



## Urgent Need for Regulation of India's Online Gaming Industry

This editorial is based on [“Regulating India’s online gaming industry”](#) which was published in The Hindu on 15/01/2024. The article discusses the meteoric rise of online gaming in India which has brought with it an array of concerns such as addiction, mental illness, suicides, financial frauds, privacy, data security concerns etc. and also suggests strictly regulating the same.

**For Prelims:** [Online Gambling in India](#), [Consumer Protection Act 2019](#), [Public Gambling Act, 1867](#), [Information Technology \(Intermediary Guidelines and Digital Media Ethics Code\) Rules, 2021](#), [Digital India](#), [Game of Skill](#), [Lottery](#), [Betting](#).

**For Mains:** Online Gambling in India and its pros and cons, Impact on Indian Economy.

**Online gaming** involves playing games through the internet, facilitating player connections and collaborative gameplay irrespective of their physical locations. It is accessible on various devices, including computers, and mobile phones. **Online gambling** involves participating in gambling activities through the internet by placing bets or wagers on games and events to win money or prizes. It can be played on various devices and involves virtual chips or digital currencies instead of cash.

The distinction between gaming and gambling depends on the element of skill involved. If an online activity does not require skill, it will be considered gambling rather than gaming. Gaming activities are dependent on skill, while gambling activities rely on chance.

### What is the Current Scenario of the Indian Online Gaming Ecosystem?

- **Growth Prospects:** The online gaming industry in India is predominantly a home grown start-up ecosystem growing at 27% CAGR. It is widely estimated that [Artificial Intelligence \(AI\)](#) and online gaming can add up to USD 300 billion to India’s GDP by 2026-27.
  - According to a 2021 report published by Boston Consulting Group (BCG), India’s mobile gaming sector will grow from USD 1.5 billion in revenue in 2020 to USD 5 billion by 2025.
- **Bills for Regulating Gaming Industry:** During the Budget session of Parliament, the Online Gaming (Regulation) Bill, 2022 was introduced in Lok Sabha as a [Private Members Bill](#).
  - The Bill sought to maintain integrity in online gaming and introduce a regulatory regime for online gaming.
    - A task force set up by the MeitY has prepared a final report of its recommendations to regulate the online gaming industry in India.
  - Earlier, states like Tamil Nadu, Telangana, Andhra Pradesh, and Karnataka also passed laws banning online games.
    - However, they were quashed by state High Courts on grounds that an outright ban was unfair to games of skill.
    - The government of Rajasthan brought out a draft Bill in order to regulate online games, specifically fantasy games.

- **Increasing Gaming Companies:** At present, there are more than 400 gaming companies in India including Infosys Limited, Hyperlink InfoSystem, Fgfactory, and Zensar Technologies, among others.

## What is the Legality of Online Gaming and Gambling in India?

- **Legal Jurisdiction:** The state legislators are, vide Entry No. 34 of [List II](#) (State List) of the Seventh Schedule of the [Constitution of India](#), given exclusive power to make laws relating to Gaming, [Betting and Gambling](#).
  - Most Indian states regulate gaming on the basis of a distinction in law between 'games of skill' and 'games of chance'.
- **Public Gambling Act, 1867:** At present, India has just one central law that governs gambling in all its forms. It's called the [Public Gambling Act, 1867](#), which is an old law, ill-equipped to handle the challenges of digital casinos, online gambling and gaming.
  - Recently, the Finance Ministry of India announced a 28% [Goods and Services Tax \(GST\)](#) on online money gaming, casinos, and horse racing.
- **The Lotteries Regulation Act, 1998:** The lottery is considered legal in India. The lottery should be organised by the state government and the place of Draw should be in that particular state.
- **Foreign Exchange Management Act (FEMA), 1999:** Remittance of the income generated from lottery winning, and racing/riding is prohibited under [FEMA Act, 1999](#).

## What are Different Concerns in Online Gaming in India?

- **Loss to Exchequer:**
  - The lack of adequate regulation has allowed illegal offshore gambling markets to thrive, causing harm to users and substantial losses to the exchequer.
    - The illegal offshore gambling and betting market receives USD 100 billion per annum in deposits from India and has registered a growth rate of 20% in the past three years.
- **Concerns About Addictive Online Gaming Behavior:**
  - There are growing concerns surrounding the addictive nature of certain online gaming activities, leading to potential compulsive behaviour, neglect of responsibilities, and negative impacts on mental health.
    - These issues highlight the need for a closer examination of the psychological effects of prolonged gaming.
- **Financial Risks in Online Gaming:**
  - Individuals, especially vulnerable demographics, may face financial risks, including debt and economic hardship, due to excessive spending on gaming.
    - This raises questions about responsible consumer engagement and emphasises the importance of ethical considerations in the gaming industry.
- **Regulatory Ambiguity in Distinguishing Skill-Based Gaming and Gambling:**
  - The lack of clear definitions between skill-based gaming and gambling introduces regulatory ambiguity, sparking ethical debates and diverse interpretations about the nature of these gaming activities.
    - Addressing this ambiguity is crucial for establishing fair and responsible regulations in the gaming industry.
- **Means for Money Laundering:**
  - Online gambling can be used as a means for [money laundering](#), where players can deposit large amounts of cash into online accounts and then withdraw the money in a legitimate form.
- **Prone to Cyber-Attacks:**
  - Online gambling sites can be vulnerable to [cyber-attacks](#), which can lead to the theft of sensitive personal and financial information of the players, thus violating the data protection rules and infringing upon the privacy of the users.
- **Social Detachment:**
  - Online gambling can lead to social isolation, as players can spend hours playing games online, leading to a lack of social interaction with family and friends. This runs the risk of making children delinquent.
- **Emerging Cybercrime Trends:**

- The Parliamentary Standing Committee on Finance identified trends in cybercrime, including the use of international online betting sites for money laundering.
- Insufficient regulation contributes to these issues, highlighting the need for a specialised regulatory authority.

## What Steps Can be Taken to Regulate Online Gaming in India?

### ▪ Urgent Need for Robust Regulation in Online Gaming:

- There is an urgent need for robust regulation in the online gaming industry. Attempts by some state governments to ban online gaming face challenges due to the cross-border nature of the internet.
  - The Online Gaming (Regulation) Bill, 2022, introduced as a [Private Members Bill](#), should be reformed and adopted by the [Parliament](#).

### ▪ UK's Centralised Regulatory Approach:

- The UK has a centralised government regulator for online gaming, publishing quarterly reports on the effects of regulation.
- Strict enforcement and targeted efforts have led to a decline in disordered gaming and medium-to-low risk gaming behaviour, highlighting the positive impact of a centralised regulatory approach.

### ▪ Balancing Regulated and Unregulated Segments of Market:

- An unregulated market may not deliver the greatest benefit to society overall.
- The [International Monetary Fund \(IMF\)](#) suggests that a weak approach to regulatory enforcement creates a fertile ground for the proliferation of a shadow economy, as seen in the Indian online gaming industry.
  - A balanced approach is needed for responsible growth of the industry.

### ▪ Information Technology Rules as a Step Towards Oversight:

- The [Information Technology \(Intermediary Guidelines and Digital Media Ethics Code\) Rules, 2021](#), marked a commendable step towards oversight in the online gaming industry.
  - However, the delayed notification of Self-Regulatory Bodies has slowed progress, emphasising the need for strict regulation to protect the large gaming population in India.

### ▪ Ensuring Overall Well-being of Society:

- Establishing a framework is urgent not only for protecting digital citizens and national interests but also for ensuring the responsible growth of the online gaming sector.
  - The focus should be on harm reduction, player protection, and the overall well-being of society.
- The regulatory framework should be compliant with the data privacy norms as per [Digital India Act, 2023](#) and [Information Technology Act, 2000](#).

### ▪ Corporate Ethical Responsibility in Online Gaming:

- Corporations, big or small, operate on the basis of profit-driven motives. Gaming companies neglect ethical responsibility to ensure their platforms do not exploit users or encourage addictive behaviours.
  - Prioritising user well-being over profit motives becomes imperative, emphasising the ethical role that corporations play in shaping a responsible gaming environment.

### ▪ Comprehensive Research and Analysis:

- Invest in extensive research on the psychological and socio-economic impacts of online gaming, facilitating evidence-based policymaking and data-based decision making and the development of effective regulatory measures.

## Conclusion

The evolving landscape of digital markets, particularly in the online gaming industry, reveals the pressing issue of market failure stemming from inadequate regulation. The surge in online gaming, while promising economic growth, has led to a host of concerns, from addiction and mental health issues to financial frauds and national security risks. The urgent need for a robust regulatory framework in India becomes evident not only for safeguarding users and national interests but also for fostering responsible growth in the online gaming sector, addressing issues of tax evasion and shadow economy proliferation.

**Drishti Mains Question:**

How does the exponential growth of the online gaming industry in India necessitate urgent and comprehensive regulatory measures to address societal, economic, and national security concerns?

**UPSC Civil Services Examination, Previous Year's Question (PYQs)**

**Prelims**

**Q1. Which of the following is/are the aim/aims of “Digital India” Plan of the Government of India? (2018)**

1. Formation of India's own Internet companies like China did.
2. Establish a policy framework to encourage overseas multinational corporations that collect Big Data to build their large data centres within our national geographical boundaries.
3. Connect many of our villages to the Internet and bring Wi-Fi to many of our schools, public places and major tourist centres.

**Select the correct answer using the code given below:**

- (a) 1 and 2 only
- (b) 3 only
- (c) 2 and 3 only
- (d) 1, 2 and 3

**Ans: (b)**

**Q2. 'Right to Privacy' is protected under which Article of the Constitution of India? (2021)**

- (a) Article 15
- (b) Article 19
- (c) Article 21
- (d) Article 29

**Ans: (c)**

**Q3. Right to Privacy is protected as an intrinsic part of Right to Life and Personal Liberty. Which of the following in the Constitution of India correctly and appropriately imply the above statement? (2018)**

- (a) Article 14 and the provisions under the 42<sup>nd</sup> Amendment to the Constitution.
- (b) Article 17 and the Directive Principles of State Policy in Part IV.
- (c) Article 21 and the freedoms guaranteed in Part III.
- (d) Article 24 and the provisions under the 44<sup>th</sup> Amendment to the Constitution.

**Ans: (c)**

**Mains**

**Q.1 Examine the scope of Fundamental Rights in the light of the latest judgement of the Supreme Court on Right to Privacy. (2017)**

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