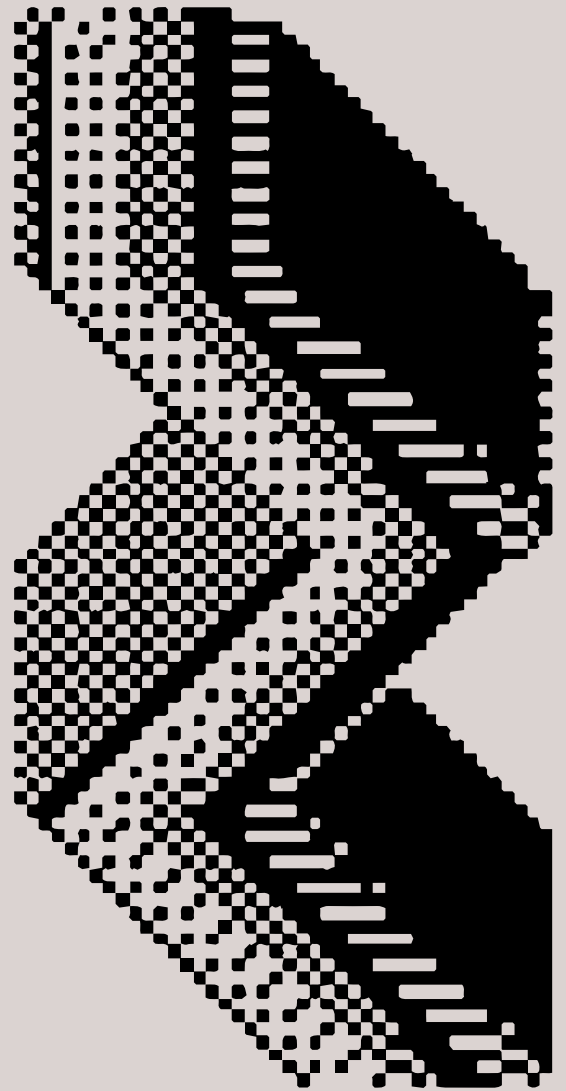


# Evaluating Blanket Bans and Mandatory Limits in Gaming

Lessons from Global  
Frameworks



Gujarat National Law University

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# 01 Foreword

Justice C.K. Thakker

Former Judge | The Supreme Court of India



The realm of gaming and betting in India has ancient roots, deeply intertwined with our cultural fabric. We see references of betting in our epics and earliest legal treatise but despite the prevalence, these texts reflect a sceptical approach towards it. High risk games like wagering on games of chance were considered to be a risky activity then and continue to be a risky activity now, which can lead not only to self-harm but also self-destruction.

Historically, Indian law has differentiated between gaming and gambling based on whether a game involves skill or chance, a distinction continuously refined through evolving jurisprudence. While legal interpretations have gradually evolved, the nature of games has advanced at a remarkable pace, often blurring the line between gaming and gambling. This blurry line is safeguarded by the judiciary, redrawn afresh on a case-by-case basis. As a result, the online gaming industry operates in a grey zone due to the lack of clear differentiation between games of skill and games of chance. Although Indian courts have established that games of skill and gambling/betting are distinct categories, there is no law explicitly defining what constitutes a game of skill versus gambling. This regulatory ambiguity has resulted in a patchwork of state laws and numerous legal disputes.

This scenario reminds me of Dr. B.R. Ambedkar's perspective during the Constituent Assembly debates on betting and gambling. The prevalent view is to prohibit these activities by not including them in the state lists. However, Dr. Ambedkar argued that their omission would not stop such activities but would result in a lack of control over them. The current challenges in online gaming echo this debate—India is not effectively regulating the sector, but the sector continues to thrive albeit with little or no checks and balances.

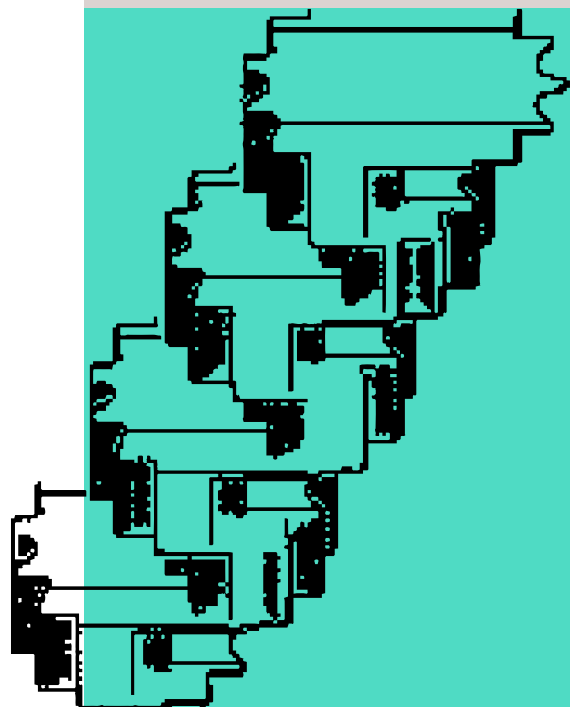
Gujarat National Law University's pioneering Report on the efficacy of regulatory measures in online gaming is timely and stands out as one of the first comprehensive evaluations of this intricate issue in the Indian context.

Moreover, it is crucial to prioritize consumer protection within any regulatory framework. The dynamic and innovative nature of the online gaming industry offers vast opportunities for growth and entertainment. To fully harness this potential, it is essential to develop evidence-based practices and policies that can adapt to the rapidly evolving gaming landscape. By focusing on consumer protection, we can ensure that players enjoy a safe, fair, and transparent environment, thereby fostering trust and sustainable growth in the sector. By

comparing various jurisdictions and analyzing their laws, this Report seeks to identify an ideal regulatory model tailored for India. What makes this research particularly remarkable is its multidisciplinary approach. I commend the research team for their impressive work in evaluating both the legal and human aspects of online gaming regulation. Their findings offer valuable insights that will contribute to shaping a balanced and effective regulatory framework for online gaming in India.



Justice C.K. Thakker



# 01 Foreword

Dr. Sanjeevi Shanthakumar

Director | Gujarat National Law University, Gandhinagar



**Mark Zuckerberg** the Founder of Facebook once said *“My position is not that there should be no regulation. I think the real question as the internet becomes more important in people’s lives is ‘What is the right regulation?’”*

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Lawyers have long been captivated by new technologies. As swiftly as new inventions and industries emerge, legal professionals and scholars are quick to explore their legal ramifications. This is likely because the law does not operate in isolation; technological change is a form of social change. As a result, we see both excitement and fear of technology’s potential can be seen in our media and popular culture. These fears about technology, its impact on users often create a perceived need for control through law.

Online gaming exemplifies the challenges new technologies pose to Indian policymakers. It represents a growing sector with immense potential to boost India’s economy. The convenience, 24/7 availability, anonymity, and affordability of internet and mobile devices have led to widespread use of online gaming services. With India projected to become the largest consumer market by 2030, the country now hosts 568 million gamers and over 9.5 billion gaming app downloads in 2023 alone, accounting for 15% of the world’s total mobile game downloads. However, this growth has brought concerns about online gaming to the forefront, highlighting the need for balanced

regulatory frameworks that prioritise consumer protection.

The pressing question is how to effectively regulate the online gaming sector to balance its potential with its risks. How do we protect users while respecting individual autonomy in a country with a long tradition of the rule of law? Policy makers across the world are experimenting with regulatory interventions like time and money limits, age gating among others. Regulatory objectives include preventing addiction, protecting vulnerable groups, ensuring consumer protection, and combating money laundering and crime. These approaches are also being discussed in India, and striking the right balance through well-crafted laws is essential to harnessing the benefits of online gaming while mitigating its risks.

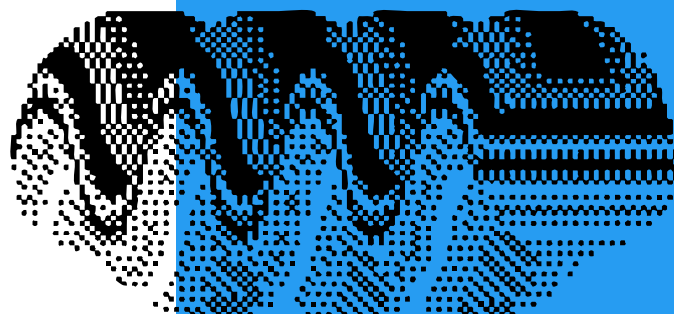
As lifelong students of the law, it is imperative that we adapt to changing circumstances and emerging technologies. We must move beyond traditional legal frameworks to adopt more inclusive regulatory approaches, involving standard-setting, information gathering, and behavior modification. This comprehensive approach ensures that regulation evolves alongside innovation.

Gujarat National Law University has always heralded an academic spirit of inquiry and research and with this Report, we have set

a new benchmark for ourselves. With this seminal work on online gaming and regulation, we have not only identified issues with online gaming regulations across jurisdictions but also approached the issues with an interdisciplinary approach. I am confident that this Report will attract the attention of policymakers and legal scholars worldwide. I congratulate the GNLU Centre for Sports and Entertainment Law (GCSEL), led by Convenor Dr. Niyati Pandey and Mr. Tarun, for their efforts in producing this comprehensive Report on evaluating the efficacy of time and money limits in online gaming.



Dr. Sanjeevi Shanthakumar



## 02 Executive Summary



Online gaming has metamorphosed from a niche hobby into one of the biggest markets in the entertainment industry. India's online gaming sector has experienced significant growth, now encompassing a community of 500 million gamers, making it the second largest in the world after China. As with any emerging technology, this rapid expansion has brought challenges, particularly concerns about user safety and financial risks. Governments worldwide are encountering similar issues and in response, exploring various strategies to promote responsible gaming habits and address these concerns. Policy interventions, including time and money limits, are gaining traction in India to protect users from the negative impacts of online gaming. This Report critically evaluates whether regulatory interventions like time and monetary limits effectively addresses these issues or whether such measures oversimplify the complexities involved. Based on this assessment, the Report provides observations and recommendations on the most effective approaches to user protection.

Internationally, approaches to setting money and time limits in online gaming vary, guided by two distinct approaches; Risk Minimisation and Restrictive Interventions. Risk minimization focuses on empowering users to make informed choices and to nudge them towards responsible gaming behaviours without imposing rigid controls, while restrictive intervention is characterised by strict and paternalistic

controls that undermine individual autonomy.

Most jurisdictions, including the EU, USA, UK have adopted a risk minimization approach. This strategy incorporates responsible gaming tools such as voluntary and mandatory user-defined limits, warning messages, self-exclusion, user monitoring among others. Evidence from literature review suggests that these tools effectively empower and nudge users towards healthier gaming habits while significantly reducing problematic behaviours.

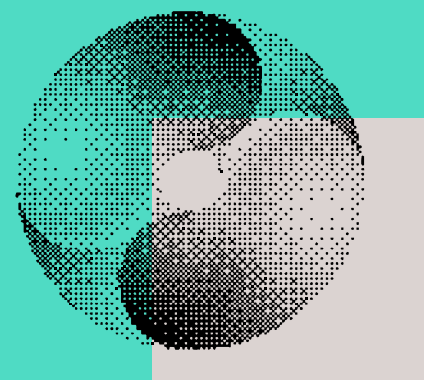
In contrast, restrictive interventions involve governments setting maximum limits on time and spending, within which users establish their own limits. China and, previously, South Korea have implemented such measures albeit for minors. Adults seldom have government set limits, even in Asian countries. While these methods appear attractive due to their direct approach, evidence suggests that broad, restrictive measures are ineffective in reducing user harm. A major study analyzing over seven billion hours of playtime found that extreme restrictions often lead users to desire more gaming. Consequently, users may resort to creative workarounds, such as using fake identities or credentials, significantly diminishing the effectiveness of such interventions. Further, market reactions to restrictive policies have been notably adverse. Such measures have driven a significant increase in black market activity, with users flocking to illegitimate gaming platforms.

In-depth international analysis demonstrates that well-defined regulation for the bulwark for user protection. Major economies have established regulatory frameworks aimed at preventing unintended consequences and promoting responsible gaming.

When it comes to time and money restrictions as a potential harm reduction measure, adults engaging in skill-based games seldom face mandatory government-imposed limits. Such limits are more commonly applied to minors. Globally, the risk minimization approach is favored for the general gaming population since it is more practical to implement and effective than restrictive government-imposed limits. However, to ensure that limit-setting tools within this approach are truly effective, five key principles are essential: Operators must be required by law/through regulation to offer limit-setting features, Users should be mandated to set limits before playing, Limits should be difficult to increase once set, Users should be able to decrease limits instantly, and a centralized, multi-operator self-exclusion facility should be provided.

In the Indian scenario, the absence of regulation governing the online gaming sector has left the users unprotected and potentially at risk. There is a lack of scientific research on the fundamental understanding and extent of harm prevalent in the sector. The need of the hour is to carefully plan and implement regulatory changes based on thorough research and understanding to avoid unintended consequences and ensure more effective solutions.

The Expert Committee, which served as an advisory panel for this Report and included specialists in law, policy, mental health, and data sciences, has outlined five key considerations and practices for policymakers: First, there is an urgent need for stronger and nationally consistent regulation of online gaming. Effective user protection can only be achieved via a comprehensive regulatory framework. Second, restrictive interventions of government-imposed time and money are not a viable solution for protecting users from harm. They are not only ineffective but also potentially unconstitutional. Policymakers must ensure that regulatory measures designed to protect users do not infringe upon constitutionally guaranteed freedoms. Third, implementing responsible gaming tools—where regulators require operators to provide features such as limit-setting to support responsible play—is optimal. This approach is more effective and mitigates the severe unintended consequences often associated with restrictive policy measures. Fourth, to protect users, interventions should prioritise education, awareness, and industry standards or operator duties of care, supported by legal frameworks. Fifth, any policy measure to protect users should be grounded in concrete evidence.





## 03 Definitions & Scope

Online games are defined differently across different regulatory frameworks and jurisdictions. Some jurisdictions categorize games based on the element of chance versus skill, while others classify them by the presence of speculative elements. The focus of this Report is to investigate the efficacy of time and money limits in online gaming and to draw lessons for India. In some instances, we refer to regulatory frameworks and harm reduction measures for gambling, as they can provide useful analogies for identifying best practices in the online gaming industry. In the past as well, social media operators such as Facebook and Instagram and smartphone operators such as Apple<sup>1</sup> have introduced a portfolio of responsible social media use tools closely modelled on those used by the gambling industry<sup>2</sup>. Google too provides tools for responsible consumption for minors which enables parents to limit daily access as well as monitor app purchases.

In addition, due to the diversity of games and country specific regulatory frameworks, the classification of a particular game as one of chance or skill may vary and is often contested.

### What are online games?

Online games with its grammatical variations and cognate expressions is a broad terminology which can be understood as games that are offered on the internet or over an electronic network. These include casual and real money games, and can range from seemingly simple puzzle games and online ludo to much more complex massively multiplayer online role-playing games (MMORPGs). Online games wherever used in this Report refers to this broad terminology because the potential concerns associated with online games at large are similar. Within online games, casual, classic, mid core and hard core are common categories that denote the relationship between player behaviour and game mechanics. Casual and classic tend to typically be games with simpler constructs.

### What are online games of skill?

A game including but not limited to pay to play whose outcome is predominantly determined by the participant's skill such as knowledge, training, expertise, and experience including where the skill relates to the manner in which the moves are made, whether through deployment of physical or mental skill and acumen.

## 03 Definitions & Scope

### What are online games of chance?

Online games of chance (gambling) refers to and includes wagering or betting on games of chance. United Nations Statistics Division's Central Product Classification Version 2.1 (CPC), Entry 96921 defines on-line gambling services as: organisation and selling services of lotteries, lottos, off-track betting; casino and gambling house services and gambling slot machine services.

### What is meant by time and money limits?

Time and money limits refer to a subset of responsible gaming measures implemented by operators. Limits can be imposed on players by requiring them to set a limit, by setting a limit on their behalf, or by providing them with the option to choose their own limits. Limits may be set to control money, time, or both.

### What is meant by voluntary time and money limits?

These limit tools are pre commitment tools and refer to the functionality of enabling users to set limits for the amount of time and money they spend on gaming per day and/or per week/month. In most jurisdictions, these are encouraged by the regulator and implemented by operators.

### What is meant by mandatory time and money limits?

Mandatory time and money limits in gaming refer to pre-set limits for the amount of time and money users can spend per day and/or per week/month.



# 04 Introduction

## Background of the study

Dutch cultural theorist Johan Huizinga, in his seminal 1938 book on play titled *Homo Ludens*, posited “play is older than culture, for culture, however inadequately defined, always presupposes human society, and animals have not waited for man to teach them their playing.” Play has evolved as man has evolved—modern technology has caused a paradigm shift, giving play a digital form within the magic circles of online games.

India is evolving into one of the world's most dynamic consumption environments. By 2030, India is set to become the ‘largest young consumer’ market in the world, poised to witness a fourfold increase in consumer spending.

A major trend shaping this new consumer landscape is the increasing consumption of content on digital platforms. This shift is driven by growing internet penetration, the proliferation of mobile devices, and the convenience of accessing content anytime, anywhere. In 2023 alone, the Indian M&E sector witnessed a significant growth of 8%, reaching INR 2.32 trillion, surpassing its pre-pandemic 2019 levels by 21%<sup>3</sup>.

Currently, the average mobile web user in India consumes approximately 6.2 hours of media daily, with significant time spent on mobile and online media. Social media and entertainment, particularly music and video, dominate mobile

internet usage, followed by games, general search, and emails.

The rise in digital consumption across Media and Entertainment (M&E) platforms, including OTT services, social media, online gaming etc., has introduced a range of potential challenges. These include issues related to addiction, cybersecurity threats, financial frauds and privacy breaches. As with any emerging technology, the recent meteoric rise of the online gaming sector has elevated these concerns to a critical priority for the government.

Recognizing this, the Ministry of Electronics and Information Technology (**MeitY**) introduced amendments to the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 (**Online Gaming Rules**) in April 2023. These amendments introduced a new central regulatory framework for online gaming and established a light-touch, co-regulatory approach. The Online Gaming Rules are designed to usher in an era of responsible online gaming through strict guidelines that ensure the safety of digital citizens and the accountability of the online gaming industry. To achieve these objectives, the rules defined 'permissible online real money games' and mandated certification requirements through Self-Regulatory Bodies (**SRBs**) designated by the government.

While progress in regulating the sector has been impeded by ongoing delays in notifying

the SRBs under the Online Gaming Rules, alternative policy interventions are gaining traction as measures to protect users from the negative impacts of online gaming. Among these interventions is the implementation of time and monetary limits for users. For example, in Tamil Nadu, the Tamil Nadu Prohibition of Online Gambling and Regulation of Online Games Act, 2022 (**Tamil Nadu Act**)<sup>4</sup> which regulates online gaming, authorises the regulator to make rules for time limits, monetary limits, and age restrictions for playing online games in the state. Currently the Tamil Nadu Act permits online skill based real money games (such as fantasy, rummy and poker among others) in the state and no rules have been notified under the Act.

In December 2022, in response to a parliamentary question on online gaming, Mr. Rajeev Chandrasekhar, the former Minister of State for MeitY, stated that the government had no intention of imposing time limits<sup>5</sup>. The Online Gaming Rules, in their current form, align with this stance and do not include such restrictions. However, recent news reports indicate that similar policy interventions may now be under consideration at the national level. These potential measures, possibly inspired by the Chinese model of online gaming regulation, have sparked significant discussion.

Governments around the world have been experimenting with policies and regulations to combat online gaming addiction. Two major approaches have emerged: restrictive interventions and risk minimization approaches. For instance, China has implemented

restrictive policies that include government-imposed mandatory time and money limits. In contrast, many other countries have adopted a risk minimization approach, which focuses on reducing harm through responsible gaming practices. These practices include voluntary and mandatory limits warning messages about the risks of excessive gaming, user monitoring, individual counselling among others but do not involve state-imposed maximum time and money limits. Additionally, some countries have transitioned between these models. For example, South Korea moved from a restrictive policy to a risk minimization approach, emphasising voluntary measures and giving users more autonomy.

Within this context, considering the dynamic nature of emerging technologies like online gaming and their innovative and economic potential for India, it is crucial to assess the effectiveness of different regulatory approaches. Specifically, whether the policy intervention of imposing mandatory time and monetary limits achieves the desired objectives, or proves to be ineffective and overly simplistic in addressing the complex policy issues.

## Study Approach

The evolving landscape of the online gaming sector demands a comprehensive and nuanced regulatory framework that addresses its unique challenges. Specifically, there is a need to investigate the effectiveness of regulatory interventions like time and money limits, which are frequently discussed in the context of online

gaming regulations. This Report undertakes a rigorous comparative law and policy analysis to assess the impact of these tools and cull out valuable lessons for India.

## Methodology

The objective was to examine current international regulatory frameworks related to time and money limit interventions in online gaming, analyse the strengths and weaknesses of such measures through a comparative jurisdiction analysis. The methodology followed to carry out the study had three components: scoping, data collection, and analysis.

### Scoping

The scoping phase refers to the steps taken to select the particular jurisdictions for investigation. The selection of jurisdictions for this study was guided by three primary criteria:

Implementation of Time and Money Limits in Gaming: Since the primary objective of this Report is to evaluate the efficacy of these limits, jurisdictions were selected based on the presence of time and money interventions within a gaming context.

Market Size and Maturity: The study targeted the top jurisdictions by market size, focusing on regions with significant gaming industry presence. This ensures that the findings reflect major global regulatory trends/approaches. Example Jurisdictions: China which is the largest gaming market in Asia, South Korea -one of the most mature gaming markets in

Asia; United States which is the largest global gaming market with a substantial influence on global trends.

Diversity of Legal Systems and Political Economies: To capture a broad spectrum of regulatory approaches, jurisdictions were selected to represent a wide range of legal systems and political economies. This diversity allows for a comprehensive analysis of how different legal and economic contexts influence the implementation and effectiveness of gaming regulations.

### Data Collection

The data collection phase primarily involved comprehensive desk research aimed at identifying and reviewing relevant documentation to address key questions regarding the regulation of gaming, the implementation of time and money limits, and the efficacy of such measures within each jurisdiction. The findings presented in this Report are derived from a mix of primary resources like judicial decisions, statutes, and administrative rules and regulations and secondary legal sources commentaries, law reviews and journals, government reports, studies conducted by civil society organisations, and news reports. The Report writing team employed triangulation, cross-referencing evidence from multiple sources to enhance the reliability of the findings.

The desk research was also supplemented with inputs and guidance from the Expert Committee (refer Acknowledgements).

## Analysis

Each individual country/regime was studied as a case, triangulating the information obtained from various sources to describe the regime and qualify its strengths and weaknesses. This was then followed by a comparative analysis, whereby the approach of each jurisdiction studied in a given area were compared with one another.

The present Report serves as a valuable resource for policymakers, researchers, and other stakeholders interested in understanding and addressing issues related to online gaming and the imposition of time and monetary limits as a policy intervention. For a comprehensive understanding, we recommend reading the Report in its entirety. However, for those seeking specific information, the table of contents can guide you to the relevant sections.

## Psychological Underpinnings of Regulatory Measures: Time and Money Constraints

This section traces the evolution of gaming addiction definition and the resultant genesis and evolution of time and money limits in online gaming. It does so by examining the psychological and societal debates around online gaming addiction, its aetiology, and perspectives on efficacy of time and money constraints.

In 2013, the American Psychiatric Association (**APA**) identified ‘Internet Gaming Disorder’ (**IGD**) as a potential psychological condition which requires further scientific study in Diagnostic and Statistical Manual of Mental Disorders (**DSM-5**)<sup>6</sup>. DSM-5 defines IGD as “persistent and recurrent use of the Internet to engage in games, often with other players, leading to clinically significant impairment or distress”. The diagnostic threshold in DSM-5 is meeting five or more of nine criteria in a 12-month period.

However, the proposal to establish a formal diagnosis for game-related behavioural disorders has faced considerable criticism. In 2016, a group of researchers wrote a letter to the World Health Organisation (**WHO**) recommending against adding ‘Gaming Disorder’ to its diagnostic handbook<sup>7</sup>. The letter highlighted “the low quality of the research base, the fact that the current operationalization leans too heavily on substance use...” as some of the reasons that warrant re-thinking of the classification.

Regardless, in 2018, ‘Gaming Disorder’ was introduced by WHO in the 11th Revision of the International Statistical Classification of Diseases and Related Health (ICD-11)<sup>8</sup>. It is defined in ICD-11 as “a pattern of gaming behaviour (‘digital-gaming’ or ‘video-gaming’) characterised by impaired control over gaming, increasing priority given to gaming over other activities to the extent that gaming takes precedence over other interests and daily

activities, and continuation or escalation of gaming despite the occurrence of negative consequences.” WHO’s inclusion of gaming disorder in the ICD-11 further increased the debate among academics and within the medical community about its validity. The definition of gaming disorder under ICD-11, while seen by some as an improvement over the heavily criticised DSM-5 definition, still lacks full support from the clinical community. It is perceived to potentially over-pathologize a recreational activity and misclassify a coping mechanism as an addiction disorder<sup>9</sup>. For instance, internet gaming could be a coping mechanism for dealing with negative emotions, stress, or fear, or it might serve as a diversion from reality.

While global consensus on the definition and categorisation of gaming addiction seems evasive, there is recognition of potential concerns associated with gaming. One criterion for diagnosing gaming disorder under both ICD-11 and DSM-5 is tolerance involving needing to spend more time on gaming. This connection between prolonged gaming sessions and the development of gaming disorders, has led to calls for implementing policy interventions restricting time and money access.

However, over the years, various studies have shown that the relationship between playtime and well-being is variable, and that total playtime does not reliably predict well-being<sup>10</sup>. There is also a growing consensus that the number of hours spent playing online

is neither a reliable nor valid criterion for diagnosing online gaming addiction. Most recently, the **Council of Europe’s Expert Group on Online Addictions Risks** published an April 2024 report on Risks and Harms associated with Online Gaming and Gambling<sup>11</sup> that

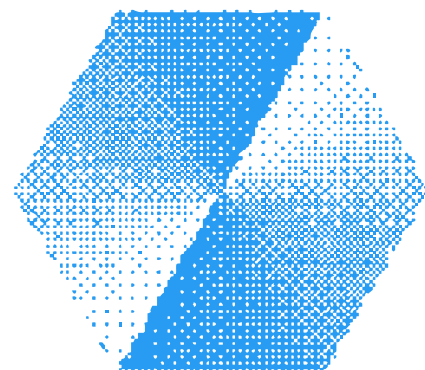
*“the few policy measures that exist are most frequent in Asian countries and mainly aim to reduce the time spent on online games among minors. Research on the efficacy of such measures is rare; however, existing research shows that such measures are ineffective.”*

Given the lack of comprehensive research establishing a direct causal relationship between time and money spent on gaming and addiction, and the limited studies evaluating the efficacy of time and money constraints, it is challenging to determine with certainty whether these limits are beneficial and which forms are most effective. This is not surprising, as clinicians still differ in diagnostic criteria and aetiology. The overproduction of similar but varied harm reduction tools has divided research efforts and created uncertainty among researchers. Additionally, a growing body of work suggests that replication is challenging in psychological research, as studies on a given psychological or behavioural phenomenon can never be exact replications. Meanwhile, the definition of gaming disorder itself is under scrutiny. Consequently, basing blanket regulatory measures on these still-evolving constructs may not achieve the intended outcome of user protection due to variables like cultural context, physiology, and comorbidities.

In light of the above perspectives and challenges, there is a need for high-quality localised research, including longitudinal studies, investigations involving clinical samples to identify effective policy and regulatory interventions that mitigate potential harm in India. As a consequence, heterogeneity cannot be avoided. Rather than trying in vain to eliminate it, there may be merit in conducting localised large-scale replication addiction studies in different jurisdictions to solve local problems instead of relying on a one-size-fits-all approach<sup>12</sup>. It is a definitional fallacy to assume

that a precise definition in terms of shared properties (of addiction) grants the construct perfect homogeneity<sup>13</sup>.

The focus therefore should be on leveraging emerging technologies, as online environments offer enhanced opportunities to identify those at risk and provide low-threshold options for accessing treatment. By prioritising research and evidence-based policymaking, regulators can develop more effective strategies to protect users and promote responsible gaming.





# 04 Comparative Analysis



## CHINA

### Regulatory Framework:

Before March 2018, oversight of China's online gaming industry was divided between two main regulators: the National Press and Publication Administration (**NPPA**) and the Ministry of Culture (**MOC**). These entities were responsible for tasks such as reviewing and approving game content, issuing licenses for game publication and operation, and establishing industry regulations. However, on March 21, 2018, the Communist Party of China announced the Plan to deepen reform of party and state institutions, which centralized regulatory authority over the gaming industry within the NPPA. This move shifted the NPPA from its previous position within the government structure under the State Council to a new position under the Propaganda Department of the Central Committee within the party structure.

Following this reorganisation, the MOC ceased its involvement in game content censorship reviews and the issuance of necessary licences. Since the restructuring in 2018, the NPPA has become the regulator of China's online gaming industry. However, the relevant regulations are dispersed across various laws and regulations, and online gaming companies generally continue to adhere to market practices established under the now-repealed MOC Game Measures and MOC Game Operation Notice.

### Measures to restrict time and money limit:

The government in China has maintained a complex relationship with the online gaming industry. On one hand, online games have served as a major source of revenue for China's tech sector, contributing significantly to the growth of key players like Tencent and NetEase. However, on the other hand, the government is concerned about the potential negative impact of the sector. Consequently, government policy has frequently oscillated between implicit support and occasional crackdowns, often in the form of regulations aimed at preventing potential harm to minors engaging in online games<sup>14</sup> in China.

China's tryst with restrictive interventions started almost two decades back, when between 2000 and 2015, China imposed a ban on the production and sale of popular gaming consoles like Xbox and PlayStation, aiming to mitigate the risk of children developing addictions. Nevertheless, many players circumvented this restriction by purchasing consoles illegally or shifting their focus to PC and mobile games. Following the lifting of the ban, the government implemented regulations and censorship measures targeting the perceived "harmful attributes" in video games, including addictive features such as in-game rewards and achievements, as well as depictions of violence. Specifically, China introduced the Online Game Addiction Prevention System (Fatigue System) in 2007, which aimed to address gaming addiction by reducing rewards as playtime increased and

displaying warnings about excessive gaming. However, this system proved largely ineffective and was eventually abandoned.

In an effort to further mitigate the negative impact of the internet on minors, China enacted the Minors Internet Protection Ordinance in 2016. This legislation included provisions such as limiting night time gaming, providing educational guidance for players, and mandating gaming companies to comply with anti-addiction standards. Despite these measures, the perceived prevalence of gaming addiction among minors playing available online games necessitated a revision of the law. In 2019, China implemented stricter time limits on minors' gaming activities, restricting gameplay to 1.5 hours on weekdays, 3 hours on weekends and holidays, and only during daytime hours.

To further build upon the above measures, in 2021, the Chinese government introduced new regulations significantly reducing the amount of time minors could spend online games. Under these rules, individuals under 18 years old are limited to playing video games for not more than three hours per week. Specifically, they are allowed to play for one hour each on Fridays, Saturdays, and Sundays, between 8 pm and 9 pm. Additionally, gaming is prohibited between 10 pm and 8 am for minors.

The latest development occurred on December 22, 2023, when the NPPA issued a draft guideline titled "Measures for the Administration of Online Games" (**Draft Measures**). These Draft Measures consolidate

existing rules into a single document and introduce new clarifications and amendments across eight chapters comprising 64 articles. Approximately 10 of these articles contain new or revised guidelines, marking the most significant regulatory changes since additional restrictions were placed on Chinese youth gamers in September 2021.

*Article 18* of the Draft Measures emerged as the most contentious provision within the Draft Measures. This article mandated that online game companies implement user spending limits, disclose these limits in their terms of service, and issue pop-up warnings when users exhibit irrational spending behaviour. It also prohibited companies from providing rewards to incentivize daily logins, initial account funding, or consecutive account funding, all of which are common practices among mobile and PC game publishers. Furthermore, *Article 18* barred game companies from employing speculative or auction-based methods to facilitate or endorse high-priced transactions involving virtual items.

While the Draft Measures did not specify precise numbers for spending limits, the mere suggestion that such limits might apply to adults, in addition to children, instilled uncertainty among China's game companies and triggered panic selling in the marketplace.

The announcement of the Draft Measures significantly impacted the stock prices of major game developers, wiping nearly USD 80 billion in market value from China's biggest gaming companies, including Tencent and NetEase.

Tencent, the world's largest gaming company, experienced the most severe consequences, with its shares plunging 12%, wiping over USD 46 billion from the company's market cap, which stood at approximately USD 375 billion<sup>15</sup>, while those of its closest rival, NetEase's market cap which stood at approximately USD 72.1 billion<sup>16</sup>, plunged as much as 25%<sup>17</sup>. This Draft Measures reignited concerns about potential regulatory measures by the Chinese government targeting the nation's substantial internet sector. Subsequently, the Draft Measures were removed from the official website, with reports suggesting that the government has since moderated its stance, labelling the proposal as negotiable. To the best of our knowledge the Draft Measures may no longer be implemented in their current form and could potentially be scrapped.

Further, the table below outlines the existing spending limits for minors, which have been enforced since 2019:

Age of Minors	Each Transaction Limits	Monthly Spending Limits
Under 8	Transactions Prohibited	Transactions Prohibited
8-16	RMB 50/ USD 7	RMB 200/ USD 28
16-18	RMB 100/ USD 14	RMB 400 / USD 56

To enforce these restrictions, gaming companies are required to implement real-name verification systems, ensuring that players register with their real names to access online games. Currently, no time or money limits are imposed on adults.

### Effectiveness of measures:

Despite the intentions of the government, regulating the internet within a fragmented market with multiple operators requires significant coordination and capacity for seamless execution. Without adequate systems in place, as seen in China, effective implementation of such restrictions remains challenging<sup>18</sup>.

Many online gaming companies have started using facial recognition technology as a routine check to prevent minors from using adult IDs to log in. However, some experts argue that the collection and processing of biometric information does not comply with the "minimum necessity principle" outlined in Article 6 of the newly enacted Personal Information Protection Law of the People's Republic of China (Chairman's Order No. 91 (PIP)). Since the Law on the Protection of Minors only requires unified identity authentication systems for age verification and does not explicitly authorise the use of facial recognition for enforcing anti-addiction measures, employing this technology could potentially violate the PIP.

In addition to the implementation, the effectiveness of these policies itself has garnered mixed reviews. While government-supported evidence, such as the 2022 China Game Industry Progress Report on Minor Protection, suggests that measures implemented in 2021 led to a significant reduction in gaming addiction among minors<sup>19</sup>, independent researchers and institutions hold

a contrasting view. According to their findings, these measures have not resulted in a decline in addiction rates among minors over the years.

A recent study published in *Nature Human Behaviour*<sup>20</sup> sheds light on this divergence. Drawing on data encompassing more than seven billion hours of playtime in mainland China, the study challenges the notion of the effectiveness of these restrictions. Researchers conducted two distinct analyses using this vast dataset. Firstly, they examined 2.4 billion gamer profiles to determine if they engaged in heavy gaming before and after the introduction of the measures. Secondly, they conducted a longitudinal analysis to assess if individual gamers exhibited reduced heavy gaming behaviour following the implementation of controls.

The study revealed that there was, in fact, a slight increase observed in the proportion of profiles engaging in 'heavy play' - defined here as four hours per day, six days per week - post 2019 regulations. The findings of this study cast doubt on the efficacy of China's top-down playtime control measures, suggesting that these measures have not effectively curbed the prevalence of heavy gaming among minors as intended. The study suggests that sweeping, restrictive policies on youth digital behaviour may not uniformly decrease overall usage.

## SOUTH KOREA

### Regulatory Framework:

Under South Korean gaming legislation, the permissibility of games is not determined by their type or genre but hinges on the presence of speculative elements. As outlined in the Game Industry Promotion Act, Act No. 16045, December 24, 2018<sup>21</sup>, (Gaming Industry Act), a speculative game is one that involves betting or allotment, or decides outcomes by coincidence/chance, and results in monetary gain or loss. Further, the Act on Special Cases Concerning Regulation and Punishment of Speculative Acts, Act No. 10219, March 31, 2010<sup>22</sup> etc. (Speculative Acts Regulation Act) defines a 'speculative act' as "*an act of causing profit or loss of property by collecting property or monetary gain from many persons and determining the profit or loss by coincidental means*".

In South Korea, court precedents reflect two key factors considered in assessing speculative activities in games: whether outcomes are determined by chance and whether direct monetary gain is possible. The Game Industry Act broadly applies to all types of online games. Additionally, games featuring speculative elements are subject to the Korean Criminal Code, Law No. 293 of September 18, 1953 and the Speculative Acts Regulation Act. Thus, games with speculative elements face prohibition under the Game Industry Act, Speculative Acts Regulation Act, and the Korean Criminal Code, with associated

conduct subject to imprisonment or fines. Therefore, in this section online gaming refers to all online games except speculative games as defined in South Korea.

The primary regulatory bodies overseeing online gaming in South Korea are the Ministry of Culture, Sports, and Tourism (**MCST**) and the Game Rating and Administration Committee (**GRAC**). These organisations are responsible for game ratings, licensing, and enforcing compliance with gaming laws. With respect to age ratings and content regulation, all games must receive age ratings from the GRAC or self-rating entities such as Google and Apple. Games rated for users of age group 18 and above must be specifically reviewed by GRAC. Any modifications to game content require immediate reporting to GRAC for reassessment of the age rating.

#### **Measures to restrict time and money:**

Two ministries, namely the MCST and the Ministry of Gender Equality and Family (**MGEF**), have played pivotal roles in shaping South Korean jurisprudence concerning online gaming, particularly in relation to time and monetary constraints. The MCST as the nodal ministry of online gaming led various policies aimed at supporting and fostering growth in the sector, highlighting the cultural significance of games.

In contrast, the MGEF serves as the key authority for the Juvenile Protection Law, which focuses on safeguarding young adults. The perspectives of these ministries diverge

significantly regarding online gaming. While the MCST maintains an enabling stance, emphasising the cultural aspects of gaming, the MGEF adopts a notably negative view towards the impacts of online gaming. Consequently, their approaches to regulation and policy formation in this domain vary considerably.

Consequently, two laws regulating youth gaming were revised: the Juvenile Protection Law in 2011, and the Game Industry Act in 2012. The Juvenile Protection Law introduced a forced shutdown system (*also known as 'Cinderella Law'*) to prevent game addiction among adolescents and to ensure they receive the minimum amount of sleep necessary for their growth and learning.

According to the forced shutdown system, providers of online games (*games provided in real time via a telecommunications network*) were prohibited from making these games available to minors under 16 years of age from midnight to 6:00 AM. Another provision established a legal basis for the prevention, counselling, treatment, and rehabilitation of minors who had suffered physical, psychological, or social harm due to the misuse or abuse of media. Violating the prohibition on making online games available to minors during the specified night hours could result in imprisonment for up to two years or a fine of up to 20 million KRW (approximately 38,600 USD)<sup>23</sup>.

In response to this Cinderella Law by the MGEF, the MCST introduced a selective shutdown system within the Game Industry Act (**Game**

**Time Selection System**). Unlike the forced shutdown system, the selective shutdown system allowed parents greater control over their children's gaming habits. The stance of the MGEF on gaming clashed with the MCST's perspective. This conflict led to numerous issues, including a power struggle between the two ministries and significant financial and intangible impacts on online gaming companies.<sup>24</sup>

Subsequently, in a move towards more flexible regulation respecting young people's rights and acknowledging the shift towards mobile gaming and other digital entertainment platforms, the South Korean government announced plans to abolish its forced shutdown system, with the South Korean National Assembly deciding in August 2021 to repeal the system.

Government officials stated that "future policies will be more focused on giving greater flexibility and control to children and parents rather than applying forcible, unilateral measures."<sup>25</sup> While this perspective likely informed the decision, another significant factor for the repeal was the law's decreased effectiveness.

Instead, the government aimed to rely on the Game Time Selection System, which was implemented a year after the Cinderella Law. This system allows players to request permits for each game, setting designated playing hours in agreement with their parents. The Game Culture Foundation, operating under the MCST, is responsible for handling the

application process. Provisions are made for legal guardians, teachers, or social workers to request permits on behalf of children without parents.

According to provisions under Game Industry Act, entities providing services that enable the public to use gaming products via a telecommunications network are required to implement measures to prevent excessive use of gaming products. These measures include:

- a. Registering game users for membership and verifying their real name, age, and identity;
- b. Ensuring that a minor's legal representative consents to their acquisition of membership;
- c. Limiting the use and duration of game products at the request of a minor or their legal representative;
- d. Notifying minors and their legal representatives of essential details regarding game features, charging rules, and usage duration;
- e. Providing alerts to prevent excessive use of game products;
- f. Displaying details of elapsed time on the game user's screen.

As of today, only the Game Time Selection System remains operational in South Korea.<sup>26</sup>

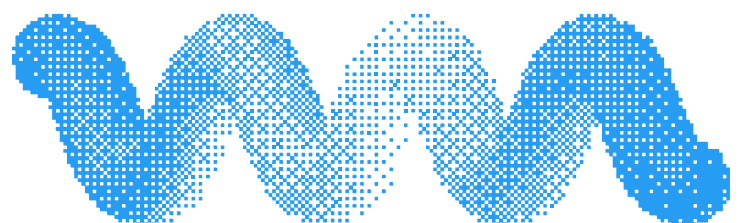
Further, until 2019, GRAC had been setting monthly spending limits for users under 18 at KRW 70,000 per month (approx. 52USD), and for adult users, KRW 500,000 per month (approx. 367USD). These limits were not backed

by law but by not awarding game ratings for gaming systems that allow users to exceed those limits, the GRAC had been in practice enforcing those limits on game systems. These regulations were arguably in violation of the principle of freedom of choice for adults and in 2019, as a result of mounting criticism and pressure, GRAC brought a partial amendment to the game rating regulations that eliminated the need to list a monthly spending limit for adult games (other than web-board games).

**Effectiveness of measures:**

Despite several revisions and consistent data collection, the forced shutdown system's most significant drawback was its failure to achieve the anticipated outcomes, while causing substantial interference. Empirical research revealed that the regulation did not bring

about any notable changes in the playing or sleeping times of minors. In fact, for those most heavily involved in online gaming, sleep times decreased as gaming shifted from nighttime to daytime due to the restrictions<sup>27</sup>. Conversely, another study indicated that while total gaming time did not change significantly, nighttime gaming decreased without a corresponding increase in sleep duration<sup>28</sup>. Additionally, there was a shift from computer games to mobile games, which saw an increase in usage. Thus, even if the forced shutdown system had been extended to include mobile games, it is likely that the effect would have been a shift in preferences to other types of games and media platforms. Consequently, the forced shutdown system was not effective in preventing addiction or ensuring minors' rights to sleep, leading to its repeal in 2021.





## UNITED STATES OF AMERICA

### Regulatory Framework:

The legal framework for online gaming in the United States (US) is complex and constantly evolving, encompassing a mix of federal and state laws, with separate regulations for gaming operations on sovereign tribal lands. The federal government plays a limited role, focusing on prosecuting unlawful offshore or multi-state enterprises. Key federal statutes include the Interstate Wire Act of 1961<sup>29</sup>, which prohibits transmitting wagers over communication wires, and the Unlawful Internet Gambling Enforcement Act of 2006 (UIGEA)<sup>30</sup>, which restricts financial transactions involving unlawful online gambling service providers, and the now-defunct Professional and Amateur Sports Protection Act of 1992 (PASPA)<sup>31</sup>, purported to prohibit states from authorising betting on sporting events<sup>32</sup>. In 2018, the US Supreme Court declared PASPA, federal law prohibiting sports betting as unconstitutional<sup>33</sup>.

In the federal regime, of note is the UIGEA. The general purpose of the UIGEA was to ban unlawful internet gambling, but its stated purpose was “to prevent the use of certain payment instruments, credit cards, and fund transfers for unlawful internet gambling”. The UIGEA accomplished its goal by targeting financial institutions and preventing them from processing transactions involving unlawful internet gambling. It's worth noting that the

UIGEA did not criminalise or even define gambling, leaving the legality or illegality of any activity as gambling was left to state law. However, it did go on to carve out certain games.

Per provisions under UIGEA, certain games like casual internet games, fantasy games, simulation games, among others, were excluded from the definition of a ‘bet’ or ‘wager’<sup>34</sup>. The exemption provisions go on to explain that in case of the exempted games, the “winning outcomes reflect the relative knowledge and skill of the participants and are determined predominantly by accumulated statistical results of the performance of individuals... in multiple real-world sporting or other events.” Additionally, following activities were also exempted from the scope of a ‘bet’ or ‘wager’: securities and commodities exchange activities<sup>35</sup>, and insurance<sup>36</sup>.

The regulatory landscape for gaming in the US can be viewed on a spectrum, where playing for prizes in games of skill is legal, while playing for prizes in games of chance is considered illegal gambling<sup>37</sup>. At one end of the spectrum is casual or social gaming, which involves entertainment that does not require consideration (i.e., no monetary or valuable stake). On the opposite end is gambling, which is primarily defined by state laws. Positioned between casual/social gaming and gambling are skill games.

The precise definition of gambling varies significantly across states. Generally, gambling involves three key elements: consideration, chance, and prize. To fall outside the purview

of gambling prohibitions, these skill games rely on the argument that they have eliminated the third traditional element: *chance*. Since states apply different legal tests when evaluating the element of chance, each game requires a state-by-state analysis to determine its legality. These games require payment to play and offer valuable prizes, with outcomes determined by the participants' skill rather than by chance. The amount of skill needed to avoid being classified as gambling varies by state.

Three main tests have emerged among states to determine the degree of chance that distinguishes lawful games of skill from unlawful games of chance. The first is the 'predominance' or 'dominant factor' test, which asks the courts to assess whether skill or chance is the dominating factor in determining the result of the game. This test is used in a plurality of states and is the most commonly invoked standard. The second most prevalent legal standard is the 'material element' test, which considers gambling to occur even if skill is the dominant factor, as long as chance is a material element. Finally, some states deem games unlawful if they involve any element of chance.

In recent years, individual states have enacted various legislations. Depending on these laws, games classified as skill-based are often exempt from gambling regulations, placing them outside regulatory purview. Concurrently, in addition to other online games, fantasy sports games are widely available across the US. Several states, such as Colorado, Delaware, Iowa, and Maine, have enacted dedicated

regulations for fantasy sports<sup>38</sup>. Furthermore, many other states offer fantasy sports games even without dedicated regulations.

Against this backdrop of a complex regulatory environment, the US stands out for its government and industry efforts to promote responsible gaming. Industry programs operate in compliance with and parallel to state laws and regulations on responsible gaming, providing valuable lessons for other jurisdictions.

#### **Measures to restrict time and money limit:**

Currently, the US does not have any mandatory, government defined time and money limit restrictions. Instead state regulations mandate responsible gaming tools which empower users to play responsibly. As per the American Gaming Organization's Responsible Gaming Regulations and Statutes Guide, two-thirds of commercial gaming jurisdictions now require operators to offer self-limit tools compared to half in 2019. Further, majority jurisdictions require gaming operators to adopt self-exclusion programs that enable users to exclude themselves from online gaming. What is important to note, that in the US, states set out legal requirements for responsible gaming providing enough flexibility for different gaming formats. In most states, the responsible gaming framework of the operator has to be approved by the relevant authorities.

Online gaming platforms incorporate time limit tools as part of their player protection measures, in compliance with state regulations

and internal policies. In addition, operators often provide customizable session time limits, enabling players to set reminders or automatic log-outs after a specified duration of continuous play. Some states like New Jersey, Pennsylvania and Michigan require operators to implement mandatory reality checks, which prompt players with periodic reminders of how long they have been playing. Even in states where reality checks are not mandated by law, many online operators voluntarily implement session reminders and self-exclusion tools in order to ensure that players remain aware of the time spent.

Many states also mandate that these platforms provide options for players to set daily, weekly, or monthly deposit limits to help control the amount of money added to their accounts. Additionally, platforms allow players to set their own deposit limits, which cannot be increased immediately due to a mandatory cooling-off period. For example, operators in New Jersey, Michigan, and Virginia are required to provide tools for setting deposit, loss, and wagering limits. State regulations also require operators to set maximum bet limits to ensure responsible gaming, varying based on the type of sport or event. To complement these regulations, platforms offer tools for players to set personal spending limits, managing the amount they can bet within a specified period.

## UNITED KINGDOM

### Regulatory Framework:

In the UK online gambling is regulated by the Gambling Commission, established under the Gambling Act, 2005. The Act defines gambling as one of the following: gaming, betting or participating in a lottery. Gaming is further defined as playing a game of chance for a prize. The definition of game of chance is not exhaustive, it excludes sports but can include games that involve element of chance and element of skill; game that involves element of chance which can be eliminated by superlative skill; and a game that is purely chance based<sup>39</sup>. Presence of material chance is enough for a product to be qualified as gambling and there is no threshold and certainly not a 'balancing act' to see which of the two factors i.e. skill and chance predominates in the outcome (unlike jurisdictions like India and USA<sup>40</sup>). This could be a result of the market context against which gambling regulations of the UK and largely in Europe evolved. Chance games like slot games, casino table games such as roulette, blackjack, bingo, sports/horse betting are some of the most popular gaming products in the UK.

Primarily, the UK regulates skill gaming and gambling companies offering products through licences, in particular by the various operating conditions attached to their licences, referred to as "LCCP". These LCCP also impose obligations upon licensees through codes of practice<sup>41</sup> which do not have the status of

operator licence conditions but set out good practice. These codes cover fields of social responsibility, anti-money laundering and the prevention of terrorist financing, consumer fairness and transparency, responsible advertising and obligations to comply with various technical standards that apply in respect of both non-remote and remote forms of gaming/gambling. Through a structured statutory framework as well as guidance/best practices, the Gambling Commission is able to enforce and encourage player protections measures. Video games on the other hand are not regulated but have an overarching rating framework/system. However, this may be slowly changing as in recent years the UK government has also launched a call for evidence to determine whether to reclassify video games with loot boxes as gambling products. As the evidence base on loot boxes is still emerging, UK is pursuing enhanced industry-led measures to deliver protections for children and young people and all players<sup>42</sup>.

**Recent Developments:**

The UK Government commenced the Gambling Act review in December 2020 and finally published the White Paper in April 2023 (**White Paper**)<sup>43</sup>, setting out its proposals to ensure British gambling regulation is ‘fit for the digital age’. The proposals span six key areas, with multiple recommendations in each area:

Following the publication of the White Paper,

- Online Protections - Players & Products
- Marketing & Advertising
- Gambling Commission Powers & Resources
- Dispute Resolutions & Consumer Redress
- Children & Young Adults

multiple stages of consultation have been launched by the The Department for Culture, Media and Sport (“DCMS”) and the Gambling Commission to test the proposals set out in the white paper and drive policy forwards. We have for the purpose of this report, focused on online protections - players products. Some of the interventions that the White paper focused on:

Suggested Interventions		Implication/Impact
Financial risk checks	New obligations on operators to conduct “financial risk checks” on customers who may be at risk of harm due to unaffordable and unsustainable gambling losses	These checks are aimed at better identification of acutely financially vulnerable users, identifying and supporting users such as those subject to bankruptcy orders/history of unpaid debts. Checks are premised on using publicly available information such as credit reference data and negative indicators such as county court judgments or insolvency notices, while higher risk accounts will have enhanced checks using open banking. A pilot of these checks will commence in August 2024 for 6 months. The Commission will only notify permanent rules after the data-sharing between stakeholders is frictionless for the vast majority of customers who are checked.

Suggested Interventions		Implication/Impact
Single customer view	Mandatory participation in a cross-operator harm prevention system based on data sharing to prevent harm to individuals who hold multiple accounts or can open new ones easily	Operators have been participating in a trial of SCV called GamProtect <sup>44</sup> . It involves four of the largest gambling businesses. The initial focus is on sharing information between these businesses where users have disclosed very serious markers of health-related harms.
Online game redesign	To review and consult on updating design rules for online products to make them safer by design, including considering features that exacerbate risk.	New rules will consider features like speed of play, illusion of player control and other intensifying features which can exacerbate risk. Products which are safer by design will help prevent harm at source. It will ban some design features which speed up the time for a result to be shown or can give the illusion of control such as 'turbo' or 'slam stops'. These rules will come in January, 2025.
Online slots	Stake limit for online slots i.e. games of chance, and a consultation to discuss limits between £2 and £15 per spin, to structurally limit the risks of harmful play. The Commission to also consult on slot-specific measures to give greater protections for 18 to 24-year-olds, which will include options of: a £2 stake limit per spin; a £4 stake limit per spin; or an approach based on individual risk.	The Commission has decided to introduce stake limits for online slots i.e. games with higher degree of chance, given the high amount of risk they present. These will come into force in September, 2024 and are discussed in more detail in the next section.
Increasing player protections	Consult on implementing player-set deposit limits such as making them opt-out rather than opt-in and making customer-controlled gaming transaction blocks more robust.	In April 2024, the Commission extended the requirement to participate in the GAMSTOP multi-operator self-exclusion scheme to more license holders. The Commission will also implement new rules which will need to provide customers with options to opt-in to the product type they are interested in receiving and the channels through which they wish to receive marketing.

### Measures to restrict time and money:

Currently, the UK does not enforce any mandatory universal time and money limits on online gambling. The Gambling Commission focuses on player protection through clear objectives and a reliance on scientific, consultative policymaking. Additionally, according to information on the Gambling Commission's website, it does not aim to impose caps on gambling or to unnecessarily interrupt the customer journey.

In the UK, all online operators are required by licence conditions to provide customers with a range of tools to empower and help them gamble safely, such as gambling activity statements, 'time out' functionality, and facilities/options to set limits on time and money spent. While the use of these tools by customers is voluntary and operators are afforded a degree of discretion around how they are designed, there are requirements attached to certain tools. Players can utilise reality checks and time trackers to manage

their play time effectively. These tools allow players to set alerts that will pop up on screen, either during online play or in betting shops, reminding them of the time they have spent gambling. While most gambling management tools are provided to help customers gamble safely, all operators also offer self-exclusion facilities to help those who wish to stop gambling altogether. In March 2020, it became mandatory for licensed operators to sign up to GAMSTOP, the multi-operator self-exclusion scheme. These measures are part of the Gambling Commission's efforts to promote safer gambling practices and protect players from potential gambling-related harm.

In case of money limits, the UK ran extensive consultations and concluded in the White Paper that there is not enough evidence supporting stake limits on non-slot gaming (games with lesser element of chance) as these products present a lower risk to consumers and stake limits may be less effective in preventing harm than controls on other structural characteristics of games<sup>45</sup>. The White Paper also cites research by Morgan Stanley that estimated that a flat £2 (approx. 2.60 USD) stake limit for all non-slot casino products would reduce revenue from those products in the licensed sector by 92% and says that such a scenario would suggest an unacceptably high risk of diversion to the unlicensed sector.

### GAMStop - UK's innovative approach to player protections and policy making

In 2014, the UK Gambling Commission initiated a consultation on proposed amendments to social responsibility provisions within its license conditions. This included a proposal for a new social responsibility code requiring most online gambling operators to participate in a national online self-exclusion scheme. The following year, the Commission published a briefing note detailing the background and rationale for the proposed scheme.

To ensure practical and effective implementation, the Commission and the Remote Gambling Association (RGA) established a working group comprising representatives from major operators, including Bet365, Betfair, Paddy Power, SkyBet, and William Hill. This collaborative effort extended to meetings with software suppliers to align the scheme with their development roadmaps and gather feedback on its feasibility and architecture.

#### IMPLEMENTATION AND EVOLUTION:

The National Online Self Exclusion Scheme, now known as GAMSTOP, was established by the RGA in 2016 at the request of the Department for Culture, Media and Sport (DCMS) and the Gambling Commission. Initially managed by the industry, GAMSTOP transitioned to an independent entity in 2019 to ensure unbiased operation. By April 2020, integration with GAMSTOP became mandatory for all operators licensed by the UK Gambling Commission. As of December 2023, 345,000 individuals had self-excluded using GAMSTOP. The Gambling Commission continues to expand the scope of GAMSTOP, requiring all gambling businesses that accept bets via telephone and email to participate in the scheme.

A 2021 study on GAMSTOP's effectiveness revealed significant reductions in gambling-related harm and positive impacts on consumers. Key findings include:

- 82% of GAMSTOP users reported stopping or reducing their gambling since registration.
- 80% of users felt the scheme met their intended outcomes.
- 84% of consumers felt safer from gambling-related harm and more in control of their gambling.

89% of users found the registration and usage process easy.

Additionally, the study highlighted improvements in mental health and personal relationships, with 70% of consumers experiencing reduced anxiety and stress, and 63% reporting better quality in significant relationships.

#### TAKEAWAYS

The development and success of GAMSTOP underscore the importance of:

- **Evidence-Based Policy:** The UK Gambling Commission's reliance on data and research at every stage ensured that policy decisions were grounded in reality.
- **Industry Collaboration:** Involving industry stakeholders in the development process fostered a cooperative environment, making it easier to implement and scale solutions.
- **Technological Integration:** Collaborating with software suppliers ensured that the scheme was technically feasible and aligned with industry capabilities.
- **Scalability and Independence:** Transitioning to an independent entity after demonstrated success ensured the credibility of the scheme.

by the UK's Gambling Commission indicates that online slot games exhibit many structural characteristics that are associated with a higher risk of harm to consumers compared to other forms of gambling, such as poker. UK's data from 2017 indicated that there was a 'clear tendency for there to be a higher proportion of heavy player losses in slots play than in non-slots play' (casino games excluding poker). These include, for example, the opportunity for high stakes; high speed, repetitive and continuous play; near misses and high or variable frequency of prize payouts<sup>46</sup>. Furthermore, the assessment notes, problem and at-risk gambling prevalence among those who play online slots are notably, and consistently higher than for most other product types. According to Public Health England's health survey data over the last two decades, problem gambling prevalence was significantly higher among those that participated in online slots, casino and bingo games at 8.7%. Whereas the UK's overall problem gambling rate is 0.3 percent.

Taking note of the evidence, the Gambling Commission has imposed stake limits for online slot games which are games of chance<sup>47</sup>. The new changes prescribe a maximum stake limit of £5 (approx. 6.50 USD) per spin for online slots for players aged 25 and over. For young adults aged 18 to 24, the maximum stake is £2 (approx. 2.60 USD) per spin. Amongst other factors, the fact that this group has low disposable incomes and lower risk perception were also cited as arguments to fix a lower limit. In addition to this,

several platforms in the UK also allow players to set spending caps on their accounts to ensure they do not exceed a predetermined budget<sup>48</sup>.

### **Effectiveness of measures**

On a review of reports of the Gambling Commission<sup>49</sup>, balanced and voluntary efforts aimed at harm reduction during 2018-22 has led to a decline in problematic gaming and medium-to-low risk gaming behaviours<sup>50</sup>. These measures are not only emerging as an effective interventional tool but are also proportional and rooted in individual autonomy.

This is probably because the UK's approach to gambling reforms emphasises evidence-based policymaking supported by white papers, consultations, and pilot programs. This data-driven method leverages technological advancements to protect players while maintaining a balance between player protection and adult freedom. The government's White Paper highlights this balance, stating, "we have to get the balance right between protecting people from the potentially life-ruining effects of gambling-related harm and respecting the freedom of adults to engage in an activity that for the vast majority they do so without experiencing harm."<sup>51</sup> This is also reflected in the regulator's approach of imposing mandatory stake limits for online slot games, which target vulnerable players and exacerbate the risk of harm from these games of chance<sup>52</sup>.

## EUROPEAN UNION

Online games are defined differently across various regulatory frameworks and jurisdictions based on political economy and jurisprudence. In Europe, due to the absence of real-money skill games as understood in India, we have examined regulatory frameworks and harm reduction measures for gambling. These frameworks provide useful analogies for identifying best practices in the online gaming industry. For example, much of the EU's research and development around loot box regulation in video games has been influenced by best practices from gambling.

### Regulatory Framework:

Within the European Union (EU), online gaming and gambling is regulated by member states and is characterised by country-specific regulations and definitions. At an EU level, the European Commission maintains a distinction between games of chance and games of skill. European Commission defines online gambling as

*“online gambling includes games of chance, betting and lottery transactions which involve wagering a stake with monetary value”<sup>53</sup>*

Europe's online gambling market is regulated with varied licence requirements to operate and provide services in a country. In the past, European countries had either no regulations specifically for online gambling or only state monopolies were allowed to offer services in those countries, but today the overwhelming majority of countries have adopted multi-

license regimes which allow both private and publicly owned companies to obtain a licence to offer online games in a country. There is no binding regulation regarding online gambling at the EU level. Instead, there exists a self-regulatory system that is majorly spearheaded by trade associations such as the European Gaming and Betting Association (EGBA) and a European Commissions' 2014 Non-Binding Directive<sup>54</sup> stresses on the importance of player protection by providing for self-exclusion/time out limit setting features as well as protecting vulnerable groups including minors.

Restrictions on time and money: Several EU countries have prescribed monetary playing limits, typically related to deposit or loss limits. In this context, there are generally three categories of limits, discussed below:

1. Voluntary Limits: This means the users have the choice to either put the limit or not before starting the game play.
2. Mandatory limits:
  - **User defined**: This means that players are required to set their own limits before play (mandatory), with no upper limit i.e. a government imposed cap prescribed hereby providing some amount of autonomy to users.
  - **Government-imposed Cap**: This means that players must set their own limits but within a government-prescribed maximum limit.
3. No Limits prescribed by Law: This means that there are no statutory requirements pertaining to deposit or loss limits for gaming activities.



A recent study commissioned by the Dutch Gambling Authority investigated how European jurisdictions manage playing limits. The study revealed that 90% of the countries surveyed (20 out of 22) have implemented either voluntary or mandatory limits. Out of 20 countries, as many as 15 have either voluntary limits or mandatory user defined limits. Only 5 countries have mandatory government imposed caps. Out of these 5, 2 are monopolies or near monopolies and 3 are currently in the midst of regulatory reform with new systems at an early implementation phase.

The following subsections analyse a few EU jurisdictions in detail, each representing one of three distinct regulatory approaches – mandatory limits with a government-imposed cap; mandatory user defined limits; and lastly, where the limits are voluntary.

## BELGIUM

Belgian legislation enforces a mandatory total deposit limit for online gambling, capping deposits at €200 (approx. 220 USD) per week per website<sup>55</sup>. Players can request changes to their deposit limits electronically. A decrease in the limit takes effect immediately, while an increase requires a three-day reflection period. When a player requests an increase, the Gaming Commission consults the Central Office for Credit to Private Individuals, part of the Belgian National Bank, to check for any defaulting status. If the player is listed as a defaulter, the request is denied. The Gaming Commission also conducts monthly checks to ensure that players granted a higher limit are

not listed in the credit defaulters database. If a player appears in this database, their increased deposit limit authorisation is revoked.

Despite being mandated by law, the enforcement of this €200 (approx. 220 USD) measure has been hindered by technical and other practical challenges. Studies have reported that implementing a total deposit limit is impeded by the absence of a centralised information system capable of tracking all player deposits. Further, given that the system is in the implementation stages, it is premature to comment on the effectiveness.

## SWEDEN

In Sweden, players must set limits on the maximum deposit or maximum loss for their accounts. They can also voluntarily set limits on their maximum playing time. While the law does not prescribe or limit the maximum extent of these limits, licence holders must actively check for gambling problems when a player sets a deposit limit of at least SEK10,000 (approx. 940 USD) per month. As part of their duty of care, licence holders must contact players who set a deposit limit of more than SEK 10,000 (approx. 940 USD) per month to ensure the player understands the risks associated with the increased limit. This contact must be substantive, such as via email or telephone, allowing the player to respond; a simple pop-up is not sufficient.

Further, upon login, all customers must be given a notice on the licence holder's duty of care obligations, any accumulated losses during

the past 12 months, and the chosen deposit and loss limits. The regulations mandate that all customers receive regular, clear, and varied notifications on wins and losses and information on login time. Such notifications must be confirmed by the customer and an option to log out should be provided. The regulations do not provide for time limits although players can limit the duration of their gaming sessions, ensuring they take regular breaks. A significant feature of Sweden's gambling regulation is the self-exclusion register, *Spelpaus.se*.

## FINLAND

Finland has a unique gambling system, where state-owned entity Veikkaus has a monopoly on all gambling services in Finland. According to the Lotteries Act, all games which include a participation fee, prizes of monetary value and the result is based on chance, are within Veikkaus monopoly. There is no time limit imposed on the players but Veikkaus provides time-of-play reminders to help players monitor their gaming activities and prevent excessive play. In case of money, while registering on the Veikkaus website, before the first money transfer, the player must set daily and monthly money transfer limits. Veikkaus requires users to set daily and monthly loss limits for high event frequency (casino games, elnstants, eBingo, virtual betting). The limits do not concern poker<sup>56</sup>. Further, the fast-paced games i.e., games of chance have a maximum daily loss limit of € 500 (approx. 540 USD) and a monthly loss limit of € 2,000 (approx. 2200 USD). Players may also set lower daily and monthly limits for themselves. Finland also provides a quick

disconnect functionality (Stop Play button) offers a quick disconnect functionality, and a time recall function that allows players to recall their gaming activities and monitor their spending patterns.

## PORTUGAL

While Portuguese legislation does not mandate an active obligation to investigate, it does impose a duty of diligence and care on licence holders. They are required to promote moderate, non-compulsive, and responsible gambling. The law mandates that licence holders develop a plan and implement measures to ensure responsible participation in gambling and to provide the public, especially players, with necessary information. A responsible attitude towards gambling should be actively encouraged.

In Portugal, limits are voluntary. Players can set their own limits, which then apply to all games offered by the licence holder. These limits can pertain to the maximum deposit in a player account, the maximum bet, or the maximum playing time. The law does not prescribe or restrict the maximum height of these limits.

### **Effectiveness of measures:**

As seen above, the majority of EU countries are currently implementing either a voluntary limit system or a mandatory limit system. Mandatory limit system is further of two types, player defined and those with a government-imposed cap. In the former, the regulators mandate users to set a deposit limit as part of the registration

process or prior to their first play session after creating an account. The policy objective here is to mandate the use of player set limits i.e. requiring users to set a deposit limit as part of the registration process or prior to their first play session after creating an account. It is based on the principle that players should make decisions about their gambling in a non-aroused state and is seen as one of the most effective measures.

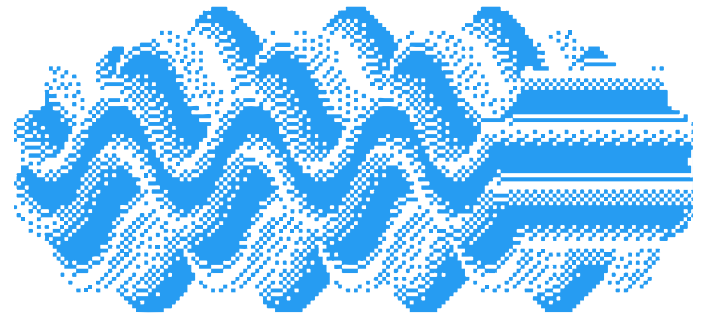
Evidence from Finland found that almost 1 in 2 people set a limit when they were prompted at account registration compared to fewer than 1 in 10 when they are not prompted. However, this removable deposit limit of optional size did not appear to be effective in reducing gambling intensity in users of an online gambling platform

in case of online slot games. The failure of this particular intervention to influence intensity can be partially explained by the intervention's non-intrusive character. The customers were only exposed to the limit-setting prompt once, setting the limit was voluntary with no upper amount limit, and it was relatively easy to increase or remove the limit<sup>57</sup>.

In another study from Europe, it was found that monetary spending among poker players significantly decreased after setting a voluntary time limit<sup>58</sup>. Similarly, another study analyzed the impact of voluntary limit-setting behaviour on subsequent spending among 49,560 players in Sweden. Players who had voluntarily set a monetary limit spent significantly less than players who did not set a limit one year after<sup>59</sup>.



# Legal theory and human behaviour



Law and regulatory practices have been crucial in improving public health over the past century by influencing behaviour through fear of punishment and incentivizing compliance. Historically, law and regulation meant authoritative rules issued by the state, but today's complex challenges require creative regulatory solutions and interdisciplinary approaches to ensure national policies achieve their intended outcomes.

Modern societies, especially with the rise of digital technologies, cannot rely solely on traditional, prescriptive legal approaches. The rapid growth and complexity of the digital landscape make it difficult for governments and regulators to conduct detailed scientific research in a short period. As a result, in many cases, we see hasty laws being passed under heightened public pressure or reaction. However, given how deeply the internet is now woven into our everyday lives, it is essential that policymakers take a careful, evidence-based approach to digital spaces and its regulations.

In case of internet regulations, small changes to the law can have a huge impact not just on the internet itself, but the billions of users and small businesses around the globe who now rely on the internet for important services, communications, information, commerce, and more. Even the most well-intended policy

approaches may have completely unexpected negative consequences—consequences that may outweigh the benefits sought by the regulation in the first place. One example is the recent deployment of facial recognition in publicly-accessible spaces to augment law enforcement and public control capabilities. This has had the intention of reducing crime and unwanted behaviours, but has (perhaps more so) sparked privacy concerns, particularly in the US and UK. The debate centres on whether such systems are appropriate, given the potential for invasion of privacy and linking of data to other systems. In some cases, the accuracy of the facial recognition systems is insufficient, with the consequences of this being potentially harmful to individuals. This is a clear example of where a risk control countermeasure to achieve good can have potentially negative impacts upon people.

Therefore, over time we have seen in areas such as financial industry, environment, consumer protection, information technology, transportation, privacy etc. public agencies are directly engaging with non-state actors in collective decision making. There has been a gradual move away from command and control structures characterised by traditional law being imposed in a top down fashion to a bottom up approach marked by public private

collaboration. This results in co regulatory schemes which are consensus oriented and deliberate and aim to allow private industry and concerned stakeholders more direct involvement in law making. Presumably these tools lead to the development of principles, guidelines, performance standards and various soft law instruments like industry codes among others.

Blanket laws that impose strict regulations or bans on harmful behaviours often fail to achieve their intended outcomes. Instead of curbing undesirable actions, these laws can lead to unintended consequences that exacerbate the very issues they aim to solve. Legal theory suggests that a principle-based approach, underpinned by scientific evidence and a clear understanding of behaviour, is more effective in achieving policy objectives than draconian measures.

### **1. Unintended Consequences of Strict Regulations**

Peter Grabosky's (1995) work on unintended consequences of crime prevention illustrates how well-intentioned regulations can go horribly wrong. Programs designed to prevent crime often fail or generate social costs, or "negative externalities." For example, the Cambridge-Somerville Youth Study, which aimed to help at-risk youth, ended up increasing delinquency among participants compared to a control group (McCord, 1978). Similarly, aggressive police interventions often escalate situations, leading to more violence and harm (Marx, 1990; Homel, 1994).

Further, sweeping measures often lead to under-enforcement, as authorities may find these laws impractical to implement. Sunstein (1990) and Sieber (1981) note that overly restrictive laws can foster mutually dependent relationships between nominal adversaries, undermining the law's intent. This phenomenon is seen in areas ranging from business regulation to laws governing private consensual activities.

In the case of gaming laws, in the case of China, some of the unintended consequences range from shrinking of the gaming market, loss of foreign capital, identity theft by minors to bypass gaming restrictions. Similarly, in Germany, gambling reform introduced a centralised licensing system to unify and modernize regulation nationwide - a laudable objective. While this opened the market and broke the state monopoly on certain forms of gambling, it also imposed several restrictions that drove players to the black market. Recently, the German Betting Trade Association (DSWV) reported<sup>60</sup> a 65% increase in illicit gambling activities and is called for more action against black market activity.

### **2. The Pitfalls of Rulebook Regulation**

Bardach and Kagan (1982) observed that rulebook regulations i.e. rules that are unreasonable may undermine the implementation of necessary rules, delay the enactment of needed new rules, generate resistance by some industries, threaten the legitimacy of the regulatory agency in the eyes of business, and lead to general alienation from government. In the context of business, overly strict rules can lead to non-compliance

and drive businesses to circumvent laws. In the case of South Korea, various studies point out how hasty passage of a prescriptive law and lack of social consensus on the issue led to non-compliance.

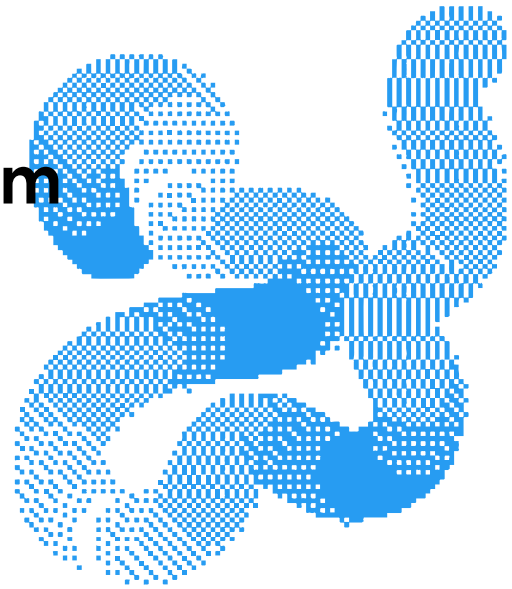
### 3. Responsive Regulation and Proportionality

Responsive regulation emphasises the need for proportional measures that balance means and ends reasonably. This approach recognizes the importance of context and the need for interventions that are appropriate for the specific situation. In Spain, restrictive provisions on advertising were challenged on the grounds of proportionality, leading to regulatory adjustments by the Supreme Court to provide relief to operators<sup>61</sup>. Similarly, in India in the context of restrictions on individual liberty courts have ruled that “proportionality between means and ends is to be judged on ‘a standard capable of being called reasonable in a modern democratic society.’”

### 4. Respecting individual autonomy

Addressing societal issues like user harm from digital technologies often necessitates behavioural change. While education and incentives are common strategies, enforcing behavioural change through regulations can conflict with individual autonomy. Early empiricist philosophers, such as John Stuart Mill (1861), viewed autonomy as unqualified freedom of choice, restricted only by the need to protect others. Modern scholars in philosophy, law, and ethics generally agree that personal autonomy refers to an individual's capacity for self-governance. Therefore, laws that respect individual autonomy while recognizing risks empower individuals to make choices that inherently protect them. The underlying assumption here is that human beings make rational choices (*central to regulations in the UK, USA, and Europe*) where individuals are entrusted with the ultimate responsibility to protect themselves, relying on their capacity for self-governance.

# Conclusions Drawn From Comparative Analysis



In our review of various regulatory models and the impact or effectiveness/efficacy various interventions, we have culled out certain principles that can inform policy makers and regulators on what might work for India.

## Regulation is sine qua non for protection of users

- First and foremost, our review highlights the presence of a developed and stable regulatory regime in most of these countries. Unlike India, nearly all jurisdictions have established licensing processes and enforce a duty of care for gaming operators. Thus, a well-defined legal structure appears to be the first step for protecting users.
- Jurisdictions like the EU and UK have over the years and on the backbone of a stable regulatory framework developed notable responsible gaming or duty of care measures. Regulators here have worked with operators and academics to develop evidence-based policy interventions like centralised self-exclusion registers which have largely been successful.
- Lastly, hasty reforms without a clear understanding of the policy objective and the causal relationship between the targeted behaviour and the intended outcome often results in unintended consequences.

## Political economy and nature of games

- We understand gaming/gambling regulations and related duty of care is highly contextualised based on the political economy and products operating in different jurisdictions.
- In jurisdictions like the EU, the law has developed in an environment where the principal function of the regulator was to ensure that those who were involved in gambling had no connections with organised crime resulting in strict licensing requirements or monopoly in many cases. Similarly, in the UK while the law traditionally developed with a focus on licensing, it is now shifting towards a risk based approach where interventions are introduced in proportion to the perceived harms of types of gambling.
- Moreover, the US, UK and EU have had a long tradition of rule of law and individual autonomy forming the bulwark of their political economy. We see this in framing of gaming/gambling regulations as well where the US has the least

amount of restrictions. Followed by the UK and EU which while premised on individual autonomy, also approach regulations from a risk based framework. Consequently, in the EU and UK, restrictions are proportional to the risk: the higher the risk or degree of chance, the greater the restriction on individual autonomy. In contrast, China, which lacks a democratic tradition and the rule of law, does not prioritise individual autonomy. This has resulted in more paternalistic laws governing gaming and gambling.

- Separately, the nature of games have a significant impact on the degree of restrictions/interventions. EU and UK consist of games which are predominantly chance-based and fast paced games, therefore, the policy interventions are tailored accordingly. Despite that, even in Europe player set limits are the norm and government set limits are an exception.

### Approach to time and money restrictions

- We find significant variation in how money and time limits are approached in different jurisdictions. On one end of the spectrum we have mandatory limits and on the other we have voluntary limits. Mandatory limits are of various kinds ranging from mandatory player-defined limits without a government-imposed cap to mandatory limits with government-imposed cap. The degree of control/limit and manner of implementation varies.

- Our analysis indicates that generally, adults

playing games of skill seldom have mandatory limits with government-imposed caps. Mandatory limits with government-imposed caps/ceilings often operate vis a vis minors for online games categories used by them and are common to Asian jurisdictions which have traditionally had a paternalistic approach to internet regulations.

- In the case of Europe, our analysis indicates that only five EU countries have implemented limits where mandatory limits with government imposed caps are prescribed by the government, highlighting that this practice is far from the norm even within the EU. Moreover, mandatory limits with government-imposed caps often operate under highly monopolistic or regulated systems, such as in Austria and Norway. These systems facilitate the implementation of stringent policy measures.

- In contrast, countries with multiple operators, like Belgium, continue to face challenges in implementing player measures effectively. Additionally, in jurisdictions like Spain and Germany where mandatory limits with government-imposed caps have been introduced are relatively new.

- Countries like the UK and USA have adopted a principle-based approach where player protection principles are established in law after detailed consultations with industry players. The government's approach has been to recognise companies' voluntary efforts for player protection while supplementing such efforts through law, regulations and guidance.



## Efficacy of Government Defined Mandatory Limits

- Evidence suggests that imposing universal limits without considering individual differences can be ineffective, as they may not address each player's specific needs and behaviours. Personalised approaches like user defined limits are generally more successful in curbing gaming addiction<sup>62</sup>.
- Efficacy of mandatory limits if any is outweighed by the drawbacks like challenges in implementation. In China, teenagers have been adept at finding creative workarounds to various restrictions. Some have resorted to using fake identities, while others have set up new accounts with credentials of adult family members<sup>63</sup>. Similarly, South Korea implemented a restrictive system for over a decade, only to later repeal it after realising that it failed to achieve the intended outcomes. South Korean jurisprudence, which applies only to minors, has since shifted towards a more voluntary approach, in contrast to China's continued enforcement of restrictive policies.

## Efficacy of responsible gaming measures

- There is evidence that responsible gaming tools are generally positively viewed due to their usefulness in at least encouraging users to reflect on their money and time spent in gaming. For example, pop-up messages, player history reports, normative feedback, and expense calculators can serve to notify users of pre-set limits, risky play, as well as help them budget appropriately.

- Various experimental and real-world studies have shown that voluntary limit-setting can reduce episodes of excessive gaming. Having said that, some researchers have raised doubts about the efficacy of voluntary limit-setting given the uptake of voluntary limit-setting is low, requiring concentrated effort to improve the design and nudges to increase uptick.
- Further, for instance, Finland, a monopoly which has mandatory limits, it still has a high prevalence of problem gaming, implying that even stringent national policies alone cannot impact the prevalence of addiction in European countries<sup>64</sup>.

**Therefore, for limit-setting measures to be truly effective, they should be based on the following principles:**

- 1. Mandatory Operator Features:** Law should mandate operators to offer limit-setting features to users.
- 2. Mandatory Player Set Limits:** It should be mandatory for users to set limits before proceeding to play.
- 3. Difficulty in Changing Limits:** Limits, once set, should be difficult to increase.
- 4. Ease of Decreasing Limits:** The system should allow users to decrease limits instantly.
- 5. Centralised Self-Exclusion:** A centralised, multi-operator self-exclusion facility should be provided.

# 05 Gaming Law in India



The primary legal framework governing gaming activities in India is initially derived from The Public Gambling Act, 1867<sup>65</sup> (Public Gambling Act or PGA or Act), a pre-independence-era statute which prohibits gambling (in physical premises referred to as “gaming houses” or “common gaming houses”). Section 12 of PGA exempts ‘any game of mere skill’ from the provisions of the Act. After the introduction of the Constitution of India and states being provided legislative competence to legislate on the subject matter of gambling and betting, several states have adopted, with minor modifications, the Public Gambling Act. Despite the express protection to games of skill, some states have enacted their own legislations that do away with the exemption available to games of skill (Andhra Pradesh, Assam and Telangana). Similarly, few states have enacted custom legislations to regulate online gaming. For example, the state of Nagaland has introduced the Nagaland Prohibition of Gambling and Promotion and Regulation of Online Games of Skill Act, 2016, which provides a licensing framework for online games of skill.

Given the PGA does not define games of skill, courts have interpreted this over a period of time in a number of cases. As such, games of skill are characterised by their dependence on the player’s knowledge, experience, expertise, abilities, and skill. For example, judicially approved card games like rummy, poker, fantasy sports games, some casual games, esports, video games, etc. On the other hand, games of chance primarily hinge on randomness

and luck, sidestepping the player’s skills, knowledge, or experience. In these games, outcomes are determined by chance events, wherein the players’ have no influence over results or the outcome. For example, roulette, lottery, satta, matka, etc. This is complicated further with various states enacting their own laws and offering different interpretations of what constitutes games of skill.

### **Current Scenario**

To remedy this and create a stable, uniform regime, the Central government formed a seven-member inter-ministerial task force in May 2022. Chaired by the former Minister of State for Electronics and Information Technology, Rajeev Chandrasekhar<sup>66</sup>, its mandate was to formulate regulations for the online gaming sector and to identify a nodal ministry. On the recommendations of the task force, amendments were made to the Allocation of Business Rules, 1961, to designate the Ministry of Electronics and Information Technology (MeitY) as the nodal ministry for online gaming in India.

Consequently, in pursuance of powers vested under the Constitution (under Entry 31, 42 and 97 of the Union List read together) and the Information Technology Act, 2000 (IT Act)<sup>67</sup>, MeitY took a proactive stance by introducing amendments to the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rule<sup>68</sup> in April, 2023 (Online Gaming Rules). These regulations marked a

significant step toward a responsible online gaming ecosystem in India by establishing strict guidelines to protect users. The Online Gaming Rules defined ‘permissible online real money games’ and introduced certification requirements through self-regulatory bodies (SRBs) designated by the government. However, the progress in regulating the sector has been stalled due to the delay in notifying SRBs, and the consequent non-operationalisation of Online Gaming Rules. As a result thereof, states like Tamil Nadu are looking to enact their own regulations to regulate online gaming, despite the existence of central laws.

#### **Measures to restrict time and money:**

The Centre’s position on imposing time and money limits is best illustrated by an answer given by the then Minister of State for Information Technology, in response to a question in the Parliament. According to him, there was no plan to implement such policy measures for protecting users.

In furtherance of this intention, it is pertinent to mention that the current Online Gaming Rules do not provide for state imposed time and money limit restriction but instead, mandate SRBs to publish a comprehensive framework to prevent user harm and addiction. *Rule 4A(8)* of Online Gaming Rules<sup>69</sup> stipulates that this framework must include, among other things, the following:

- a. the safeguards against user harm, including self-harm and psychological harm;
- b. the measures to safeguard children, including measures for parental or access control and classifying online games through age-rating mechanism, based on the nature and type of content; and
- c. measures to safeguard users against the risk of gaming addiction, financial loss and financial fraud, including repeated warning messages at higher frequency beyond a reasonable duration for a gaming session and provision to enable a user to exclude himself upon user-defined limits being reached for time or money spent.

In addition to this, we also came across multiple industry led voluntary responsible gaming practices which are complementary to the Online Gaming Rules. Most recently, the ‘Voluntary Code of Ethics for Online Gaming Intermediaries’ was issued<sup>70</sup> as a joint declaration of intent by members of the Digital Gaming Committee of the Internet and Mobile Association of India (IAMAI) in association with the All India Gaming Federation (AIGF), the E-Gaming Federation of India (EGF), and the Federation of Indian Fantasy Sports (FIFS). This code is intended for voluntary adherence by Online Gaming Intermediaries (OGIs) and includes a range of measures focused on user protection, including operator driven voluntary time and money limits. A snapshot of the voluntary measures is below:

Importantly, on a review of all the state laws, we

Safeguards	Explanation
Responsible Gaming	Signatories will commit to responsible gaming practices and recommend users follow such practices while taking necessary precautions.
	OGIs will inform users about responsible gaming and safety guidelines on their apps or websites.
	OGIs will allow users to voluntarily set time and money limits. An option for self-exclusion for a chosen period may also be provided.
	Educational and awareness campaigns will be organized by the OGIs. OGIs will also monitor user behavior to identify at-risk users.
Other Safeguards	These include a range of measures to ensure user protection and transparency.
	Age-gating measures to prevent minors from accessing inappropriate content.
	Clear and transparent information about game rules, policies, and the terms of service to ensure users are well-informed.
	Financial safeguards, including Know Your Customer (KYC) procedures, to prevent fraud and ensure secure transactions.
	Mechanisms for reporting and addressing user grievances effectively and in a timely manner.

found that except the Tamil Nadu Act, no other law contemplates imposing time and money limits on users. *Section 5* of the Tamil Nadu Act grants the Tamil Nadu Online Gaming Authority the power to enact rules consistent with the enactment and its associated rules.

These regulations may include stipulations on time limits, monetary limits, age restrictions, and other constraints related to online gaming. As on date, no rules have been notified under the Tamil Nadu Act.

In conclusion, India currently does not have any mandatory time and money limits, and barring Tamil Nadu, none of the statutes contemplate imposing time and money limits.

While the research on the subject is limited (*as per the internal literature review captured*), the discussion on imposing time and money limits to reduce user harm has gathered momentum in recent times.

### How India Spends Time and Money Across Digital Avenues

As illustrated throughout this Report, law has the potential to play a crucial role in protecting public health and shaping behaviours. However, law cannot achieve this in isolation. A multidisciplinary approach and comprehensive understanding are necessary to effectively address these complex challenges.

In 2022, Indians ranked eighth globally in terms

of time spent on mobile apps, averaging 4.9 hours daily, a 32% increase since 2019<sup>71</sup>. The total duration spent on mobile apps in India reached 748 billion hours, a rise of 6.8% from 700 billion in 2021<sup>72</sup>. A significant 82% of this mobile app usage in India was dedicated to media and entertainment, with social media apps accounting for approximately 50% of total mobile usage. On the other hand, only 6% of this time was spent on gaming<sup>73</sup>.

A study conducted by IIM Ahmedabad<sup>74</sup> has shown that on average, Indian users spend 194 minutes on social media, 44 minutes on OTT and 46 minutes on online games daily. The study additionally provides important insights on the financial expenditure incurred by users on various digital platforms. The median user accesses social media at no cost, the amounts

incurred on OTT content typically falls between Rs 201-400 per month, and spending on online gaming seldom exceeds Rs 100 monthly. Considering the average monthly income in India was around Rs 12,500 in the fiscal year 2021-22, it is evident that a significant proportion of online users spend less than 5 percent of their income on online gaming<sup>75</sup>. This suggests that most users likely engage in online gaming and digital media consumption responsibly, and policymakers' concerns about online gaming may not be supported by data on time and money spent by users. However, further research in this area is important to assess how Indians are spending their time and money over the internet including online gaming.



## 06 What's Next For India?



In the context of India's evolving media and entertainment sector, the online gaming segment has shown promising growth, marked by advancements in innovation, engagement, and economic potential. Despite its rapid increase in game consumption, India's online gaming segment currently accounts for only 1.1% of the global online gaming revenue. However, with the expected rise in the availability of high-quality titles, the introduction of cloud gaming, and the expansion of game development studios, India is positioned to enhance its global presence as both a consumption hub and a centre for monetization in the future. For this sector to truly flourish, it is crucial to establish a stable regulatory and legal framework which promotes a balance between user protection and constitutional liberties.

### KEY CONSIDERATIONS

#### Constitutional safeguards

##### Games of skill as legitimate business activity

Starting from games of skill vs game of chance debate to constitutionality of restrictions, Supreme Court and High Courts across the country have on various occasions intervened to uphold constitutional guarantees to games of skill. In *The State of Bombay v R.M.D. Chamarbaugwala*<sup>76</sup>, the Supreme Court interpreted the term 'mere skill' to mean games which predominantly rely on skill. In order to not be classified a game of chance, a game would

have to involve a significant exercise of skill. The court further clarified in *K.R. Lakshmanan v State of Tamil Nadu*<sup>77</sup>, that even though the element of chance cannot be completely removed, success in a game of skill relies greatly on knowledge, training, attention, experience, etc., laying down the 'preponderance of skill' test. In another landmark judgement of *State of Andhra Pradesh v K Satyanarayana & Ors*<sup>78</sup>, the Supreme Court of India held that rummy is a game of skill and said that given rummy requires a considerable skill in holding and discarding cards and therefore cannot be called a game of chance. It is mainly and preponderantly a game of skill. In *Varun Gumber v. Union Territory, Chandigarh*<sup>79</sup>, Supreme Court held that fantasy sports are a game of skill and do not amount to gambling, and that fantasy sports are a legitimate business activity to be protected under Article 19(1)(g) of the Constitution

Despite a catena of judgments and established jurisprudence, states have attempted to regulate/ ban online skill gaming. In *All India Gaming Federation v State and Others WP 13203 of 2023*<sup>80</sup>, while determining the validity of the law, the court upheld the Tamil Nadu Act. The court, however, added that the Act would

not be applicable to games like rummy and poker, which were games of skill and would be applicable only against games of chance.

### Balance between restrictions and fundamental rights

Any restriction on the freedom of speech or expression, and the freedom to practise any trade, business or occupation through the internet would have to conform to Article 19(2) and 19(6), including the test of proportionality since both these freedoms are constitutionally protected by Article 19(1)(a) and 19(1)(g). The ingredients of Article 19(2) of the Constitution are that: a. The action must be sanctioned by law; b. The proposed action must be a reasonable restriction; c. Such restriction must be in furtherance of interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality or in relation to contempt of court, defamation or incitement to an offence.

In *Anuj Garg v Hotels Association of India*<sup>81</sup>, the Supreme Court while adjudicating the constitutionality of a policy measure held that “proportionality between means and ends is to be judged on ‘a standard capable of being called reasonable in a modern democratic society.’” Here, the Court had to determine the constitutionality of Section 30, Punjab Excise Act 1914 which prohibited, inter alia, the employment of women in premises where alcohol was consumed by the public. Holding that the burden was on the State to justify that the measure was proportional, the Court

sought evidence not only of the stated aims of the law, but also the effect that the law had on women’s rights (the relevant party to the policy). The Court found that the measure was not justified since enhancing women’s security and empowering them was a ‘more tenable and socially wise approach’ than placing curbs on their freedom. As a result, the Court provided less rights-intrusive alternative measures that would have been more appropriate in a democratic society.

Applying this principle to online gaming, the Karnataka High Court held that regulations for online gaming should incorporate technological solutions to foster a safe and responsible gaming environment. In *All India Gaming Federation v. State Of Karnataka*<sup>82</sup> petitioners contended the constitutional validity of the Karnataka Police (Amendment) Act, 2021 (“Amendment Act”), which inter alia, prohibited all games (including online games of skill) if played for monetary or equivalent stakes. The State contended that it had ample legislative competence under different heads including under Entries 1, 2 and 34 of the State List of the Constitution. The High Court rejected the State’s contentions and held that an activity which is a legitimate business under Article 19 (1) (g) of the Constitution and is not res extra commercium cannot intrinsically give rise to any issue of ‘Public order’ or ‘Police’. The court further held that integrating data science, governance, corporate social responsibility, and individualised responsible gaming programs could help align legal developments with technological advancements.



## Consumer Protection

In India, while it is difficult to gauge the addiction prevalence because of the absence of large scale studies, it has been reported to be varying with vast differences (range of 3 to 9%). This is not surprising given the low level of research on internet gaming addiction in India. In fact, a precise estimate of the even global prevalence of gaming addiction has also proven elusive, owing to methodological inconsistencies between studies, however the most accurate estimate of global prevalence is said to be around roughly 1%<sup>83</sup>. Therefore, while there is a public health significance which warrants consumer protection, the low prevalence is not reflective of the media panic.

Consumer protection is a priority enshrined in the Constitution, reflected in various provisions under the Fundamental Rights and Directive Principles of State Policy. They collectively aim to prevent the concentration of economic power, restrict private monopolies, and safeguard consumer interests. It's fair to say that consumer justice is an integral part of the social and economic justice embedded in the Indian Constitution.

To fulfil its constitutional mandate, India has enacted various sectoral laws to protect users, such as the Information Technology Act, 2000 (digital transactions and cybercrime), the Payment and Settlement Systems Act, 2007 (payment systems), and the Drugs and Cosmetics Act, 1940 (safety of drugs and cosmetics). Regulatory bodies like the Food Safety and Standards Authority of India

(FSSAI) and the Reserve Bank of India (RBI) also ensure consumer safety in areas like food and financial transactions. The culmination of these sectoral laws and regulatory frameworks is the overarching Consumer Protection Act, 2019, which provides a robust mechanism for addressing grievances and ensuring fair trade practices. The Act introduces significant provisions such as the establishment of consumer courts, the regulation of e-commerce, and the implementation of stringent measures against misleading advertisements.

The Indian government has consistently stressed the importance of safeguarding digital citizens, or "digital nagriks," in the evolving digital world, without impeding technological advancement. As online gaming continues to flourish, there is an urgent need to establish robust consumer protection mechanisms. Without adequate safeguards, gaming users are susceptible to numerous harms, such as addiction, financial loss, and exposure to inappropriate content. This urgency is highlighted by the fact that India has a vast and growing online gaming user base, with approximately 425 million users<sup>84</sup>.

However, due to lack of specific regulations and in the absence of self-regulatory bodies these users remain vulnerable. A recent media report<sup>85</sup> highlights a significant case where the Enforcement Directorate of India is investigating over two dozen offshore illegal gaming apps involved in massive financial crimes, with losses suffered by unaware users potentially exceeding INR 1 lakh crore.

Consumer protection in India guarantees a right to be informed i.e. protecting consumers and ensuring they have access to accurate information about products and services. In the absence of a clear regulatory regime and clarity on what is a legitimate and illegitimate gaming operator, users remain vulnerable.

By prioritising consumer protection measures, the industry can foster a safer and more trustworthy environment, ultimately supporting sustainable growth and enhanced user confidence. Additionally, policy measures for the online gaming sector should ensure that they protect users without stifling innovation or undermining investor confidence. Policymakers should avoid simplistic approaches and instead adopt strategies rooted in evidence and aligned with constitutional standards.

### **Economic significance**

A study in 2023 by Indian Statistical Institute found that most respondents are optimistic about India's potential to lead the global gaming industry, interested in pursuing professional education and careers in the online skill gaming sector, and aware of the importance of new technologies like AI or ML (artificial intelligence or machine learning) and VR (virtual reality) in the gaming domain. Since projections indicate a staggering growth trajectory the study suggests that the online skill gaming sector needs a conducive ecosystem that fosters innovation, invests in skill development, and promotes policies encouraging domestic investments. Further, reports indicate that monthly GST collections

from online gaming companies have surged by over 400% to Rs 1200 crore since October 1, 2023, due to the implementation of a higher GST rate highlighting the revenue potential of the industry. While this is likely a promising source of revenue for the exchequer, many have highlighted how this is at divergence from commonly accepted international practice of taxing gross gaming revenue<sup>86</sup>. In the long term, the absence of policy continuity will not only deter new entrants but also lead to the shutdown of numerous companies and a significant erosion of investor confidence. Despite these challenges, the Economic Survey 2024 identified gaming as one of the top sectors for startups in 2023, contributing 4% to the growth. This highlights the urgent need to cultivate a supportive ecosystem to ensure the industry's continued growth. Imposing blanket restrictions would only hinder progress and undermine the very ecosystem India seeks to foster.

It would do so on two accounts (i) users may move to other potentially insecure and variants of the same game offered by illegitimate operators exposing users to more harm; (ii) often, heavy internet users are going to engage in addictive activities irrespective of the exact nature of the activity. Hence, restricting on a game that is potentially skill enhancing, may induce them to move to other addictive activities with no silver lining.

According to standard economic behavioural principles, restrictions on any activity have both income and substitution effects. While the implied gains might include more time, money,

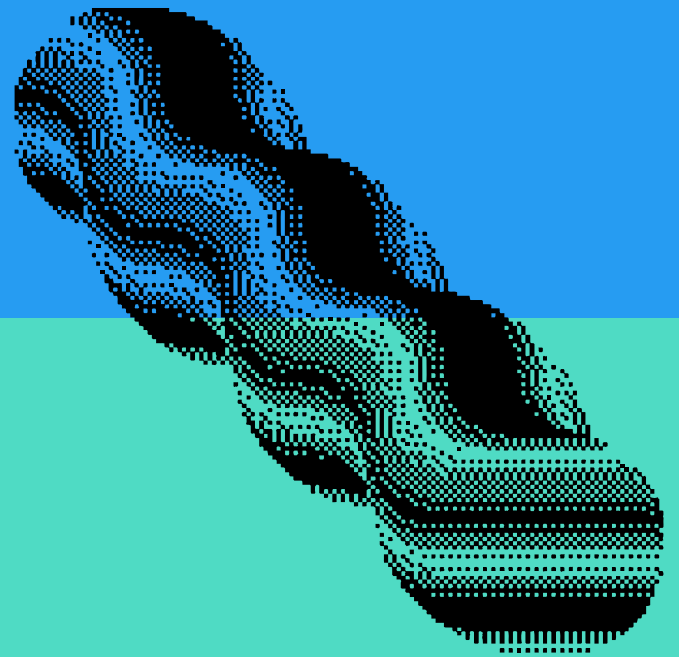
and health benefits, the substitution effects could counterbalance these gains. Without empirical evidence, it's difficult to ensure that the substitution effect doesn't outweigh the income effect, potentially leading to a net reduction in overall social welfare. There would be other issues, including but not limited to identity phishing, fudging of papers (multiple identities) and increased usage of the riskier segments of the internet.

Therefore, any policy measures for the online gaming sector must be proportional and evidence-based to balance user protection

with economic growth. Policymakers should avoid simplistic approaches and instead adopt strategies rooted in evidence and aligned with constitutional standards. Moreover, research elsewhere has indicated that the diverse nature of games and individual players challenges the feasibility of a one-size-fits-all approach. For instance, in fact, MMORPGs and first-person shooter (FPS) games have been found to be the most addictive among all game genres. This is attributable in part to the fact that both these genres include games with strong social, narrative and reward components<sup>87</sup>.



## 07 What Do Experts Say?



As part of this research project, we constituted an Expert Committee to act as an advisory panel, offering insights into our study on the efficacy of limits. Given the complexity and debate surrounding gaming regulation, our aim is to provide an independent, expert-driven evaluation of available solutions, delivering well-informed recommendations to both the industry and policymakers.

The Committee<sup>88</sup> which included experts in law, policy, mental health, and data science, was consulted multiple times from March to July. They provided crucial insights into key considerations and practices for user protection, particularly regarding time and money limits. It is important to note that this report does not represent the official positions of the panel members or their affiliated organisations. Below is a summary of these consultations:

### Need for user protection

1. All experts agreed that users need to be protected. While some experts acknowledged potential moral issues (such as addiction or negative social impacts) linked to gaming, they noted that these fears are not strongly supported by empirical data in India. Therefore, a foundational understanding of gaming behaviours—specifically, the actual time spent gaming and its effects—should be established to accurately define and address the problem.
2. Technological advancements, combined with a strong digital push, have made digital

apps, including gaming, constantly accessible and widely available. However, the lack of sector-specific regulations has left India's gaming industry operating in a regulatory grey area. Consequently, there is no obligation on the industry to implement early interventions.

3. Experts highlighted the critical role of industry involvement in establishing user protection standards and addressing related issues. The reason for this is obvious, in the case of digital spaces and emerging technologies, technology used by the industry is often the first and most important line of defence.
4. Therefore, it is essential for the Indian government to collaborate with the industry, utilising the combined strengths of law, market forces, social norms, and technology to create a comprehensive framework that safeguards users.

### Regulatory framework

1. Experts believe that effective user protection can only be ensured once the sector is properly regulated. A clear regulatory framework serves as the foundation for safeguarding users, and without it, preventing harm becomes challenging.
2. There was broad agreement on the urgent need for uniform Central government regulation of the online gaming industry, to address the large user base, mitigate potential harms, and curb the growth of the illegitimate industry.

3. Many experts stressed the importance of fully operationalizing the existing legal framework, including the notification of Self-Regulatory Bodies (SRBs) and the implementation of the Online Gaming Rules. The SRBs can enforce 'Responsible Gaming Framework' and ensure operators uphold duties of care and user protections, such as mandatory user-set limits, spending disclosures, and age verification.

4. Alternatively, it was suggested that the government may consider introducing a standalone law specifically for regulating online gaming. Some experts recommended establishing a regulatory body<sup>89</sup> to serve as a watchdog for the industry. This body could be empowered to oversee the sector, including the authority to distinguish between legitimate and illegitimate games and operators.

5. On the matter of state specific legislation, some experts emphasised that while betting falls under the State list, online gaming is a central subject. Thus, it is crucial for the Central government to take the lead in safeguarding India's digital nagriks by implementing the existing legal framework until comprehensive legislation is developed.

6. Experts emphasised that effective enforcement is vital for successful regulation. Regulators must have the authority to penalise non-compliant operators and, if necessary, revoke their licences. This ensures that players can trust licensed operators to uphold duty of care, reinforcing the safety of using fully licensed Indian brands.

### Imposition of limits

1. Experts unanimously agreed that government-imposed time and money limits may not be the most effective way to protect users. The focus should be on proven public health approaches, including education, awareness, and legally-backed industry standards and operator responsibilities.

2. Blanket prohibitions on games citing 'addiction' are not only ineffective but constitutionally suspect. Policymakers will have to ensure that regulatory interventions to protect players do not violate constitutionally guaranteed freedoms to prevent tedious litigation and run the risk of being struck down, ultimately leaving Indian users unprotected.

3. Experts advised adopting risk minimization tools akin to those used in the UK and US. In this approach, regulators require operators to offer a range of tools, including limit-setting features, to help customers manage their gaming responsibly. This method is preferred for its practicality and effectiveness compared to government-imposed mandatory limits, which are challenging to enforce and often result in unintended consequences.

4. Experts corroborated the Report's finding that mandatory limits are practically only feasible where there is a monopoly or near-monopoly. If limit-setting were made mandatory, players who reached their limit and were unable to increase it, could easily open another account or switch to illegal operators.

## Industry Initiatives

1. Experts underscored that it is crucial for the industry to take proactive steps to protect users from harm. They cited initiatives such as the UK's "TAKE TIME TO THINK," launched in the UK, which encourages routine use of user protection tools as part of a safe and responsible user experience.
2. Additionally, drawing parallels with investment markets, experts recommend that operators be required to provide warnings and disclaimers, as well as implement processes to identify excessive gaming and significant losses.

## Evidence based policy making

1. The rapid pace of technological advancement continually presents new challenges for individuals, families, and society. To address these issues, including those specific to online gaming, it is crucial to establish monitoring systems that detect early signs of problems and develop strategies to prevent and mitigate risks effectively.
2. Most experts also highlighted the lack of clear diagnostic criteria and thresholds for defining gaming addiction, along with the key factors influencing it. Therefore, it was recommended that a large-scale psychological study be conducted to assess the prevalence of user harm and its underlying causes. This research would, in turn, inform the development of regulations that specifically target these scientifically determined behavioural patterns and protects the user in effect.



## 09 Acknowledgements

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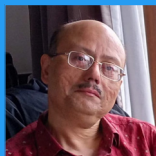
### Expert Committee Members:



**Arushi Jain**  
Partner and Head Media,  
Education and Gaming  
Practice, Cyril Amarchand  
Mangaldas



**Dr. Avik Sarkar**  
Research Fellow & Visiting  
Faculty, Data, Technology &  
Public Policy, Indian School  
of Business



**Professor Diganta  
Mukherjee**  
Social Sciences Division,  
Indian Statistical Institute



**Rakesh Maheshwari**  
Former Sr. Director and Gp  
Coordinator, Cyber Laws  
and Data Governance,  
Ministry of Electronics and  
Information Technology



**Sarah Ramanauskas**  
Co-Founder,  
GameSafety Institute



**Professor Subhamoy Maitra**  
Professor, Applied  
Statistics Unit, Indian  
Statistical Institute



**Dr. Yatan Pal Singh Balhara**  
MD (Psychiatry), DNB  
(Psychiatry), MNAMS,  
Masters in Addiction  
Studies, International  
Masters in Mental Health  
Policy & Services



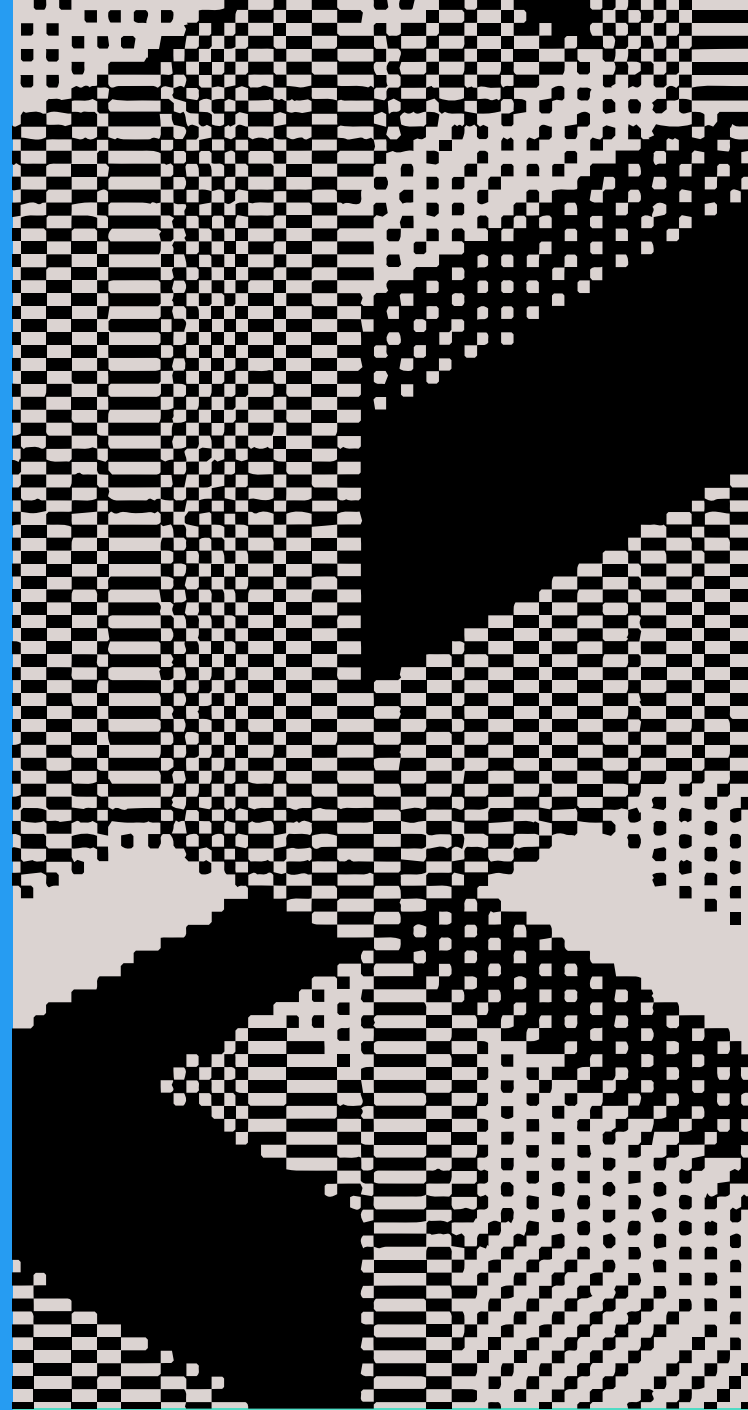
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89. The expert recommendation is in a limited context of user protection. The form and style of this regulatory body was not discussed by the experts. In an Indian context, this could range from 1) government monitored self-regulatory body; 2) statutory body corporate set up for standard setting in the sector; 3) independent regulator.



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