user through a computer resource or an intermediary’.¹⁴ Rule 2 (qb) defines an online gaming intermediary as ‘any intermediary that enables the users of its computer resource to access one or more online games’.¹⁵ Similarly, an online real money game is ‘an online game where a user deposits cash or kind with the expectation of earning winnings on that deposit’.¹⁶

The rules require online gaming intermediaries to exercise due diligence by making reasonable efforts to ensure their platforms do not host, display or share any information related to online games that are not verified as permissible online games under the framework nor promote surrogate advertisements of such games.¹⁷ The intermediaries are also expected to provide users with adequate mechanisms to ensure privacy and transparency.

The rules also mandate that intermediaries establish user redressal mechanisms by appointing a grievance officer. Furthermore, online gaming intermediaries are required to publish a physical contact address in India on their website, mobile applications, or both to receive communications. Intermediaries must ensure that user information collected adheres to the ‘purpose limitation principle’, meaning that information gathered for verification purposes cannot be used for any other reasons.

To ensure transparency, the rules also mandate intermediaries to share information with users regarding:

1. The policy regarding the withdrawal or refund of deposits made by users to participate in permissible online real money game.
2. Cybersecurity measures are taken to protect user deposits.¹⁸

Intermediaries are barred from providing credit or facilitating third-party financing for users to participate in any authorised online real money game.

¹³ Ibid.

¹⁴ [“The Information Technology \(Intermediary Guidelines and Digital Media Ethics Code\) Rules, 2021”](#), Ministry of Electronics & IT, Government of India, 6 April 2023.

¹⁵ Ibid.

¹⁶ Ibid., Rule 2 (qd).

¹⁷ Rule 3 (1) (b) (ix–x).

¹⁸ Rule 4 (1 1a & b).

Self Regulatory Bodies

A major step introduced in these amendments is the establishment of MeitY recognised Self-Regulatory Bodies (SRBs), enabling self-regulations with government oversight. According to Rule 4A, the MeitY is empowered to designate as many online gaming self-regulatory bodies as necessary for the purpose enshrined in the amendments. The SRBs, as per rules, are tasked with verifying an ‘online real money game as a permissible online real money game’.¹⁹ The role of SRBs forms the core of the enabling framework as it also encourages multi-stakeholder participation. To be designated as an SRB, an entity must meet specific criteria outlined in the amendments.

Before verifying an online real money game as permissible,, the SRB must ensure that the intermediary complies with the rules established under the framework. The online games that are involved in wagering are prohibited under the regulations. The SRB is also responsible for helping users understand the risks of gaming addiction, financial loss and fraud by providing relevant information on their websites, ensuring that users are aware of the potential downsides.

The SRB is also responsible for maintaining an updated list of all permissible online real money games on its website, mobile application, or both at all times. It is also advisable, as per the rules, that the MeitY take into consideration the details published by the SRB before issuing directions under Section 69A of the IT Act, 2000.

Interestingly, in a recent move, the government has decided to take on the regulatory role for the online gaming sector, a role that was carved out for an industry-led SRB.²⁰ According to reports, since the gaming industry primarily dominated the proposals submitted to MeitY, the government decided to take on the regulatory role itself.

It is also pertinent to note that despite no specific and direct implications for online gaming in the Digital Personal Data Protection Act 2023, the law forms part of India’s broader legal framework for digital governance and privacy protection. The intermediaries will have to ensure that they adhere to the Indian data protection framework while accessing, processing and controlling users' data.

Government Advisories on Advertisements

The Ministry of Information & Broadcasting has been actively issuing advisories for some time, addressing the advertising and promotion of online gaming, fantasy sports and related activities. One such advisory was issued on 4 December 2020 to all private satellite TV channels, asking them to adhere to the guidelines issued by

¹⁹ Rule 4A.

²⁰ Jatin Grover, [“MeitY to Prepare Guidelines Soon: Proposals for Industry Body Rejected, Centre to Regulate e-gaming”](#), *The Indian Express*, 13 February 2024.

the Advertising Standards Council of India (ASCI).²¹ The ASCI’s guidelines on online gaming ask advertisers not to depict any person under the age of 18 engaged in playing online gaming for real money and also not to deceive the audience by portraying such games as an income opportunity or an alternative employee option.

In June 2022, the Ministry of Information & Broadcasting issued advisories to newspapers, private satellite television channels, and publishers of news content on digital media to refrain from hosting advertisements on online betting websites.²² The Central Consumer Protection Authority (CCPA), in one of its advisories, highlighted the issue of celebrities and influencers endorsing and promoting betting activities, advising them to refrain from endorsing such activities.²³

The MeitY has also issued an advisory, supplemented with evidence that offshore betting platforms are using news as a cover to promote betting.²⁴ It also urged intermediaries to avoid hosting such information on their platforms. In light of growing incidents of financial and socio-economic risk for consumers, especially youth and children, it is critical to ensure that intermediaries follow these advisories failing which they draw penalties for omitting their duties.

Amidst these regulatory changes, the industry has signed a voluntary ‘Code of Ethics for Online Gaming Industries’ in December 2023, reinforcing the industry’s commitment towards the growing sector in alignment with the government’s vision of an open, safe, trusted and accountable internet for its users.²⁵

Conclusion

To successfully harness the potential of the online gaming industry while also ensuring user protection, the government has implemented regulations, laying a robust foundation for self-regulation alongwith adequate government oversight. By introducing mechanisms such as SRBs and their role in verification of permissible online games, the government has ensured participation of multiple stakeholders in the process. The recent decision by the MeitY to take over the role meant for SRBs merits attention and must be deliberated upon to ensure the adequate participation of SRBs, albeit with reasonable, not overwhelming participation from the online gaming industry. It is equally important to harmonise different existing laws to address various layers within the online gaming ecosystem for efficiently regulating the sector.

²¹ [“Advisory on Advertisements on Online Gaming, Fantasy Sports, etc.”](#), Ministry of Information & Broadcasting, Government of India, 4 December 2022.

²² [“Advisory”](#), Ministry of Information & Broadcasting, Government of India, 13 June 2022.

²³ [“Advisory in terms of Consumer Protection Act, 2019 on Prohibition of Advertising, Promotion, and Endorsement of Unlawful Activities Prohibited Under Various Laws”](#), Central Consumer Protection Authority (CCPA), 6 March 2024.

²⁴ [“Ministry Issues Advisory against Advertisements of Betting Still Visible on Television and Digital Media”](#), Press Information Bureau, Ministry of Information & Broadcasting, Government of India, 3 October 2022.

²⁵ Aryaman Gupta, [“Gaming Industry Signs Code of Ethics for Safe, Trusted & Accountable Gaming”](#), *Business Standard*, 5 December 2023.

About the Author



Mr. Rohit Kumar Sharma is Research Analyst at the Manohar Parrikar Institute for Defence Studies and Analyses, New Delhi.

Manohar Parrikar Institute for Defence Studies and Analyses is a non-partisan, autonomous body dedicated to objective research and policy relevant studies on all aspects of defence and security. Its mission is to promote national and international security through the generation and dissemination of knowledge on defence and security-related issues.

Disclaimer: Views expressed in Manohar Parrikar IDSA's publications and on its website are those of the authors and do not necessarily reflect the views of the Manohar Parrikar IDSA or the Government of India.

© Manohar Parrikar Institute for Defence Studies and Analyses (MP-IDSA) 2024