



ALL INDIA GAMING FEDERATION'S (AIGF) RESPONSE TO TELECOM REGULATORY AUTHORITY OF INDIA'S (TRAI) CONSULTATION PAPER ON INPUTS FOR FORMULATION OF NATIONAL BROADCASTING POLICY 2024

INTRODUCTION

All India Gaming Federation (AIGF) is the apex industry body for online gaming in India. As the oldest, largest, and the most diverse industry association for online gaming, AIGF has been actively engaged with policymakers to demonstrate the benefits of a regulated online gaming sector. We represent over 150 members including online skill-gaming companies and game developers across all formats and genres. Our membership includes multiple unicorns and the largest number of Indian MSME gaming start-ups, with a combined user base exceeding 40 crore users.

We welcome the opportunity to comment on the Telecom Regulatory Authority of India's Consultation Paper. The policy discussions on issues surrounding online gaming have been ongoing for a few years and we are grateful to the Government of India for its constant engagement with and support of the sector. We acknowledge and thank TRAI for its efforts on examining various critical issues relating to online gaming. We believe that with the progressive regulatory and tax framework, online gaming can become the cornerstone of the USD 1 trillion digital economy as envisioned by the Hon'ble Prime Minister.

India's online gaming industry has witnessed tremendous growth in recent years, propelled by increasing internet penetration, widespread usage of UPI, emergence of indigenous gaming content and the constant support of the Government of India. Online



gaming is today a USD 2.20 billion industry and expected to reach USD 4.00 billion by 2026.¹ There are over 450 million online gamers in India and the pay to play gaming comprised 83% of sector's revenues with free to play games and esports exhibiting robust growth.

Given that the industry is very nascent, any regulation should be focused on consumer safety and ease of innovation. In this background, we fully subscribe to the Hon'ble PM's recent remarks on online gaming, where he said that there should not be top-down regulation for the industry and a light touch regulation bringing the industry under an organised legal structure will uplift its reputation and let it grow and boom².

ALL INDIA GAMING FEDERATION'S (AIGF) SUBMISSION ON QUESTION 9 ON ONLINE GAMING

Question 9. Online gaming being a rising sector holds potential for contributing to economy, what policy and regulatory aspects should be adopted for the orderly growth of online gaming in India? Further, suggest measures to support local game developers to compete and grow. Also suggest safeguards to protect public (especially underage players) from negative and psychological side effects, while promoting healthy gaming.

Response: The online gaming sector in India has the potential to drive employment, tax revenues, and technological breakthroughs for Digital India into the next decade. The sector has witnessed a high CAGR and demonstrated robust geographic expansion into

¹ Available at https://assets.ey.com/content/dam/ey-sites/ey-com/en_in/topics/media-and-entertainment/2024/ey-in-india-s-media-entertainment-sector-is-innovating-for-the-future-03-2024-v1.pdf.

² Available at <https://indianexpress.com/article/india/pm-modi-regulation-gaming-industry-interactions-top-games-9267777/>.



Tier 2 and 3 Indian cities as well. However, continued growth in the sector requires an appropriate regulatory regime, clear policy direction and well-crafted incentives. The following are the most high-priority aspects in this regard:

- 1. REGULATORY CLARITY:** In December 2022, the *Government of India (Allocation of Business) Rules, 1961* were amended³ to bring regulation of ‘online games’ under the mandate of the Ministry of Electronics and Information Technology (**MeitY**). With this clear mandate, MeitY retains the regulatory power to introduce laws and regulations concerning the sector. In exercise of these powers, MeitY notified the *Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 (IT Rules)* which gave greater legal recognition to online games of skill (pay to play games or **RMGs**) and proposed to bring them under a self-regulatory framework with ministerial oversight. These rules provide a mechanism to distinguish online games of skill from ‘games of chance’ (*where there is wagering on the outcome*). The latter category of games is illegal in most Indian states.

The IT Rules have been designed to enable self-regulatory bodies to verify which online games are permissible in the country and provide a mandatory mark of verification to such games.

Importantly, IT Rules also incorporate safeguards and due diligences for online games to implement for the benefit of consumers. These include measures to protect from psychological harm of users, know-you-customer procedures, safeguards for children through access control mechanisms, and protections against financial loss or fraud. The IT Rules also provide gamers with the right to grievance redressal, as well as representation within the self-regulatory body itself. Hence, these rules

³ Available at <https://www.meity.gov.in/meity-business-rules>.



already envisage a framework that accounts for user interests, financial integrity, and responsible gaming.

However, the IT Rules are yet to be implemented as self-regulatory bodies for online games have not been designated by MeitY. The beneficial regulatory environment laid out under these rules can only take shape once they are implemented. This would be the best way forward towards providing regulatory clarity to the gaming sector.

Further, the nodal ministry for online gaming, MeitY, is also engaged in preparing the draft of a new 'Digital India Act' to replace the Information Technology Act, 2000,⁴ which is expected to also regulate online games. It is suggested that MeitY may incorporate lessons learnt for the implementation of IT Rules to design and provide an expanded framework for all online games into the Digital India Act.

As we navigate the complexities of the digital age, it becomes increasingly evident that our regulatory frameworks must evolve to encompass the interconnected nature of online activities. Specifically, the realm of online gaming presents unique challenges that cannot be effectively addressed in isolation. Instead, it is imperative to regulate online gaming under a broader umbrella that also governs other tech-related issues.

First and foremost, online gaming intersects with various aspects of digital technology and issues including intermediary liability, age-rating, growing emergence of AI in gaming etc. By regulating it within a broader framework, we can ensure consistency and coherence in addressing these interconnected concerns. This approach allows for a comprehensive understanding of the risks and opportunities

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Available at https://www.meity.gov.in/writereaddata/files/DIA_Presentation%2009.03.2023%20Final.pdf.



associated with online gaming, enabling regulators to implement policies that safeguard both consumers and the integrity of online platforms.

Moreover, the rapid evolution of technology necessitates a flexible regulatory approach that can adapt to emerging trends and innovations. By integrating online gaming regulation into a broader framework, regulators can more effectively anticipate and respond to the dynamic nature of the digital landscape. This proactive stance is essential for fostering innovation while mitigating potential risks associated with new technological developments.

Furthermore, regulating online gaming within a broader framework promotes regulatory efficiency and reduces duplication of efforts. Rather than creating separate regulatory bodies and processes for each digital domain, consolidating oversight under a unified umbrella enhances coordination and streamlines enforcement efforts and is in line with the Government’s “whole of Government” approach. This not only optimizes resource allocation but also minimizes regulatory gaps and inconsistencies that may arise from fragmented approaches to governance. By embracing this holistic approach, MeitY can effectively address the multifaceted challenges posed by online gaming while promoting innovation, consumer protection, and the integrity of digital ecosystems.

- 2. TACKLING ILLEGAL GAMBLING SITES AND ADVERTISEMENT:** Intertwined with the issue of regulatory clarity are concerns of illegal offshore gambling sites and their advertising. At present, the proliferation of online offshore gambling poses a significant threat to Indian users. Such online platforms are illegal in most states under their public gambling laws, as these platforms offer games of chance (*i.e. games where the element of chance is predominant over skill*).



As per estimates, illegal betting activities are causing significant tax losses, with an estimated inflow of USD 100 billion per year, and a GST loss of 28 percent of that amount.⁵ According to another estimate, certain offshore online gambling operators are collecting USD 12 billion per year from India users⁶, which is causing a loss of at least USD 2.5 billion per annum in GST alone to the national exchequer.⁷

These entities have proved to be difficult to shut down as they are established outside the country and continue to operate within the country through mirror links, while targeting their advertising specifically at Indian users. Efforts to prosecute or block access to their services have not been successful due to their offshore nature of operation, beyond the reach of Indian law enforcement. Proliferation of these illegal platforms has endangered Indian users who are not able to distinguish them from legitimate, safe online games, and exposed them to risks of financial fraud.

The Ministry of Information and Broadcasting (**MIB**), as noted in TRAI's consultation paper, has issued advisories to all the stakeholders including media entities, online advertisement intermediaries and social media platforms to not show direct/indirect advertisements of betting and gambling platforms. However, this of issue has persisted despite the multiple MIB advisories, as recent as March 2024.⁸ Regarding such advertising, the role of the Advertisement Standards Council of India (**ASCI**) is crucial. However, the identification of errant advertising can be simplified by

⁵ Available at <https://timesofindia.indiatimes.com/business/india-business/illegal-betting-and-gambling-tax-authorities-losing-rs-2-lakh-crore-annually-says-report/articleshow/104556382.cms>; <https://www.financialexpress.com/business/brandwagon-offshore-betting-platforms-to-mushroom-in-the-absence-of-regulating-authorities-reveals-think-change-forum-report-3280423/>.

⁶ Available at <https://www.livemint.com/companies/news/regulate-betting-banning-it-helps-no-one-parimatch-11671727219971.html>.

⁷ Available at <https://economictimes.indiatimes.com/news/india/aigf-estimates-usd-2-5-bn-gst-loss-from-offshore-illegal-betting-firms/articleshow/109402214.cms>.

⁸ Available at <https://mib.gov.in/sites/default/files/Advisory%20dated%2021.03.2021%20%281%29.pdf>.



implementing the verification marks as provided for permitted games under the IT Rules. This will enable MIB, ASCI, advertisers, and the public in accessing a whitelist of legitimate online games, and immediately identify content belonging to unmarked illegal gambling platforms.

- 3. IMPLEMENTING AVGC POLICY IN MISSION MODE:** Apart from the implementation of appropriate laws, it is also essential to provide the necessary impetus to the domestic gaming sector, and particular to upcoming Indian game developers. To provide this support, the Central Government constituted an Animation, Visual Effects, Gaming & Comics (**AVGC**) Task Force to promote growth in the sector, which published its report.⁹ Multiple state governments are also in the process of formulating AVGC policies.

Key recommendations of the report for game development included establishment of specialized centers and hubs that focus on gaming, to be focal points of innovation and talent creation, and promoting gaming content that brings Indian culture and stories to a global audience. The report also recommends financial benefits, tax exemptions, or support in accessing global markets as incentives to entrepreneurs working in this sector. The report also called for a 'National AVGC-XR Mission' with a budget outlay. It is suggested that the implementation of AVGC recommendations in mission mode would be the ideal strategy for harnessing the potential of the sectors continued growth and innovation.

In conclusion, it is imperative to ensure a conducive light touch regulatory environment and robust support mechanisms to nurture a responsible and thriving online gaming. By coming up with regulations which are centered around user welfare

⁹ Available at <https://mib.gov.in/sites/default/files/AVGC-XR%20Promotion%20Taskforce%20Report%20-%202022.pdf>.



and aligning them with industry needs and fostering innovation, India can emerge as a global gaming innovation hub, contributing significantly to its economic and cultural growth.