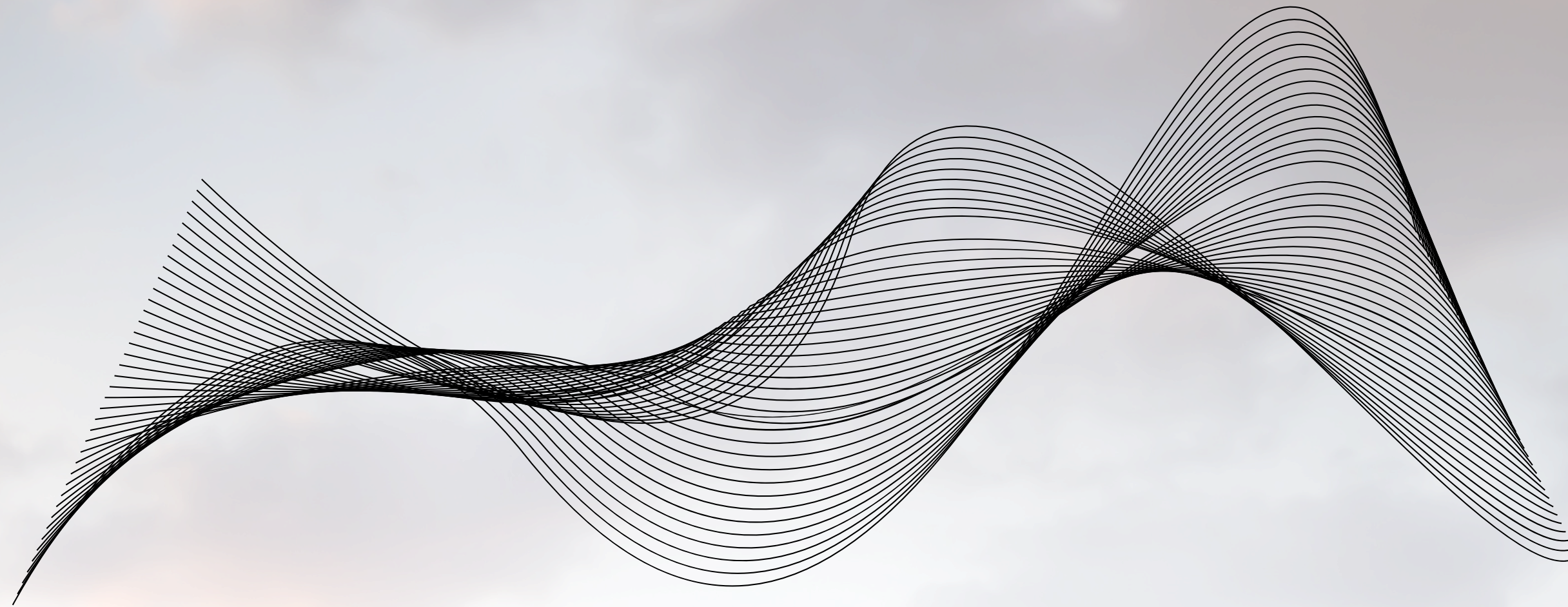




# THE PROMOTION AND REGULATION OF ONLINE GAMING ACT, 2025

## PART II

The Restrictive Side of the Gaming Act: Bans, Penalties, and Implications



# BACKGROUND - INDUSTRY SIZE AND GROWTH

## RAPID GROWTH OF ONLINE GAMING IN INDIA

- The Indian online gaming industry has seen exponential growth in the past decade.
- Market size: \$3.7B in 2024 → projected \$9.1B by 2029.\*
- 400+ million gamers, making India the 2nd largest user base globally.
- **Drivers:** cheap data, smartphone boom, young population, VC funding.

## KEY PLAYERS & PERFORMANCE

- Dream11: \$8B valuation, 150M+ users.\*\*\*
- MPL: \$2.5B valuation, multi-game platform.
- Gameskraft: ₹3,475 cr revenue, ₹947 cr profit (FY24).\*\*
- Zupee: ₹146 cr PAT FY24 (from ₹36 cr loss FY23).\*\*
- Nazara stock down 13% post Bill passage – market fears of revenue loss.\*\*\*

## FINANCE AND FUNDING

- \$2B+ raised by gaming start-ups (2019–2024).
- Of the total funding raised by gaming companies between 2019 and 2024, a significant portion, 90% (\$2.5B) invested into Real Money Gaming (**RMG**) sector.
- RMG = 86% of total revenue share.\*

## EMPLOYMENT IMPACT

- 50,000+ direct jobs, 2,00,000+ total jobs incl. game developers, marketing, support services.\*\*\*\*

\*Economic Times

\*\*Angel One

\*\*\*Hindustan Times

\*\*\*\*Economic Times



# WHY THIS ACT - RISING CONCERNS DRIVING REGULATION

## ADDICTION & MENTAL HEALTH

WHO (ICD-11) recognises both Gaming Disorder\* and Gambling Disorder\* as medical conditions – involving impaired control, prioritising play/betting over daily life, and continuation despite harm. Rising cases in India highlight the urgency of regulation.

## FINANCIAL RUIN

Multiple suicides\* and family bankruptcies linked to online money gaming losses.

## FRAUD & MONEY LAUNDERING

Offshore platforms used for tax evasion\*, illegal betting, and even terror-financing.

## NATIONAL SECURITY & DATA PRIVACY

Apps linked to overseas operators harvesting user data\* without safeguards.

## AGGRESSIVE ADVERTISING

Influencer/celebrity endorsements\* of money games misled consumers, especially minors.



*All \* have been hyperlinked to their relevant footnote*



# WHY THIS ACT - FRAGMENTED LEGAL LANDSCAPE (PRE-2025)

## OUTDATED CENTRAL LAWS

- Prize Competitions Act, 1955 – regulated puzzles/crosswords.
- Monthly prize cap: ₹1,000 (license needed if exceeded).
- Provided penalties for unlicensed contests, forfeiture of publications.
- Did not address online or digital gaming.

## COLONIAL ERA PUBLIC GAMBLING ACT, 1867

- Targeted physical gambling houses.
- Post-independence, most states adopted it.
- Carved out skill games exemption, upheld by SC (Chamarbaugwala, Satyanarayana, Lakshmanan).
- Pre-internet statutes → no framework for online play.

## STATE LEVEL PATCH WORK

- **Assam:** 1970 Act → blanket ban (incl. skill games, except horse racing/lotteries). 2023 Act → licensing regime for online money gaming.
- **Odisha:** Outright ban, no skill game exception.
- **Kerala:** Rummy ban struck down by HC → skill games protected.
- **Nagaland & Sikkim:** Licensing regimes for online skill games.
- **Tamil Nadu:** 2022 Act banned online gambling + listed rummy/poker; HC narrowed ban to chance-based games. But regulation of real money based skill games upheld.
- **Karnataka:** 2021 amendment banned all stake-games (incl. chess/fantasy); struck down by HC in 2022 as unconstitutional; skill games allowed.

## JUDICIAL STANCE

- Supreme Court consistently held that games of skill ≠ gambling (RMD Chamarbaugwala, Satyanarayana, Lakshmanan cases).
- But absence of a central statute meant states applied their own interpretations, leading to uncertainty for industry and users.

## RESULT

- Legal patchwork across India → uncertainty for players, investors, enforcement.
- Urgent need for a uniform, central regulatory framework, leading to the the Promotion and Regulation of Online Gaming Act, 2025 (**2025 Act**).



# WHY THIS ACT - LEGISLATIVE INTENT AND OBJECTIVES

## 1. Uniform Regulation Across India

- Create a **single national framework** replacing fragmented state laws.
- Ensure consistent definitions, standards, and enforcement for online gaming.
- Establish a **Central Online Gaming Authority** to categorise/register games, issue guidelines, and handle complaints.

## 2. Protection of Public Interest

- Safeguard **youth and vulnerable populations** from addiction, financial ruin, and predatory platforms.
- Maintain **public order** by curbing illegal betting networks and gambling-related crimes.

## 3. Financial Integrity & Security

- Prevent **money laundering, fraud, and terror-financing** via unregulated online platforms.
- Direct banks, payment gateways, and ISPs to block unlawful transactions and services.



## 4. Ban on Online Money Games

- **Complete prohibition** on offering any game (skill or chance) for stakes, deposits, credits, or convertible tokens.
- Aim: Eliminate gambling-like activities in the digital space.
- **Clarify that form of the game doesn't matter** – if monetary stakes exist, it is illegal.

## 5. Promotion of Esports & Social Games

- Encourage growth of **esports** as a recognised **competitive sport** under the Ministry of Youth Affairs & Sports.
- Support safe development of **social and educational games** (coding apps, gamified learning).
- Promote innovation while keeping **youth protection** at the core.



# JUDICIAL STANCE ON REAL MONEY GAMING BEFORE THE ACT

## 1. RMD Chamarbaugwala v. Union of India (1957)

- Key Principle: Games where skill predominates over chance are not gambling.
- Result: Games of skill were held to be constitutionally protected as legitimate business activity under Article 19(1)(g).

## 2. State of Andhra Pradesh v. K. Satyanarayana (1968)

- Ruling: Rummy is a game of skill since it involves memorisation, strategy, and skillful card arrangement.
- Distinguished rummy from pure chance-based card games.

## 3. K.R. Lakshmanan v. State of Tamil Nadu (1996)

- Ruling: Horse racing is a game of skill, as outcome depends on judgment, experience, knowledge of horses, jockeys, and track conditions.
- Reaffirmed the “skill ≠ gambling” principle.
- Implication (Pre-2025):
- Online RMG based on skill (for eg. fantasy sports, rummy) were treated as legitimate business activities and not “gambling”.
- Operators ran platforms nationally (except in states with specific bans like Assam, Odisha, Telangana).

## 4. Play Games 24×7 Private Limited & Anr. v. State Of Tamil Nadu & Ors.

- Upheld the validity of regulation of real money based games of skill by States on grounds of public health and trade and commerce within the state.
- Previously, the Madras High Court in All India Gaming Federation vs. State of Tamil Nadu & Others had upheld the validity of the Act while striking down the schedule which held games like poker and rummy as games of chance. SLP on the same is pending before the Hon’ble Supreme Court.



# POLICY & TAXATION CONTEXT

Pre  
2023

- **GST Classification:** ORMG platforms (fantasy sports, rummy, poker) were treated as providers of “online information & database access/retrieval services.”
- **Tax Base:** GST levied only on the platform fee/commission (usually 5–15% of entry fee).
- **Rate:** 18% GST applied to this fee – effectively a small percentage of the total pool.
- **Implication:** This treatment implicitly recognised ORMGs as a legitimate service industry, not gambling.

July  
2023

## GST COUNCIL MOVE

- **Decision:** GST rate increased to 28% for online gaming, casinos, and horse racing.
- **Crucial Change:** Tax applied on full face value (total stake amount, not just platform fee).
  - Example: If a user deposited ₹100 to play, earlier GST was charged only on platform fee (say ₹10).
  - Post-change, GST applied on entire ₹100.
- **Tentative Rationale:** Government wanted parity with gambling & betting to curb addictive play and boost revenue.

EFFECTS

## RETROSPECTIVE TAX DEMANDS

- **Scale:** GST authorities issued notices of ₹1.12 lakh crore collectively to companies.
- **Period Covered:** Past years’ transactions (pre-2023) now reassessed using 28% on full face value.
- **Industry Impact:**
  - Massive tax liabilities triggered litigation (Dream11, Gameskraft, MPL, Zupee challenging demands).
  - Some courts granted interim relief, but uncertainty persisted.

2025

## KEY POLICY CONTRADICTION

- By taxing ORMGs heavily and retrospectively, government implicitly treated them as legal and taxable business activity up to this point.
- The 2025 Act’s complete ban creates a conflict:
  - Can the government continue to enforce retrospective GST demands on an activity it now deems illegal?
  - Raises constitutional questions on legality, legitimate expectation, and retrospective taxation.



# PROHIBITED ACTIVITIES

## PROHIBITED ONLINE MONEY GAMES

Any game involving stakes → prohibited (skill or chance doesn't matter)

The 2025 Act bans online money game where users pay money or other stakes (credits, coins, tokens convertible to money) in expectation of monetary reward or enrichment.



Offering or operating games



Advertising them



Penalties:  
upto 3-5 years imprisonment  
& fines up to ₹ 2 crore

## What the Act Does Now

- **Complete Ban on Online Money Games:**
  - Offering, operating, or facilitating real-money games prohibited.
  - Advertising, promotion, and influencer marketing banned.
  - Financial facilitation blocked: Banks, wallets, UPI, and payment gateways barred from processing transactions.
- **Penalties:**
  - 3–5 years imprisonment + ₹2 crore fine for violators.
  - Covers operators, advertisers, and payment facilitators (not individual players).

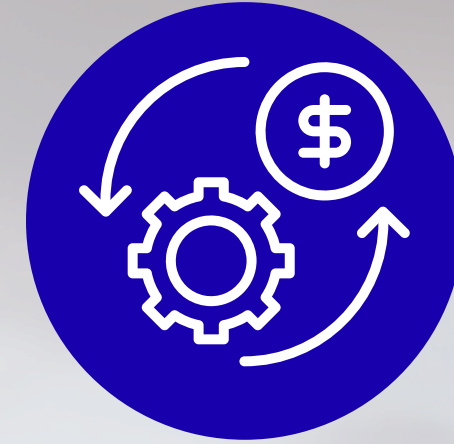


# ENFORCEMENT ISSUES



## BAN VS REALITY

- **VPN Access:** Users can bypass domestic restrictions easily.
- **Offshore Platforms:** Sites like Parimatch, 1XBet continue targeting Indians with 200%–700% deposit bonuses.
- **Payment Blocks Not Foolproof:** Even if banks/UPI block payments, players may use crypto, e-wallets, or foreign cards.
- **Risk:** Users shift to unregulated, unsafe platforms with no consumer protection.



## CROSS-BORDER ENFORCEMENT WEAKNESS

- Limited ability to prosecute or block foreign-based operators.
- Past experience: Betting/gambling sites continue resurfacing under new URLs despite bans.
- To date the Directorate General of Goods and Services Tax Intelligence is probing tax evasion by entities in Cyprus, Cayman Islands, etc.



# GREY AREAS AND LOOPHOLES IN DRAFTING

## Promotional Games

Unclear if free-to-play contests with only non-cash prizes (e.g., merchandise, vouchers) are covered.



## Token-Based Skill Games

If prizes are in tokens/credits (not directly money), are these prohibited? Since the Act bans only tokens convertible to money, operators may use 'closed-loop' tokens (spent on cosmetics/upgrades, not cashed out). But such tokens can still gain real-world value via grey markets, creating ambiguity between money games and casual/social games.



## Game-Within-Games (Lootboxes)

Lootboxes (randomised in-game rewards) are widely debated. Several judicial and regulatory decisions globally have held that lootboxes form part of a game's content, not standalone gambling, since they cannot be directly exchanged for money. The Act does not expressly address lootboxes, leaving ambiguity on whether chance-based reward mechanics embedded within games may fall foul of its prohibitions.



## Individuals

Individuals playing online money games have been left outside the ambit of the Act; liability is placed only on operators, advertisers, and facilitators.





# CONSTITUTIONAL & LEGAL CHALLENGES

## FEDERALISM CONCERNS

- **State List (Entry 34):** “Betting & gambling” is a state subject.
- Traditionally, states regulate gambling → led to diverse laws (Assam, Odisha bans; Sikkim/Nagaland licensing).
- **Public Health (Entry 6, List II of the 7th Schedule):** The 2025 Act also cites addiction/mental health as justification, but “public health” is likewise a State subject. This raises an additional federalism concern.
- Act raises question: **How can Parliament legislate a blanket ban?**

## CENTRE’S JUSTIFICATION

- **Online/Interstate nature:** Platforms operate across state lines & offshore → requires national law.
- **Union List hooks:**
  - Entry 31 (telecom/internet – basis for IT Act).
  - Interstate trade & commerce.
  - Anti-money laundering & banking regulation.
- **Argument:** “We are regulating online activity, not gambling per se.”

## IMPACT ON STATES

- Central law overrides conflicting state laws (Art. 246).
- States that licensed RMGs must align with the ban.

## FUNDAMENTAL RIGHTS ANGLE (ART. 19(1)(G))

- SC in **Chamarbaugwala (1957)**, **Satyanarayana (1968)**, **Lakshmanan (1996)**: Games of skill ≠ gambling; protected as trade/business.
- **Blanket ban** on online money skill games = **unreasonable restriction?**
- Article 19(6) allows only reasonable restrictions in public interest.

## POSSIBLE GROUNDS OF CHALLENGE

- **Skill vs. Chance ignored:** Treats rummy/fantasy sports same as roulette/slots → arbitrary.
- **Discrepancy:** Offline rummy (skill game) allowed in some states, but online rummy banned.
- **Esports Exception:** Prize money in esports allowed, but not in other skill games → may appear artificial.
- **Risk:** Courts could strike down parts of Act as overbroad or disproportionate.





# COMPARATIVE PERSPECTIVE – GLOBAL MODELS

## INDIA

- **Ban-first approach:** blanket prohibition on online money games.
- **Limited recognition for esports** (only in multi-sport events) and social/educational games.

## UNITED KINGDOM

- Regulated & Licensed under Gambling Act 2005 (UKGC oversight).
- **Stringent safeguards:** age verification, ad restrictions, responsible gaming tools.
- **Revenue:** £6.9 bn GGY (2024) – £4.4 bn from online casino, £2.4 bn betting, £167 mn bingo.
- Industry contributes to taxes, addiction research, public health funds.

## UNITED STATES OF AMERICA

- **State-led model:** no uniform federal law.
- 7 states legalised iGaming (NJ, PA, MI, WV, etc.), 30+ states allow online sports betting.
- **Revenue:** \$8.41 bn iGaming (2024), +29% YoY.
- **Federal laws (Wire Act, UIGEA)** mainly target unregulated interstate betting.

## SINGAPORE

- **Prohibition as default, but with narrow exemptions.**
- **Only state-linked operators** (Singapore Pools, Turf Club) can offer lotteries/sports betting.
- **Strong enforcement:** website blocks, payment blocks, ad bans.
- **Revenue:** projected US\$4.84 mn (2025), ARPU ~\$5.94.



# GLOBAL LESSONS



## INTERNATIONAL BEST PRACTICES

- **UK: Balanced licensing** → high tax revenue + strong consumer protection.
- **USA: Federal-state split** → rapid growth in iGaming & sports betting.
- **Singapore: Strict centralised control**, limited carve-outs to prevent black markets.



## KEY TAKEAWAYS FOR INDIA

- **Current Act** = prohibition-heavy vs. global trend of regulation, licensing & taxation.
- **Risk**: driving users to offshore black markets, missing out on tax revenues.
- **Opportunity**: adopt hybrid approach – regulate & tax responsibly while protecting consumers.



# RECOMMENDATIONS

## DEVELOP A LICENSING FRAMEWORK

- Move from blanket ban → regulated licensing for select money games.
- Allow skill-predominant ORMGs (rummy, fantasy sports) under **strict conditions**.
- **Licensing terms:**
  - Age & KYC verification.
  - Deposit limits, mandatory “cooling-off” periods.
  - Transparent odds/disclosure of risks.
- **Benefit:** Generates tax revenue, protects users, curbs illegal markets.
- Licensing is a middle path between prohibition and free-for-all.

## STRONGER ENFORCEMENT THROUGH PARTNERSHIPS

- Collaborate with fintechs, banks, UPI operators to monitor suspicious gaming transactions.
- Work with ISPs & app stores to de-list non-compliant platforms.
- Establish MoUs with global regulators (UKGC, Malta, Singapore GRA) for cross-border enforcement.
- **Benefit:** Prevents leakage to offshore black-market platforms like 1XBet, Parimatch.

## ENCOURAGE STRUCTURED REGULATION

- Support industry codes of conduct for publishers, organisers, and streamers.
- **Standards for:**
  - Fair play & anti-cheating tools.
  - Transparency in prize pools & monetisation.
  - Player welfare: time limits, parental controls for minors.
- **Why regulation matters:**
  - Global experience (UK, USA) shows regulated and licensed markets are both safer and more profitable.
  - A blanket ban alone will not curb risks like money laundering or terror financing—users determined to play can bypass restrictions (e.g., via VPNs or crypto).
  - Without structured regulation, India risks driving millions of users into unsafe, unregulated offshore platforms.



# KEY TAKEAWAYS

## CONCERNS

- Overbroad ban on money games → economic disruption.
- Unclear definitions (multi-sport vs. multi-game, tokens, etc.).
- Potential loss of jobs, investment, and tax revenue.

## THE ROAD AHEAD

With clarity in law and supportive policy, India can emerge as a global hub for responsible gaming.

## A HISTORIC STEP

- First central law on online gaming in India.
- Brings long-needed uniformity in regulation.

## THE BALANCING ACT

- Regulation must ensure consumer protection without stifling industry growth.
- Esports & social gaming should not be treated on par with gambling.

## POSITIVES

- Formal recognition, albeit limited, of esports.
- Space for social & educational games to grow.





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