

Whitepaper on

ENHANCING CONSUMER RIGHTS IN THE INDIAN ONLINE GAMING SECTOR

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Foreword



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In the current era of rapid technological advancement, online gaming has emerged as a widely popular activity. Regrettably, this surge in popularity has also led to a parallel association with betting and gambling. Across numerous regions worldwide, the promotion of betting and gambling is surreptitiously veiled under the guise of gaming. This intertwining of activities blurs the boundaries between innocent recreational pursuits and potentially harmful behaviors, posing significant challenges for regulatory efforts and the protection of vulnerable individuals. The extensive engagement of celebrities and influencers in endorsing these platforms raises notable concerns. Furthermore, advertisements play a pivotal role in perpetuating this issue. Betting companies employ targeted marketing across platforms like social media, TV, and sponsorships to attract customers and thereby glamorize and normalize betting and gambling, despite their illegality. We're all aware that misleading ads not only erode consumer trust but also hurt the very fabric of our society.

In the pursuit of entertainment and leisure, consumers should not find themselves ensnared by deceptive practices that undermine their rights and expectations. Speaking of the role of ads in this sector, it is crucial to understand that the effects go beyond the digital world - they touch the lives of individuals, families, and communities.

The Government of India is well aware of the challenges posed by this and is steadfast in its commitment towards consumer protection. Our collective efforts are geared towards creating an environment where consumers feel safe and are informed, empowered, and shielded from deceptive practices. I truly believe this is more than a mere legal or regulatory task, it is a moral responsibility of all stakeholders involved to safeguard the welfare of our citizens.

As we discuss policies and measures, we must not lose sight of the human dimension - the lives, aspirations, and vulnerabilities of the consumers we aim to protect. Navigating the complexities of this sector, we must forge a path that not only safeguards consumer rights but also enriches the overall consumer experience. I believe our combined efforts will lead to a safer, and more ethical environment for online gaming in India, benefiting every consumer.


(Rohit Kumar Singh)
12 January 2024



Preface

This report encapsulates the outcomes of the roundtable discussion hosted by Primus Partners on February 2nd, 2024, focusing on "Enhancing Consumer Rights in the Indian Online Gaming Sector." The discussion aimed to assess the current status of consumer protection within this rapidly growing sector and to devise effective strategies and frameworks for empowering online gaming consumers. A primary focus was placed on addressing the prevalent issue of misleading advertising practices.

The roundtable deliberations were structured to yield actionable insights and recommendations with the potential to shape policy frameworks and guidelines for consumer protection in India's online gaming industry. The recommendations put forth in this whitepaper serve as a roadmap for policymakers and industry stakeholders, offering guidance toward the development of a more secure and consumer-friendly online gaming ecosystem in India.

The discussion saw participation of experts from various disciplines, including online gaming industry associations, legal experts specializing in consumer rights and online gaming, representatives from players welfare associations, think tanks, academicians, and researchers specializing in gaming regulations and consumer rights, as well as mental health professionals from India's premier medical institute. Shri Rohit Kumar Singh, Secretary, Department of Consumer Affairs addressed and engaged with the panelists with a keynote speech to set the tone for discussions.

***It is to be noted here that during the roundtable discussion, the Chatham House Rules were observed, meaning this report does not attribute comments or observations to individual speakers. The views summarized here are personal and may not represent the official stances of the speakers' organizations or Primus Partners.**

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Summary of Discussions

The roundtable discussions underscored the pressing need for a comprehensive regulatory framework to uphold consumer rights in the online gaming sector in India. Participants highlighted the evolving regulatory landscape, voluntary industry initiatives, and gaps in consumer protection that pose significant challenges to the Indian gaming consumer.

Notably, the absence of Self-Regulatory Bodies (SRBs) to verify the legitimacy of online games emerged as a critical concern, compounded by misleading advertisements from offshore platforms and the inadequacy of existing regulatory measures. Participants underscored the importance of promoting consumer awareness, enhancing regulatory oversight, and fostering responsible advertising practices to mitigate consumer risks effectively.

Proposed recommendations outlined a multi-faceted approach to address these challenges, including the establishment of SRBs, stringent enforcement of advertising regulations, and enhanced consumer education initiatives. Additionally, recommendations emphasized the need for increased consumer awareness, self-exclusion mechanisms, and responsible celebrity endorsements to uphold consumer rights and promote ethical business practices in the online gaming sector.

Moving forward, the government, industry, experts, and other stakeholders must collaborate closely to implement these recommendations and ensure effective enforcement mechanisms are in place. By prioritizing consumer protection, India can foster a safe and transparent online gaming environment, empowering millions of gamers while fostering industry growth and innovation.



1 Introduction & Context Importance of Consumer Rights in the Digital Era

Traditionally, consumer rights in India have alluded to the right of a consumer to have access to and availability of adequate information on the price, quality, purity/standard of the said good or service, and the possibility to seek grievance redressal in case of exploitation by the seller.

With the dawn of the digital era and diversification of digital services on offer, a plethora of digital intermediaries have emerged over the recent past. The wide variety of intermediaries, ranging from search engines to e-Commerce, social media, OTT, online gaming among others call for a re-look at regulatory frameworks that define each of them appropriately and outline corresponding regulations that balance user harm with user rights, keeping the nuances of the distinct digital intermediaries in mind. In today's digital landscape, while the medium through which the exchange of a given good or service occurs has expanded (offline to online), the core of consumer rights remains the same. However, digitalization has brought to the fore and even amplified consumer protection concerns such as information asymmetries, inadequate product/service disclosures concerning quality & safety, misleading and unfair commercial practices, cyber fraud, digital literacy, and the need for protection of vulnerable digital consumers that exist across digital intermediaries.

Specifically, within the online gaming space, some of the risks that may present themselves to the gaming consumer include:

- Misleading advertisements, especially by offshore and domestic illegal betting and gambling operators masquerading as legal players. For most consumers, advertisements serve as the first touch point and illegal operators might lure people with claims of attractive winnings
- Issues relating to cyber security, including child safety and identity theft
- Inadequate consumer awareness and knowledge about responsible gaming



Consumer rights in India comprise the following:



Right to Safety



Right to seek redressal



Right to be informed



Right to consumer education



Right to be heard



Right to choose

2 Why is it Imperative to Prioritize Consumer Protection in India's Booming Online Gaming Sector?

India's online skill gaming is a sunrise sector, with its user base second only to China.

42.5
crore

With a staggering user base of 42.5 crore gamers in India, the online gaming segment has witnessed exponential growth.

28%
CAGR

Boasted a remarkable 28% CAGR between FY 20 and FY 23.

₹16,428
crore

This meteoric rise has catapulted the market size to a massive Rs 16,428 crore in FY 23.

₹22,931
crore

Attracted substantial investments totalling Rs 22,931 crore between FY 20 and FY 24.

The real money gaming (RMG) segment forms a significant portion of the online gaming landscape, accounting for 82.8% of the market share in FY23, featuring over 400 RMG startups in India.

More than just numbers, the online gaming sector has become a significant contributor to India's economy, directly or indirectly employing around one lakh individuals, with projections indicating a potential workforce of 250,000 in the coming decade. Moreover, with foreign direct investment soaring to \$2.5 billion and anticipated to reach \$4 billion in the next three years, the sector's economic significance cannot be overstated.¹

However, amidst this remarkable growth story lies a pressing concern – the ever-growing size of the illegitimate offshore betting and gambling industry.



1. https://www.ey.com/en_in/media-entertainment/new-frontiers-navigating-the-evolving-landscape-for-online-gaming-in-india

According to a study by Think Change Forum, the estimated size of this illegal offshore market amounts to Rs. 8.2 lakh crore (~\$100 billion) in the form of yearly bets deposited by sports bettors residing in India. This not only highlights a substantial gross gaming revenue (GGR) of roughly Rs. 82,000 crores (~\$10 billion) being siphoned out of India every year but also the need to safeguard the interests of the 42.5 crore gamers who form the backbone of India's gaming landscape.

As the online gaming sector continues to expand, ensuring robust consumer protection measures becomes paramount. Without adequate safeguards, consumers risk falling prey to deceptive practices, fraudulent schemes, and exploitation by unscrupulous operators.

Therefore, addressing consumer protection in the online gaming sector is not just a matter of economic prudence; it's a moral imperative.



3 Key Discussion Items

Charting the Path for Consumer Safety

3.1

Current Regulatory Framework, Rights, and Remedies Available to the Online Gaming Consumer

In India, the rights of an online gaming consumer are still evolving as the regulatory landscape of this sunrise sector takes shape. The IT (Intermediary Guidelines and Digital Media Ethics Code) Amendment Rules, 2023 notified by MeitY on 6th April 2023 served as a critical milestone in the regulatory future of the online gaming sector in India, both for the industry as well as the consumer. Like any other consumer, the online gaming user in India is entitled to a safe gaming environment (Right to Safety), complete information about the nature and risks involved in an online game (Right to be Informed and to Consumer Education), access to a variety of legitimate games (Right to Choose), and reliable channels for assistance/feedback/complaints (Right to be Heard and to Seek Redressal).

Under the IT Amendment Rules, 2023, the concepts of 'permissible online game' and 'permissible online real money game' were introduced. The idea was to ensure that online gaming intermediaries (OGIs) host only those online real money games that have been verified as 'permissible online real money

games' by a self-regulatory body (SRB). The rules also introduced additional compliance requirements from OGIs to safeguard consumers.

From a broader standpoint, the Consumer Protection Act, 2019 stands as an overarching legislation designed to uphold consumer interests and establish an effective mechanism for resolving consumer disputes through a three-tier quasi-judicial system comprising of Consumer Disputes Redressal Commissions at the District, State and National levels. In 2019, the definition of 'consumer' was expanded to include consumers involved in online transactions in the background of rising e-commerce and other online platforms.

In the context of misleading advertisements in the sector, the Advertising Standards Council of India (ASCI) has included advertising guidelines for online gaming real money winnings under its Code for Self-Regulation of Advertising Content in India. In addition to this, the Central Consumer Protection Authority (CCPA), exercising its powers under Section 18 of the Consumer Protection Act, 2019, issued more detailed guidelines containing the principles to determine a misleading advertisement, prohibition of surrogate advertising, conditions for advertisements targeting or featuring children, rules on disclaimers in advertisements, responsibilities of advertisers and advertising agencies, amongst others.



3.2 Mapping of Consumer Rights Against Existing Regulations

Concerned Right	Regulation	Safeguarding Provision in Place
Right to Choose and to be Informed	IT Amendment Rules, 2023	<ul style="list-style-type: none"> ▪ Prominent displaying of registration mark confirming the game is 'permissible' as verified by an SRB ▪ Rules, regulations, privacy policy, terms of service, & user agreement must inform the gamer of: <ul style="list-style-type: none"> • measures taken by the OGI to safeguard deposits made • manner of determination and distribution of winnings, and policy related to withdrawal or refund of the deposit made • KYC procedure followed by the OGI and • The verification framework adopted by the relevant SRB while verifying the online real-money game
Right to Safety	IT Amendment Rules, 2023 Code of Ethics (adopted voluntarily by the industry)	<ul style="list-style-type: none"> ▪ Proper due diligence and identification of user before accepting any deposit in cash or kind from any user for a permissible online real money game.
Right to be Heard and to Seek Redressal	IT Amendment Rules, 2023 Consumer Protection Act, 2019	<ul style="list-style-type: none"> ▪ Appointment of a Grievance Redressal Officer and option to appeal to the Grievance Appellate Committee (GAC) ▪ Lodging a complaint through the National Consumer Helpline/Portal ▪ Filing a complaint with the Consumer Disputes Redressal Commissions (CDRC) established at district, state, and national levels.
Right to Consumer Education	Code of Ethics and various other voluntary initiatives taken by the industry to create awareness on responsible gaming	<ul style="list-style-type: none"> ▪ OGI to provide users with access to information about responsible gaming and safety guidelines on their website or app

3.3

Role of Industry in Protecting 42.5 Crore Indian Gaming Consumers

To safeguard the interests of its consumers, the industry itself has been proactive in undertaking several voluntary measures and initiatives. One such initiative was the adoption of the Voluntary Code of Ethics for Online Gaming Intermediaries by various industry associations representing the sector at large. The objective of this code is to:

- Protect the interests of consumers and enable them to make informed choices about the online games they access
- Create a healthy environment for online games in India and ingrain a culture of responsible gaming in the country
- Elevate the industry standard and bring uniformity in the business practices of signatories





Responsible gaming

- Provide users with access to information about responsible gaming and safety guidelines on their website or app
- Allow users an option to set time or spend limits for themselves
- Endeavour to offer a self-exclusion feature, allowing players to willingly suspend their access for a chosen period
- Endeavour to undertake education and communication campaigns to raise awareness about engaging with online gaming in a responsible manner
- Endeavour to utilize widely available advanced technology tools to monitor player behaviours wherever applicable and endeavour to provide appropriate support features to players demonstrating at-risk behaviour



Safeguards for minors (Age-Gating)

- All necessary safeguards to protect minors to be instituted
- Formats involving real money prizes/awards shall not be offered to users below 18 years
- Ensure clear communication of age restrictions by prominently displaying the "18 or 18+ only" signage across all their platforms for formats involving real money awards/prizes

- Obtain user acceptance of T&Cs that affirm legal age eligibility, with details to be verified by OGLs, in case OGLs receive actual knowledge that the account belongs to a minor, they shall immediately terminate the access of such account



Fair gaming

- Publish on the website/platform the T&Cs, privacy policy and other policies related to gaming formats, which shall accurately and clearly specify the mechanics & rules and T&Cs of each online game, the points calculation mechanism, & the manner of determination of winners, prizes & their distribution
- Provide fair & transparent terms of participation for all users & a grievance redressal mechanism
- RMG OGLs not to offer any contest or game where the platform through its agency or bots participates against users
- RMG OGLs to endeavour to take measures, such as independent 3rd-party certifications to ensure all games are played between real persons & not automated systems such as bots
- Not to allow the usage of computer software that generates bots or any other computer code, file or program designed to tamper the outcome of an online game
- Undertake regular audits to verify compliance with applicable laws



Financial safeguards

- Undertake KYC as per applicable law
Endeavour to implement controls and preventive measures in accordance with industry best practices to detect and prevent the use of its platform for money laundering or other unlawful activities
- Mandate transactions exclusively through recognized digital banking channels, credit/debit cards, and approved mobile wallets, and shall not allow transactions in cash or cryptocurrency
- Not to allow or facilitate transactions through unauthorised payment systems
- Publish on the website T&Cs accurately and clearly specifying the amount of platform fees charged, prizes & their distribution, manner of determination of winners, measures taken to protect fund deposited, including its refund policy etc.
- Ensure deposits/payments for online gaming services are utilised only for playing games on the platform



Responsible advertising

- Endeavour to employ responsible advertising & marketing campaigns in conformity with existing laws, regulations & guidelines
- Advertising & promotion of pay-to-play online games

- to be fair & truthful
- not induce or entice minors to play
contain necessary disclaimers & warnings
- not mislead users
- not represent the participation in online games as a source of sustenance or means of earning livelihood
- not misrepresent information about winning probabilities
- not encourage online gaming as a means of recovering from past gaming sessions or any other financial losses
- not suggest that chances of winnings increase the more one spends



Safe, secure & reliable gaming

- Take all reasonable measures to ensure a secure and reliable gaming environment by adhering to existing regulations for cyber security
- Process and store digital personal and non-personal data in compliance with applicable laws in India
- Pledge to recognize and integrate evidence-based best practices for safer gaming and other operational aspects, and to contribute to pioneering concepts and initiatives addressing industry challenges

3.4 Gaps Identified that Pose Threat to Consumer Safety: Areas for Intervention

The proliferation of offshore and domestic illegal betting and gambling platforms

1. Lack of Regulation and Oversight

Offshore illegal betting and gambling platforms operate outside the purview of Indian regulatory authorities, circumventing licensing requirements and evading taxation. As a result, these platforms may not adhere to the same standards of fairness, transparency, and consumer protection as authorized operators.

Consumers who engage with these platforms are exposed to greater risks, including fraudulent practices, unregulated gameplay, and potential loss of funds. Without regulatory oversight, consumers have little recourse in case of disputes or grievances.

2. Increased Vulnerability to Fraud and Scams

Offshore and domestic illegal betting and gambling platforms engage in deceptive practices to attract

consumers, promising unrealistic rewards or bonuses to entice participation. However, more often than not consumers end up being deceived or defrauded, with little recourse for recovery.

Offshore platforms also often compromise consumer data through data breaches or misuse, putting consumers at risk of identity theft, financial fraud, and other cybercrimes. The Indian consumers are at risk of their data i.e. name, UPI, Bank details, Aadhaar details, Geolocations, etc., being shipped outside of the country without their knowledge or consent.



3. Limited Consumer Protections

Consumers who interact with offshore and domestic illegal betting and gambling platforms may not benefit from the same level of consumer protections afforded by authorized or legal operators. This includes protections related to fair gaming practices, responsible gambling measures, and dispute resolution mechanisms.

In the absence of regulatory oversight, consumers may face challenges in accessing effective channels for complaint resolution or seeking redress for grievances, leaving them vulnerable to exploitation by unscrupulous operators.

emphasizes this critical need. Without an effective regulatory framework in place, distinguishing between permissible and non-permissible games remains an arduous task. For rules to be effective, SRBs were to be notified, however, reportedly, the government is looking to introduce their own mechanism to regulate online gaming.

For instance, let's take platforms or intermediaries like YouTube. When these platforms are required to discern between legitimate online real money games and illegal offshore gambling platforms before disseminating an online advertisement, the absence of an effective regulatory framework exacerbates the challenge. This scenario raises a crucial question: Should YouTube bear responsibility for putting out an advertisement that promotes a non-permissible game when there is no clear guidance on what constitutes permissible and non-permissible online games?

Rule 4A of the IT Rules (Intermediary Guidelines and Digital Media Ethics Code) Amendment Rules, 2023

This rule mandates the government to designate SRBs to verify online real money games, categorizing them as 'permissible online games.' These games, endorsed by SRBs, will display a distinct mark signifying their registration, ensuring transparency and reliability for users.

Absence of an Effective Regulatory Framework

At the heart of this dilemma lies the absence of an effective regulatory framework to determine the legitimacy of online games. The Ministry of Information & Broadcasting's repetitive warnings and advisories urging intermediaries to feature only 'permissible' online Real Money Games (PORMGs)



In the absence of an effective regulatory framework and the lack of clarity further leads to offshore and domestic illegal platforms taking advantage of the situation. Presently, legal operators adhere to different guidelines/codes when it comes to advertising, including Advertising Standards Council of India's (ASCI) code for self-regulation, IAMA Guidelines, etc. However, the prevalent issue persists - offshore gambling websites brazenly advertise across various platforms, defying regulations. While the recent MIB advisory aims to curtail this, the boundless nature of the internet renders complete enforcement impossible. In fact, these unauthorized operators began actively and aggressively advertising "NO TAX, NO GST" to attract Indian players and still continue to do so.

(Figure 1 & 2)

Figure 1



Figure 2



Betting and Gambling Services Being Marketed Disguised as Sports News Represent a Form of Surrogate Advertisement

The fundamental principle in advertising is that legal boundaries must be respected and adhered to. The advertising code states that "no advertisement shall be permitted which tends to incite people to commit crime, cause disorder or violence, or breach of law or glorifies violence or obscenity in any way."

Given that advertising betting or gambling services directly is prohibited by Indian law, gaming companies have adopted alternative strategies to circumvent this regulation. Many are now leveraging sports news websites or blogs as a means of promotion. This trend was particularly evident during the Asia Cup tournament, with companies like 1XBet and Fairplay Club extensively advertising through their affiliated services, 1XBET sports blog and Fairplay News.

While these news websites and blogs are ostensibly accessible online, the underlying intent of these advertisements is to drive traffic towards their betting platforms. A simple online search about these companies typically directs users straight to the betting platforms, rather than the news blogs. Notably, the branding of both the betting and news websites is remarkably similar, yet the advertisements notably lack any substantial promotion of the news content itself, aside from the shared logo.

Additionally, certain advertisements even emphasize the absence of entry fees, further underscoring the focus on betting rather than

news dissemination. These advertising strategies not only fail to meet the brand extension criteria outlined in the advertising code but also conflict with Rule 8 of the Central Consumer Protection Authority Guidelines, 2020, regarding misleading advertisements and due diligence in endorsements.

Complicating matters further, the Cable Television Networks (Regulation) Act, 1995, and associated advertising codes do not extend to over-the-top platforms. While other legal recourse may be available, there is a pressing need to amend the Cable Television Networks (Regulation) Act, 1995, to effectively address these developments.

Criminalising the Consumer

The complexity of online gaming laws presents a significant challenge for consumers, leading to vulnerability and confusion. In a world where information is power, the absence of clear guidelines and consumer education perpetuates a cycle of exploitation and injustice. Illegal gaming platforms capitalize on this ambiguity, disguising themselves as legitimate options and trapping unaware players. What exacerbates this issue is the stringent response of authorities, who swiftly penalize individuals who inadvertently engage with unauthorized sites or if there is a state ban on online gaming, branding them as gamblers under outdated laws such as the Police Act, 1861, and the Public Gambling Act, 1867. This punitive approach fails to address the underlying issues and perpetuates a cycle of victimization. It is imperative for regulatory bodies to acknowledge these shortcomings

and implement comprehensive measures to safeguard consumers from unjust repercussions. This requires a proactive approach focused on consumer education and fair enforcement to ensure that individuals are not unfairly penalized for their involvement in online gaming.



4 Recommendations for Action

4.1 Critical Need for Consumer Awareness

Increasing consumer awareness is crucial for mitigating potential harm associated with online gaming, especially those associated with offshore or illegal platforms operating within India. Educating consumers about legitimate and illegitimate platforms, as well as the risks involved, can empower them to make informed decisions.

Developing targeted public awareness campaigns, such as **"Jago Grahak Jago,"** specifically focused on educating consumers about the risks associated with offshore or domestic illegal online gaming platforms can be a good starting point.

These campaigns should utilize various media channels, including television, radio, social media, and print, to reach a wide audience and effectively convey important information.

Create an official government website under the aegis of the Department of Consumer Affairs, akin to the US's Federal Trade Commission² that runs the "Consumer Advice" website, providing comprehensive information and tips on various consumer-related topics including online gaming and other industries. This website should serve as a centralized hub for consumers to access comprehensive

information, resources, and guidelines regarding legitimate gaming platforms, responsible gaming practices, and consumer rights, and one that is regularly updated.

Design and implement tailored drop-down menus on the website to provide easy navigation and access to specific topics, such as recent news updates, lists of authorized gaming operators, consumer responsibilities, grievance redressal mechanisms, and relevant rules and regulations.

Additionally, the Department of Consumer Affairs can develop clear and concise guidelines for consumers on how to identify legitimate gaming platforms and recognize warning signs of illegitimate ones.



2. <https://consumer.ftc.gov/>

4.2 Bringing into effect IT Rules by notifying Self-regulatory Bodies or Regulatory Body

This will solve many of the problems concerning the consumers affected by this industry.

SRBs have a rich history, particularly evident in India where they have been effective in sectors such as OTT, Microfinance, and more recently, proposed by the RBI for the Fintech sector.

In line with regulatory advancements, the establishment of SRBs within the Indian permissible online real money gaming (PORMG) industry is crucial. This regulatory journey began with a series of court cases, leading to the formation of the Inter-Ministerial Task Force (IMTF) which engaged in extensive consultations with various stakeholders. Eventually, MeitY was designated as the nodal ministry to lead the regulatory landscape. The draft rules underwent thorough stakeholder consultations, ensuring diverse representation.

Introduced in April 2023, the regulations include safeguards where MeitY retains control over SRB operations. The Ministry has the authority to accept or reject an SRB and can swiftly suspend or withdraw its authorization for non-compliance. Additionally, having a government-appointed individual on SRB boards reinforces oversight.

To further strengthen this framework, implementing a three-tier structure presents an opportunity for enhanced security and integrity.



Tier 1

At a **platform level or Online Gaming Intermediary level (Tier 1)** one needs to give a self-declaration that you are compliant with the due diligence norms that are prescribed for online gaming intermediaries. This stands as the initial checkpoint, providing self-declarations of compliance and addressing grievances, laying the foundation for responsible conduct.

Tier 2

At the **Self-Regulatory Body (SRB) level (Tier 2)**, this self-declaration is tested by the SRB based on their policies and frameworks which would be approved by the government oversight committee. This is designated and approved by MeitY and has wider responsibilities – from certifying platforms to overseeing enforcement and redressing non-compliance, ensuring adherence to standards set forth.

Tier 3

In the event of any issue, the **Government Oversight Committee (Tier 3)** can act on behalf of any person or take up cases suo moto. It is empowered to enforce, certify, adjudicate & serve as an appellate body.



Should the SRB framework prove inadequate in mitigating user harm, the government oversight committee can establish policies that SRBs must adhere to. Consequently, online gaming intermediaries must comply with these regulations to maintain certification.

Success Story in the Indian Context

Eleven self-regulatory bodies have been approved by the MIB since the implementation of the IT Rules [Rule 12(2), IT Rules, 2021] out of which two are for publishers of OCC (Online Curated Content).

4.3 A Central Mechanism for Self-Exclusion Feature

Numerous countries utilize centralized databases for self-exclusion, ensuring that individuals banned from one platform are automatically excluded from all. The Australian government has a dedicated national register “BetStop” that facilitates this swiftly.³ This proactive measure aids in combating gaming addiction and should be considered as a model for other nations. Implementing a similar system could enhance consumer protection without unduly burdening online gaming platforms. The nodal Ministry or the regulatory body would be most competent to implement this.

3. <https://www.betstop.gov.au/>

4.4

Responsible Advertising Practices

Recently, it has been observed that many celebrities end up promoting illegal online gaming platforms, mostly due to the lack of awareness, or rather the inability to distinguish between what is legitimate vs. what is illegitimate stemming from regulatory ambiguity. (as shown in Figure 1 in the previous sections)

For instance, a prominent Indian cricketer was recently seen featuring in an advertisement for the surrogate of an illegal offshore betting platform, Parimatch, a move that appears to contradict government regulations. (Figure 3)

Figure 3



Although this is covered under the voluntary Code of Ethics, responsible advertising practices should be mandated with clear and unambiguous regulations regarding online gaming advertising and endorsements. This may include providing comprehensive guidelines specifying the legal requirements for celebrities engaging in endorsements, and clearly delineating permissible practices and prohibited activities. By establishing strict parameters and delineating the no-go areas,

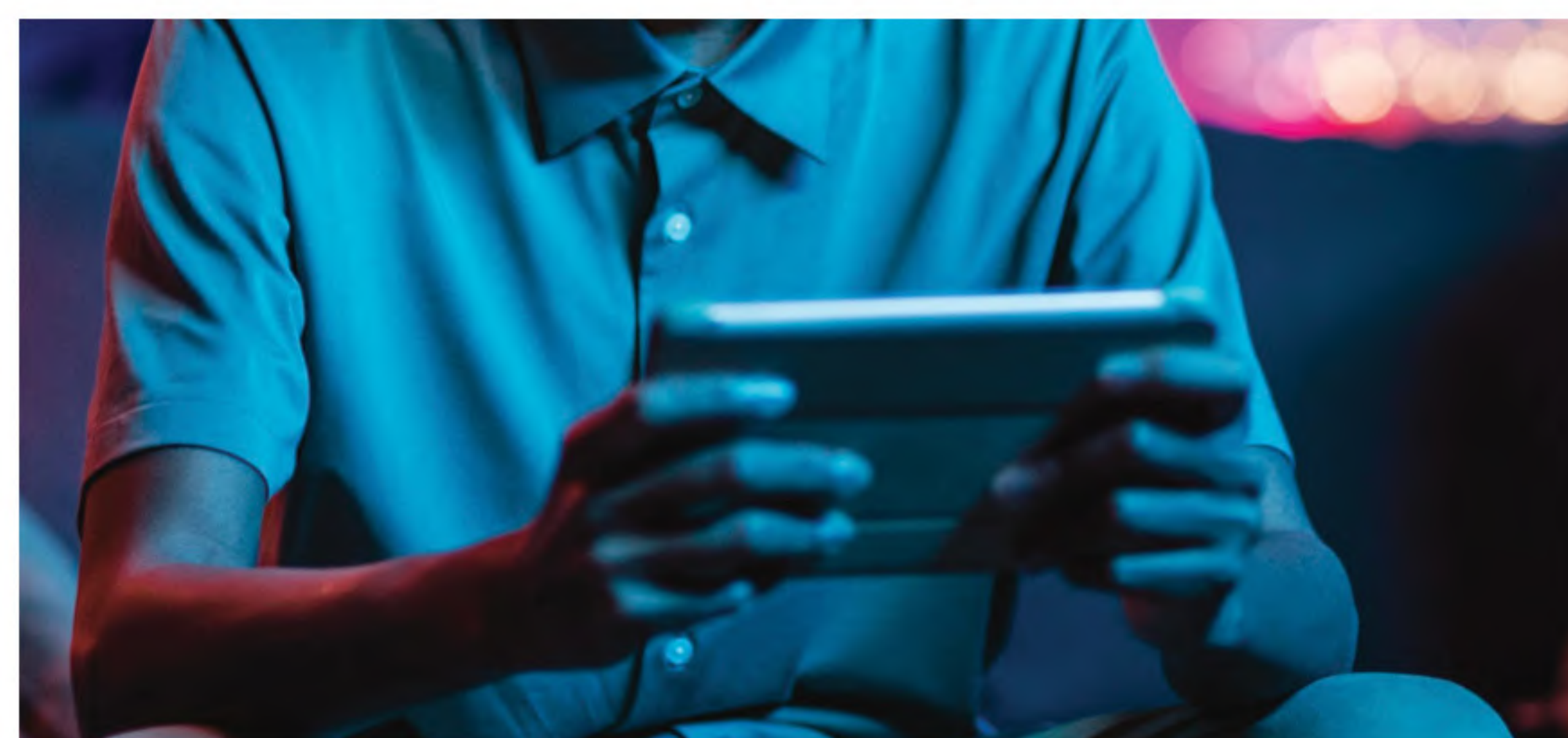
celebrities will be made fully aware of their responsibilities and liabilities.

To address this issue, an effective regulatory framework that clearly delineates permissible and impermissible games would provide a signalling mechanism for gaming consumers to be informed about what is legal and what is not.

Furthermore, as mentioned in the Guidelines for Prevention of Misleading Advertisements and Endorsements for Misleading Advertisements, 2022, issued by the Central Consumer Protection Authority, it is mandatory that celebrities disclose their affiliations with online gaming platforms in their endorsements. This measure is essential to promote transparency and accountability in celebrity endorsements, thereby preventing misleading advertising practices. However, there is no mention of how these disclaimers are to be made and whether these guidelines cover advertisements made on social media platforms by influencers. Hence, it is recommended that the Central Consumer Protection Authority provide specific guidance on the format and placement of these disclaimers, ensuring they are prominently displayed and easily understandable to consumers. Additionally, there is a need to extend these guidelines to cover advertisements made on social media platforms by influencers, as they wield significant influence over their followers and can also inadvertently promote misleading advertising practices.

Parimatch Sports, the surrogate sports brand, hosted an exclusive fan interaction event with Karthik at Mantri Square Mall in Bengaluru. Illegal offshore betting platforms such as Parimatch, Lotus365, 1xBet, and Fun88 frequently enlist A-list celebrities and utilize surrogate branding to promote their illegal betting applications. Despite the Ministry of Information and Technology (MeitY) banning over 100 domains associated with these illegal betting platforms, these illegal operators have been evading regulations by switching domains and continuing their activities.

Additionally, alongside endorsements, it should be mandated to include comprehensive disclaimers in both written and audio formats, accessible in multiple languages for enhanced comprehension. This disclaimer should emphasize responsible gaming behavior, clearly outlining the risks associated with online gaming and promoting ethical conduct by the celebrity endorser. Non-compliance with this requirement should incur substantial penalties to effectively deter violations. Achieving a balance between brand promotion and responsible messaging is pivotal for the sustained growth of the gaming sector.



4.5 Stricter Guidelines for Surrogate Advertisements

There is no specific law in India that bars or governs product placement. Surrogate advertisements, including sponsorships, should be addressed in the Prevention of Misleading Advertisements and Endorsements for Misleading Advertisements, 2022 to prevent misleading practices by offshore platforms promoting illegal games. By explicitly defining and regulating surrogate advertising tactics, such as sponsorship arrangements that indirectly promote gambling, wagering, betting, or any form of game of chance, authorities can protect consumers from deceptive marketing tactics practised by illegitimate and offshore online gaming companies.

Addressing sponsorships in advertising guidelines involves regulating the practice of brands sponsoring products or events in a manner that indirectly promotes their products or services, especially in industries with strict advertising regulations. This is crucial for preventing surrogate advertising and ensuring transparency and responsibility in marketing practices.

Updating the Guidelines for Prevention of Misleading Advertisements and Endorsements for Misleading Advertisements, 2022, including the Cable Television Networks (Regulation) Act, 1995, to encompass these issues will ensure that regulations keep pace with evolving advertising practices.

4.6 Stringency in Tackling Misleading & Surrogate Advertisements

Regulatory bodies, such as the Ministry of Information and Broadcasting (MIB), should adopt a more stringent approach to tackle misleading and surrogate advertisements. So far, the Ministry of Information and Broadcasting has released four advisories, asking multiple media outlets, cable and OTT platforms, and others to refrain from promoting these illegal betting websites. But clearly, mere advisories may not suffice in combating deceptive marketing practices. Instead, robust enforcement mechanisms, including fines and penalties for non-compliance, should be implemented to deter advertisers from engaging in misleading or surrogate advertising tactics. Additionally, fostering collaboration between regulatory agencies and industry stakeholders can enhance oversight and enforcement efforts, ensuring compliance with advertising regulations. Lastly, the government may always resort to the powers granted to it under Section 69A of the IT Act, 2000 to block public access to certain content online.



5 Final Reflections and Conclusion

The roundtable discussion has shed light on critical issues and potential solutions to safeguard consumers in this rapidly expanding industry. It is evident that the online gaming sector in India is not only a significant contributor to the economy but also poses unique challenges in terms of consumer protection. As the sector continues to evolve, it is imperative for policymakers, industry stakeholders, and regulatory bodies to collaborate effectively to address these challenges and ensure a safe and transparent gaming environment for all consumers.

The recommendations outlined in this report offer a roadmap for action, emphasizing the importance of consumer awareness, regulatory frameworks, responsible advertising practices, and collaborative efforts. By implementing these recommendations, India can strengthen consumer rights, promote ethical business practices, and foster sustainable growth in the online gaming sector.

Moving forward, sustained efforts from all stakeholders will be crucial in realizing the vision of a secure and consumer-friendly online gaming ecosystem in India. As the industry continues to grow and innovate, prioritizing consumer protection will remain essential to building trust, ensuring fairness, and empowering millions of gamers across the country.

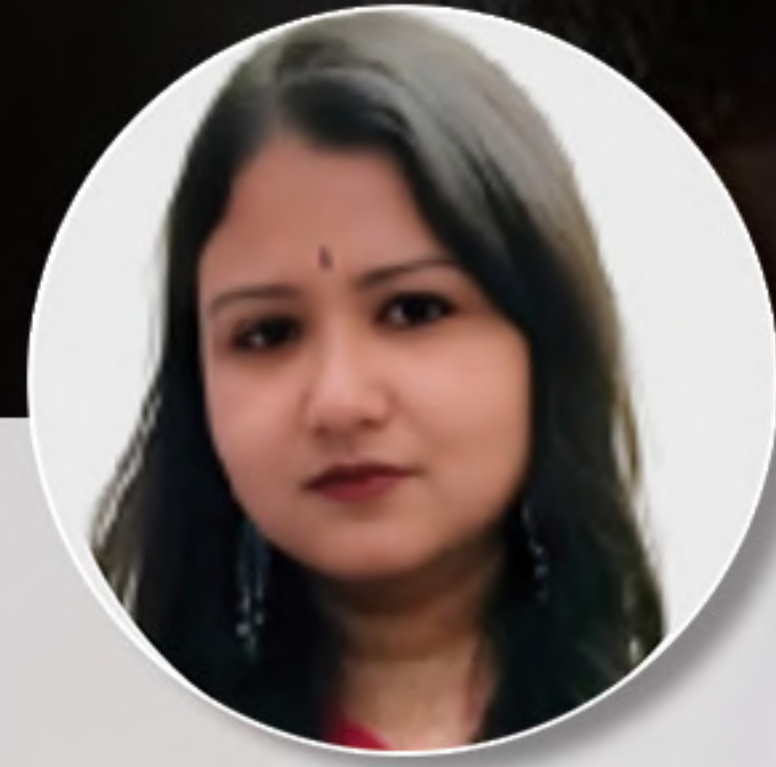




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About Primus Partners

Primus Partners has been set up to partner with clients in 'navigating' India, by experts with decades of experience in doing so for large global firms. Set up on the principle of 'Idea Realization', it brings to bear 'experience in action'. 'Idea Realization'— a unique approach to examine futuristic ideas required for the growth of an organization or a sector or geography, from the perspective of assured on ground implementability.

Our core strength comes from our founding partners, who are goal-oriented, with extensive hands-on experience and subject-matter expertise, which is well recognized in the industry. Our core founders form a diverse cohort of leaders from both genders with experience across industries (Public Sector, Healthcare, Transport, Education, etc.), and with varied specialization (engineers, lawyers, tax professionals, management, etc.).



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for providing solutions to help clients achieve their goals

RESPECT

For all and alternate viewpoints

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of thoughts and actions

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US

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STEWARDSHIP

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