

# THE PROMOTION AND REGULATION OF ONLINE GAMING ACT, 2025 – A CONSTITUTIONAL AND ECONOMIC CROSSROAD<sup>1</sup>

## I. INTRODUCTION

The President on 22<sup>nd</sup> day of August, 2025, gave her assent to the Promotion and Regulation of Online Gaming Bill, 2025 making it an Act just a day after it was cleared by the Rajya Sabha sending shockwaves to the entire fantasy gaming industry. Promotion and Regulation of Online Gaming Act, 2025 (“**PROGA**”) derives its competence from Entry 52 of the Union List, which authorises Parliament to regulate industries where Union control is deemed expedient in the public interest.<sup>2</sup> Its preamble underscores the need for central regulation of online gaming, citing concerns of user and financial harm, public health risks, pervasive advertising, inconsistent state laws, and offshore operators circumventing domestic regulations.

Looking at the brighter side first this Act brings much needed relief, by introducing unified statutory law, as for years the country has been functioning under disintegrated state laws and relying only on judicial distinction between “games of skill” and “game of chance”. The legislation has been curated in such a manner which has jettisoned on the distinction altogether, prohibiting all forms of online money games. The reason stated by the Union were to put a pause to these gaming platforms that thrive on misleading promises of quick wealth which in turn promotes addiction, financial ruin and social distress.<sup>3</sup> To let people understand the gravity of the problem, union government did also state a WHO International Classification of Diseases Report that classifies gaming disorder as a health condition where a person loses self-control, neglects their day to day chores and persists to play despite its harmful consequences.<sup>4</sup> The Minister In-charge for Electronics and Information Technology, Mr. Ashwini Vaishnaw, in his speech said that “45 crore people are negatively affected by online games and face a loss of more than Rs.20,000 crore because of it”. Further setting up of a national-level regulatory authority would bring all the issues of registering online games and addressing public grievances under one roof.

Coming to the other side of the story which gives a dimmer picture is that this ban itself would affect USD 3.8 billion dollar gaming market.<sup>5</sup> The industry groups warned that this unprecedented ban would affect 200,000 jobs and the closure of over 400 companies.<sup>6</sup> They further anticipate that the ban directly interferes with the 28% compound annual growth rate that would have doubled the country’s size by 2028.<sup>7</sup> Even the Press note released by the Information Bureau acknowledges the developing capabilities in areas of

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<sup>2</sup> The Constitution of India, Art. 246. Entry 52, List I.

<sup>3</sup> Press Information Bureau, GOI, “*Promotion and Regulation of Online Gaming Bill*”, 2025, <https://www.pib.gov.in/PressNoteDetails>

<sup>4</sup> WHO, “*Addictive Behaviour: Gaming Disorder*”, 2020, <https://www.who.int/news-room/questions-and-answers/item/addictive-behaviours-gaming-disorder>

<sup>5</sup> Eeshan Sonak, Saranya Ravindran “Goods and Service Tax on Online Skill Gaming: A Constitutional Perspective”

<sup>6</sup> “*Techcrunch*”, available at: <https://techcrunch.com/2025/08/20/india-bans-real-money-gaming-threatening-a-23-billion-industry/> (last visited on September 10, 2025)

<sup>7</sup> *Id.*

innovation, employment, global competitiveness etc., and how lack of coherent and enabling legal framework has put a standstill on growth of the structure.

At times when the tech sector is already coping with the decline of foreign investors in lieu of Trump's sanctions, this move would further push them away from India's market due to increase in volatility which is already one of the biggest hindrances in attracting investors. The Act worsens the situation as rather than regulating the gaming environment, it puts the money of investors in jeopardy.

The other major concerns of the government were to put a stop on siphoning of fund<sup>8</sup> from the domestic market, financial fraud and cybercrime. However, in today's globalised world where there are thousands of other options, it would only drive crore of players into the hands of illegal matka networks, offshore gambling websites and fly-by-night operators who operate without any safeguards or consumer protection.<sup>9</sup> The situation after the ban is such that government would not just fail objectively but the move would also hamper the tax collection of the country.

## II. KEY ASPECTS OF THE PROGA

### 1. *Complete prohibition on the game and advertisement*

The move bans the game itself which is not limited to the operator but also includes intermediaries provided under Section 2(1)(w) of Information and Technology Act, 2000. Further Section 69A of the IT Act enables the government to block access to illegal sites or links.<sup>10</sup>

Further it puts a ban on its advertisement across all media sectors including print, broadcast and digital, with a punishment of two years and fine up to Rs. 50 lakhs.

### 2. *Deals with addiction, mental health and suicides*

The rapid growth of online money games, though facilitated by advances in digital technology, has also generated serious risks for individuals, families, and society at large. These platforms have often exploited gaps in the legal framework, leading to significant social harm and raising concerns that outweigh their potential benefits.

The Minister In-charge for Electronics and Information Technology, Mr. Ashwini Vaishnaw stated that the legislation was introduced in response to incidents of harm, including reports of people dying by suicide after financial losses in gaming.<sup>11</sup> Industry representatives, however, argue that such cases mainly stem from offshore betting and gambling platforms, which they believe the new law fails to tackle.

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<sup>8</sup> "Money Laundering in Online Gaming" available at: <https://www.drishtiiias.com/daily-updates/daily-news-analysis/money-laundering-in-online-gaming> (last visited September 11, 2025)

<sup>9</sup> *Supra* note 6

<sup>10</sup> The Information Technology Act, 2000 (Act 21 of 2000)

<sup>11</sup> TOI Business Desk, "Online Gaming Bill Tabled in Lok Sabha: Government cracks down on digital betting, gambling; sees total ban" *Times of India*, August 21, 2025, available at <https://timesofindia.indiatimes.com/business/india-business/online-gaming-bill-tabled-in-lok-sabha-government-cracks-down-on-digital-betting-gambling-seeks-total-ban/articleshow/123404347.cms> (last visited on 11 September, 2025)

### 3. *Promotion and regulation of E- Sports*

The Bill authorises the central government to promote and regulate e-sports and online social games. It defines e-sports as online games that form part of multi-sport events, are recognised under the National Sports Governance Act, 2025, and whose outcomes depend entirely on elements such as physical dexterity, mental agility, or strategic decision-making. These are organised multiplayer competitions conducted under established rules, where participation may require a registration fee and winners may receive prize money. Crucially, such games are distinguished from gambling, as they cannot involve betting or wagering of any kind.

Further the authority would have powers to (i) determine whether an online game qualifies as an online money game, and (ii) recognise, categorise, and register online games. Composition and terms and conditions of this authority would reside with Central government itself.

### 4. *Cutting financial aid and Penalty provisions*<sup>12</sup>

Banks, UPI's and other financial institutions are prohibited from processing transactions related to these online money games. If these provisions are breached, then it would trigger penalty provisions including imprisonment upto three years, a fine of upto one crore rupees or both.

The Act further authorises designated officers to conduct searches without a warrant in locations such as buildings, vehicles, electronic records, and virtual digital platforms (including emails and social media). They may also arrest suspects discovered during such searches without a warrant, with procedures governed by the Bharatiya Nagarik Suraksha Sanhita, 2023.<sup>13</sup>

## III. DISTINCTION BETWEEN E-SPORTS, SOCIAL GAMING AND ONLINE GAMES INVOLVING WAGER.

PROGA, recognises the rapid growth of the gaming sector as a significant part of the digital economy and seeks to regulate it through a three-fold classification. Each category carries distinct legal treatment, reflecting both its social implications and economic potential.<sup>14</sup>

### 1. *E- Sports*

It is a legalised format of competitive sport in India, defined as organised multiplayer competitions conducted in accordance with pre-set rules, they require skills such as physical dexterity, mental agility, and strategic thinking. The new National Sports

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<sup>12</sup> Sahil Narang, "The Promotion and Regulation of Online Gaming Act 2025", *Mondaq*, 9 September 2025, available at < <https://www.mondaq.com/india/gaming/1675384/the-promotion-and-regulation-of-online-gaming-act-2025-regulating-indias-online-gaming-future#:~:text=At%20its%20core%2C%20the%20Act,games%20in%20all%20their%20forms> >

<sup>13</sup> Bharatiya Nagarik Surakhsha Sanhita, 2023 (Act 46 of 2023).

<sup>14</sup> *Supra* note at 3.

Governance Act, 2025 recognise it under the form of multi-sport tournaments. To promote the industry, Ministry of Youth Affairs and Sports prepares rules, guidelines, training academies, supporting research centres and creating digital platforms. These incentive and other awareness programmes would integrate these into broader sports policies, which would ultimately ensure recognition as mainstream sporting activity.

## 2. *Social and Educational Games*

Social games are recognised and allowed under PROGA and are games that are safe, casual and mostly skill-based activities where the main objective is entertainment, recreation or learning. And since it does not involve monetary stakes or wagering, they are not considered to be harmful. The act empowers Union Government to register and recognise such games which focuses more on social utility.

Dedicated platforms will distribute educational and cultural games, while awareness campaigns will highlight their role in promoting digital literacy and healthy recreation.

## 3. *Online Money Games Involving Wager*

This category encompasses games that require players to pay fees, deposit money, or otherwise stake resources with the expectation of winning monetary or material rewards. It applies regardless of whether such games are based on chance, skill, or a mix of both. The Act imposes an absolute prohibition on offering such games, their advertisement, and their promotion.<sup>15</sup> Banks and financial institutions are barred from processing payments linked to these platforms, while authorities are empowered to block access under the Information Technology Act, 2000. The blanket ban reflects concerns over addiction, financial losses, money laundering, and the tragic consequences of excessive gambling-related debt.

## IV. ONLINE GAMING IN INDIA: LEGISLATIVE FRAMEWORK

Over centuries “rules regarding gambling and games involving money” has remained in the grey zone with legislation dating back to “*Public Gaming Act, 1867*”<sup>16</sup>, which is still enacted in some states of India like Haryana, Punjab, Manipur, Himachal Pradesh, Madhya Pradesh etc. although game related to skill remained out of the prohibited list.<sup>17</sup>

Over the years state laws started regulating the sector more profoundly as “Betting and Gambling” falls under Entry 34 of State List under Schedule 7 of the Constitution.<sup>18</sup> Hence, the regulation of online gaming in India remains a patchwork of central and

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<sup>15</sup> Kirti, “Parliament passes Promotion and Regulation of Online Gaming Bill, 2025 without debate: What Experts are saying, *SCC TIMES*, August 22, 2025, available at <https://www.sconline.com/blog/post/2025/08/22/promotion-and-regulation-of-online-gaming-bill-2025/>

<sup>16</sup> The Public Gaming Act, 1867 (Act 3 of 1867)

<sup>17</sup> ICLG, *Gaming laws and Regulations India*, 2025, available at <https://iclg.com/practice-areas/gambling-laws-and-regulations/india>

<sup>18</sup> The Constitution of India, art. 246. Entry 34, List II.

state laws, with different categories of games attracting different treatment depending on whether they are deemed to be games of chance or skill.

The following overview traces how specific formats are dealt with under the present framework.<sup>19</sup>

### 1. Casino Gaming

Casino gaming, which includes slot machines and table games such as roulette and blackjack, are largely treated as gambling given its predominant element of chance. Most states prohibit casinos, including their online versions, under their respective gambling legislations.

**Sikkim:** Under the *Sikkim Online Gaming (Regulation) Act, 2008*,<sup>20</sup> licensed operators may offer games like roulette and blackjack, but strictly within the state's territorial boundaries.

**Goa, Daman & Diu:** Casinos operate under licences granted pursuant to the *Goa, Daman and Diu Public Gambling Act, 1976*.<sup>21</sup>

### 2. Poker

Poker occupies a more nuanced space, as several of its formats involve a significant degree of skill.

**Licensing States:** Sikkim and Nagaland regulate online poker through a licensing framework. The *Nagaland Prohibition of Gambling and Promotion and Regulation of Online Games of Skill Act, 2016* ("Nagaland Act") expressly identifies poker as a skill game.<sup>22</sup>

**Other States:** While poker is not expressly banned, operators must navigate state-specific requirements. Only certain variants, such as Texas Hold'em and Omaha Hold'em, are generally recognised as skill-based.

### 3. Fantasy Gaming

Fantasy sports have emerged as a legally distinct category and enjoy constitutional protection as a legitimate business. Their recognition as "games of skill" exempts them from the prohibitions under most state gambling laws. However, following the enactment of PROGA, one of the sector's leading player, Dream11, has suspended all paid contests on its platform. The company has since reintroduced itself in a "free-to-play" format, aiming to generate revenue through advertisements.

**Judicial interpretation:** High Courts in Punjab & Haryana, Bombay, and Rajasthan have upheld the legality of fantasy formats offered by platforms such as Dream11.

Under the Federation of Indian Fantasy Sports charter, as a game of skill, thereby exempting it from state gaming prohibitions and protecting it as a legitimate business under constitutional rights The Supreme Court in *Avinash Mehrotra v. State of Rajasthan*<sup>23</sup>

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<sup>19</sup> *Supra* note at 17.

<sup>20</sup> The Sikkim Online Regulation Act, 2008 (Act 7 of 2008)

<sup>21</sup> The Goa, Daman and Diu Public Gambling Act, 1976 (act 14 of 1976)

<sup>22</sup> The Nagaland Prohibition of Gambling and Promotion and Regulation of Online Games of Skill Act, 2016 (Nagaland Act 3 of 2016)

<sup>23</sup> *Avinash Mehrotra v. Union of India*, (2009) 6 SCC 398.

has affirmed that the legality of fantasy sports is no longer *res integra*, although an appeal in *Gurdeep Singh Sachar v. Union of India*<sup>24</sup> remains pending before a larger bench.

Regulatory regime:

Nagaland provides licences for skill games, expressly covering “virtual team selection games”. Rajasthan proposed a similar framework under its 2022 Draft Bill, but the legislation has not progressed.

Prohibitive states: Andhra Pradesh and Telangana prohibit fantasy sports played for stakes, having diluted earlier exemptions for skill games. These amendments are under constitutional challenge before the High Courts and Supreme Court.

4. Betting and Lotteries

Traditional betting, when based on games of chance, squarely attracts state prohibitions under public gambling laws. Lotteries, however, fall under a distinct regulatory regime at the central and state levels.

Lotteries: Governed primarily by the *Lotteries (Regulation) Act, 1998*,<sup>25</sup> state governments may authorise or ban lotteries altogether. Around 13 states currently operate lotteries, while others like Madhya Pradesh and Bihar prohibit them outright. Some states permit only charitable or not-for-profit lotteries under strict licensing.

Betting: States generally prohibit betting on games of chance. Horse-race betting and certain other forms have historically been treated differently due to judicial recognition of the skill involved, but online betting markets remain largely outside the lawful sphere.

5. Social Gaming (No Stakes)

Free-to-play or “social” games without monetary stakes fall outside the ambit of state gambling laws. However, platforms must comply with due diligence obligations under the Online Gaming Rules, 2023. Depending on the game’s content, other statutes may also be triggered, including the *IT Act, 2000*, the *Bharatiya Nyaya Sanhita, 2023* (for obscenity and fraud), the *Indecent Representation of Women (Prohibition) Act, 1986*,<sup>26</sup> as well as consumer protection and intellectual property laws.

The most concerning issue in the PROGA remains the broad definition of the term “other stakes” which has a broad definition under Section 2(j) when read with the definition of “online money game” to include the games which involve “credits”, “virtual items” and “tokens” etc. which may bring even casual games under observations.

Although Prohibited category is clear and includes fantasy sports, poker, rummy and other money based formats which beforehand enjoyed protection from judiciary under the ambit “substantial game of skill” test laid down by the Supreme Court of India in *State of Bombay v R.M.D. Chamarbaugwal*.<sup>27</sup> Further in *Andhra Pradesh v. K. Satyanarayan* the position was

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<sup>24</sup> *Gurdeep Singh Sachar v. U. O. I.*, 2019 SCC OnLine Bom 13059

<sup>25</sup> The Lotteries (Regulation) Act, 1998 (Act 17 of 1998)

<sup>26</sup> The Indecent Representation of Women (Prohibition) Act, 1986 (Act 60 of 1986).

<sup>27</sup> *State of Bombay v R.M.D. Chamarbaugwal*, (AIR 1957 SC 699)

reiterated stating that while gambling could be prohibited as *res extra commercium*, rummy and other games of skill falls under legal business activity.<sup>28</sup>

In line with this approach, the Allahabad High Court in *DM Gaming Private Limited v. State of UP*<sup>29</sup> and the Madras High Court in *Junglee Games India Private Limited v. State of Tamil Nadu*<sup>30</sup> have recognised games like poker and rummy as involving substantial skill rather than constituting gambling. The ruling in *Junglee Games* is presently under consideration before the Hon'ble Supreme Court. Against the backdrop of the new legislation, it will be significant to observe how the Supreme Court and various High Courts address pending matters concerning different formats of fantasy sports as well as games such as Ludo, Rummy and Poker.

## V. WAY FORWARD

Moving forward we can anticipate numerous litigations being initiated before the judicial forums including the High Courts and Apex Court challenging the constitutionality of PROGA under 19(1)(g).<sup>31</sup> The Jabalpur court recently became the third, after Delhi and Karnataka, to dismiss the industry's plea seeking an injunction against the Centre's move to notify the Act.

Meanwhile, the Union of India has approached the Hon'ble Supreme Court with a transfer petition to consolidate all such challenges pending before the High Courts of Delhi, Karnataka and Madhya Pradesh. On September 8, 2025, the Supreme Court allowed the petition, transferring all pending matters to itself. In a significant direction, the Apex Court also made it clear that any future challenge to the PROGA will not be entertained by any High Court and must instead be brought directly before the Supreme Court.<sup>32</sup> The matter is now listed for final hearing in the first week of November.

Counsel appearing for the industry stakeholders also drew attention to the 2023 amendment to the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, under which the Central Government had itself stepped in to regulate the online gaming space as a legal framework.

Looking ahead, India could take cues from established global frameworks, particularly from Europe and the United States, by adapting their best practices to suit domestic needs. The iGaming industry (a term that broadly encompasses online betting and gambling) is highly evolved in these regions, although the legal landscape varies considerably across the 27 European nations.

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<sup>28</sup> *Andhra Pradesh v. K. Satyanarayana*, (AIR 1968 SC 825)

<sup>29</sup> *DM Gaming (P) Ltd. v. State of U.P.*, 2024 SCC OnLine All 5009

<sup>30</sup> *Junglee Games India Private Limited v. State of T.N.*, 2021 SCC OnLine Mad 2762

<sup>31</sup> The Constitution of India, art. 19(1)(g).

<sup>32</sup> Transfer Petition (Civil) Nos. 2484-2486 of 2025; Union of India Vs Head Digital Works Pvt. Ltd. & Anr. Etc.

Take the United Kingdom, for instance, where the iGaming sector functions under one of the world's most comprehensive regulatory systems, overseen by the UK Gambling Commission (“**UKGC**”). The UKGC model is often cited internationally as a benchmark for effective regulation and responsible gaming standards.

Malta, in contrast, has built a reputation as a hub for iGaming thanks to its business-friendly regulations. The island nation is one of the first states to create iGaming regulation, also offers competitive gaming tax and corporate tax rates, which are typically lower than other jurisdictions. Meanwhile, countries like Germany and Ukraine have emerged as major markets in Central and Eastern Europe.<sup>33</sup>

Germany has recently relaxed its iGaming laws under the Interstate Treaty on Gambling (Glücksspielstaatsvertrag), allowing licensed operators to offer online casinos, poker, and sports betting, provided they meet strict rules on advertising, player safety, and responsible gaming. Poland, by contrast, continues with a tightly controlled system where online gambling is mostly under a state monopoly a model that many operators believe stifles growth and innovation.<sup>34</sup> The Czech Republic regulates through its 2017 Gambling Act, which tightened licensing standards and introduced a 23% tax on gambling activities. Hungary has only just opened its market, with a new licensing framework that came into force in January 2023, requiring applicants to have at least five years of prior online gaming experience within the EEA, alongside significant financial commitments such as capital requirements, license fees, and taxes on gross revenue.

Although Nordic countries do not have an extensive iGaming policies but the mounting pressure from gaming industry is constantly pushing to introduce updated framework which would be similar to rest of Europe.

When it comes to United States both the State and Federal Government play a pivot role is establishing guidelines. Initially, Federal Wire Act, 1961 banned inter state sports betting via wire communications which complicated the legality of online gambling but later with the introduction of Unlawful Internet Gambling Enforcement Act of 2006 it left the authority to define the “legality” with individual states allowing states to legalise gaming and financial transaction within their jurisdiction.

## **VI. CONCLUSION**

The Promotion and Regulation of Online Gaming Act, 2025 is perhaps the boldest attempt yet to regulate India's online gaming industry. However, its sweeping prohibitions raise constitutional and economic concerns. By conflating all money-based games whether of skill or chance under a single prohibition, the Act risks undoing years of judicial precedent, stifling innovation and pushing users towards unregulated platforms. Ultimately, the

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<sup>33</sup> Emmanuella Oluwafemi, “*How is iGaming Regulated Around the World?*”, 2024. available at <<https://www.blockchain-ads.com/post/igaming-regulations>>

<sup>34</sup> KPMG, “New Regulations for Gambling Providers”, 2024 <<https://kpmg.com/de/en/home/insights/2024/12/new-regulations-for-gambling-providers.html>>

Hon'ble Supreme Court will decide whether the Union's blanket ban is constitutional, or whether it represents an overreach into the State List. Until then, the fate of India's online gaming industry remains uncertain and caught between the imperatives of regulation and the risks of over-regulation.

The PROGA marks a defining moment for India's digital economy, one that straddles the line between necessary social regulation and economic restraint. While the legislative intent behind PROGA is rooted in addressing genuine concerns of addiction, financial exploitation and consumer protection, its blanket approach risks stifling a thriving sector that had positioned India as one of the fastest-growing gaming markets in the world.

From a constitutional perspective, the Act is certain to test the limits of Article 19(1)(g), which guarantees the right to practise any trade or business, against the State's power to impose reasonable restrictions in the interests of public welfare. The coming months, particularly the Supreme Court's adjudication on pending challenges, will determine whether Parliament's invocation of Entry 52 of the Union List can justifiably override state competence under Entry 34 and whether such sweeping prohibitions satisfy the proportionality test evolved in modern constitutional jurisprudence.

Economically, the legislation's impact extends far beyond gaming start-ups. The ban jeopardises investor confidence in India's technology ecosystem at a time when global capital inflows are already strained. By collapsing a regulated domestic market into a grey, unmonitored digital space, PROGA may unintentionally fuel the very offshore and illegal platforms it seeks to suppress thereby leading to enforcement challenges and potential revenue losses for the exchequer.

Globally, jurisdictions that have confronted similar dilemmas have largely opted for calibrated regulation rather than prohibition. The United Kingdom, Malta and parts of the United States demonstrate how robust licensing regimes, strict advertising codes and responsible gaming mandates can coexist with innovation and market growth. India's challenge, therefore, is not whether to regulate, but how to regulate and strike a balance between protecting citizens and enabling a legitimate industry to flourish.

As India stands at this constitutional and economic crossroad, the way forward must involve nuanced policymaking, multi-stakeholder consultation and a willingness to differentiate between risk and opportunity. A measured framework that distinguishes games of skill from games of chance, integrates consumer safeguards and leverages technology for transparency could transform the gaming sector from a perceived social threat into a regulated driver of digital innovation and employment. Whether the Supreme Court upholds or recalibrates PROGA, its decision will indelibly shape the contours of India's digital economy for years to come.