



The Dialogue™

INFORM ENGAGE IDEATE

RESEARCH WHITE PAPER ON

THE REGULATION OF FANTASY SPORTS PLATFORMS IN INDIA



TABLE OF CONTENTS

I.	List of Cases	1
II.	Acknowledgement	2
III.	About the Authors	2
IV.	Research Methodology	3
V.	Executive Summary	4
VI.	Introduction	6
VII.	Economic Potential	8
VIII.	Promoting Overarching Sports and Community Engagement	9
IX.	Key Challenges:	10
	a) Games of Chance Vs Games of Skill	10
	b) Conflict Between State and Central Jurisdiction	11
	c) Constituting an Effective Self Regulatory Organisation	13
	d) Consumer Challenges	13
X.	Global Approach to Fantasy Sports Regulation	16
	a) United States	16
	b) Australia	16
	c) Asia	17
XI.	Recommendations	18
	a) Central Legislation	18
	b) A Well-Structured Self Regulatory Organisation	18
	c) Brightline Test to Identify Games of Skill	19
	d) Consumer Challenges	20
	e) Establishing the Link to Real World Sport and Community Engagement	21
XII.	Conclusion	23

I. LIST OF CASES

- *Betfair Pty Limited v. Western Australia*, (2008) 234 CLR 418.
- *Chandresh Sankhla v. State of Rajasthan*, 2020 SCC OnLine Raj 264.
- *Dr. KR Lakshmanan v. State of Tamil Nadu*, 1996 SCC (2) 226.
- *Gurdeep Singh Sachar v. Union of India*,(2019) 3 AIR Bom R (Cri) 467.
- *Shri Varun Gumber v. Union Territory of Chandigarh and Ors.*, CWP No. 7559 of 2017.
- *State of Andhra Pradesh v. K.Satyanarayana*, A.I.R. 1968 S.C. 825.
- *State of Maharashtra v. Gurdeep Singh Sachar & Ors.*, SLP (Cri.) Diary No. 42282 of 2019.

II. ACKNOWLEDGEMENT

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III. ABOUT THE AUTHORS

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IV. RESEARCH METHODOLOGY



In order to build our research capacity, we explored and analysed the pre-existing literature in this space. The insights provided by the literature review allowed us to demarcate our areas of research and formulate a questionnaire to assist us in our primary research.

The primary research consisted of interviews with people within the industry, legal experts, consumers etc., as well a focus group discussion and stakeholder consultations

(open¹ and closed² door). We did this while simultaneously conducting our secondary research, which developed the ideas introduced in our discussion with the aforementioned people. In order to gain further perspective, we also examined the international best practices within this industry. Cumulatively, the two helped us strengthen our qualitative research efforts and evaluate an optimal way forward.

1. Virtual Stakeholder Consultation on the Future of Fantasy Sports in India on 16th December, 2020.

2. Focus Group Discussion on the Evolving Regulatory Ecosystem of Fantasy Sports, April 2021.

V. EXECUTIVE SUMMARY

The rapid growth in India's digital gaming industry has been driven by increased digital penetration and improved connectivity across the country. These factors, coupled with a young, mobile-first population, has ensured the steady increase in the popularity of mobile gaming. The rise of online fantasy sports platforms ('OFSP') has been one of the defining features of this, with participation growing from 2 million users in June 2016 to 90 million in December 2019.

The accelerated growth within the industry, often referred to as a 'sunrise sector', coupled with relatively slow regulatory developments, has led to the creation of a fair share of barriers and pain points. There has been heated discussion around the challenges relating to the regulation of gaming in India, where the primary debate was centred around whether a particular game can be classified as a game of chance or a game of skill. There is no definable test, regulatory guideline, or administrative forum to assess and determine if a game will be predominately "skill-based" or "chance-based". Adding to this confusion, there are differing regulations dealing with companies operating OFSPs in different states. This has led to greater uncertainty, and impediments in compliance and growth for companies in this sector.

Despite these constraints, the fantasy sport industry has grown in the past few years and continues to thrive. Recognising the importance of the growth and its role in driving innovation and investment in India, NITI Aayog has proposed guiding principles for the regulation of fantasy gaming in India. The guidelines point towards the potential of the sector, outline some of the challenges it is faced with, and the need to address them.

Our study aims to build upon this through in-depth literature review and primary research process by talking to stakeholders across industry, law and policymakers. The report begins by providing context around the

industry, its growing economic potential, as well as its role in overarching community and sports engagement. Analysing the existing regulatory regime allowed us to identify key challenges within this sector. We highlighted the importance of segmenting skill and chance-based games as well as addressing the dissonance between regulations on pay-to-play games across states. Furthermore, we discussed the idea of self-regulation in this context and the various challenges to consider when attempting to build an effective and successful self-regulatory organisation. Finally, we also examined potential consumer challenges that could be faced by OFSP users and underlined the need to address them.

The report then proceeds to analyse global practices to create an understanding of the manner in which OFSPs are regulated across geographies and help evaluate policy decisions which could influence the way forward in an Indian context. Having established the foundational aspects of this subject, the study proceeds to break down recommendations which can help further the discourse towards an enabling regulatory ecosystem over the coming years.

SUMMARY OF RECOMMENDATIONS:

1. **The enactment of a central legislation** will not only harmonise the regulation in this space and bring about a necessary degree of homogeneity, but will also allow for Central backing via a parent Ministry. The lack of policy experience within such a field and its dynamic nature calls for **overarching model guidelines to start with**, that provide for a definition of games of skill and basic principles that state legislatures can adopt.
2. **Establishing a singular, government-recognised self regulatory organisation** will maintain industrial autonomy and bring in the experience and expertise of various stakeholders within the industry. Their

input, along with the light-touch regulation approach, may allow for mitigation of information asymmetry, elimination of bureaucratic delays and develop an efficient grievance redressal mechanism.

3. **Developing a bright line test to identify games of skill** will help do away with the regulatory ambiguity within the industry. There are several tests that have been developed by M.I.T., I.I.M.B. and Professor Zvi Gilula that can be examined, and these have been detailed in our report.
4. In order to mitigate the financial risk and issues of addiction associated with pay-to-play gaming, several platforms have already adopted measures in the form of **disclaimers and pop-ups** that are triggered every time a user displays uncharacteristic behaviour in terms of the hours spent on the app or their investment patterns. We highlight the importance of such measures being adopted across the industry and the role an SRO can play in enforcing them.
5. **Age verification mechanisms** (different from age gating or screening) only allow the user to engage with the platform once they have confirmed their age. Adoption of such mechanisms will allow platforms to restrict all minors from games with a pay-to-play format.
6. In the absence of a data protection law, it's important to adopt measures like **two-factor authentication, gaming limits, periodical audits and independent security testing**.
7. In order to strengthen sporting culture within the gaming community, OFSPs can **deepen their engagement at the grassroots level** by actively sponsoring youth and grassroots sport. Community engagement will not only increase user engagement, but will also boost innovation and business growth within the industry.



VI. INTRODUCTION

The popularity of fantasy sports in the country has exponentially risen over the past few years. It has formed an integral part of the overarching growth in the country's gaming industry, fuelled by improved digital connectivity, a growing youth population, as well as the evolving nature of social interaction. Globally, gaming has been treated as primarily a console activity, but India is a 'mobile-first' country – indicating that people primarily access the internet via their mobile devices³. Hence, with the increased adoption of smartphones and digital penetration, India's mobile gaming market is growing rapidly.

India is the second-largest market for smartphone users, with a thriving young population. Culturally, there has been a significant shift with students and minors gaining access to mobile phones at younger ages for a range of purposes, right from education to entertainment. Statista had estimated the mobile gaming market in India will be worth about 2.4 billion dollars in 2020, up from 600 million dollars in 2017⁴. In a subsequent report released in June, 2021 Statista reported that Asia is the "top region in the mobile gaming industry"⁵.

One of the major facets of the gaming industry's growth within India are Online Fantasy Sports Platforms ('OFSPs') that offer fantasy sports contests. These contests are essentially online prediction games where users put together a virtual team of real sports people participating in a particular league, such as the English Premier League (EPL) or the Indian Premier League (IPL). These gamers act as managers and score points based on a weighted system

3. Ankit Rawal, India - A Mobile-First Country InMobi (2015), <https://www.inmobi.com/blog/2015/07/01/india-a-mobile-first-country> (last visited Jun 2, 2021).

4. Statista Research Department, India - value of the gaming industry 2007-2022 Statista (2021), <https://www.statista.com/statistics/235850/value-of-the-gaming-industry-in-india/> (last visited Jun 2, 2021).

5. Statista Research Department, Mobile games revenue worldwide from 2019 to 2023 Statista (2021), <https://www.statista.com/statistics/536433/mobile-games-revenue-worldwide/>. (last visited Aug.3, 2021).

that converts real-life player performance into fantasy points.

Considering India has one of the largest markets of sports fans, coupled with a fast-developing digital infrastructure and burgeoning engineering talent, the country has a great foundation for driving forward growth, employment and innovation in fantasy sports. If the government moves towards establishing an enabling regulatory framework, India can harness this potential to become a global hub for fantasy sports. This will benefit a number of stakeholders, including the government and consumers, while creating both direct and indirect employment opportunities, and driving innovation and growth in sports, entertainment and technology.

In a recent KPMG market report⁶, it was noted that the number of users participating in online fantasy sports in India has grown at a compounded annual growth rate ('CAGR') of 212%, from 2 million users in June 2016 to 90 million users in December 2019. Furthermore, the report estimates that the fantasy sports industry has the potential to attract Foreign Direct Investment ('FDI') of more than INR 10,000 crore over the next few years, as well as generate 1.5 billion online transactions by 2023⁷.

While there have been debates around the regulation of gaming in India in the past, it occupied centre-stage only in the last few years. Recognising the potential of this industry and its role in driving innovation and investment in India, the NITI Aayog proposed guiding principles for the regulation of fantasy gaming in the country.⁸ The principle-led governance

6. KPMG & Indian Federation of Sports Gaming, *The Evolving Landscape of Sports Gaming in India*, March 2019, <https://assets.kpmg/content/dam/kpmg/in/pdf/2019/03/online-gaming-india-fantasy-sports.pdf>.

7. *Id.*

8. NITI Aayog, *Guiding Principles for the Uniform National Level Regulation of Online Fantasy Sports Platforms in India (Draft for Discussion)*, December 2020, https://niti.gov.in/sites/default/files/2020-12/FantasySports_DraftForComments.pdf.

framework put forward by NITI Aayog is an important step towards establishing a uniform regulatory framework that promotes growth and innovation potential for OFS platforms.

There are a range of challenges that the industry is faced with today, and the NITI Aayog report does highlight the importance of segmenting skill and chance-based games as well as addressing the dissonance between regulations on pay-to-play games across states. Our study aims to assess the NITI Aayog's guidelines, examine existing literature around the subject and utilise primary research inputs on this theme from a variety of relevant stakeholders, allowing us to develop nuanced analysis and recommendations around the subject. To do so, understood the importance of OFSPs to the country, both economically and socio-culturally. This will help underline their potential and the need to minimise pain points in this space. The paper then proceeds to analyse the various fundamental challenges in the sector, before observing international best practices and outlining recommendations which will help lay the foundation for sustained growth in this space moving forward.



VII. ECONOMIC POTENTIAL

India recently overtook the United States of America as the country with the world's largest online fantasy sports user base, although it lags in market size and expenditure.⁹ As mentioned earlier, with a large market of sports fans, an exponential increase in demand, and a complementing pool of skilled software developers and designers, India's stage is set to become a global hub for the fantasy sports industry.

Fantasy gaming, a subset of the online skill gaming industry, is touted as a sunrise sector and is on a path of increasing growth and innovation. To tap into the industry's full potential, it is important to create an enabling regulatory ecosystem that maximises this opportunity as we move forward. Over the course of this whitepaper, we try to unpack the nuances of such an ecosystem, which would positively affect the economy and all involved stakeholders, with elite gamers, developers and designers, as well as businesses and their investors directly benefiting.

Apart from this, there will also be a knock-on effect with ancillary industries such as marketing, advertising and sports merchandising, creating more jobs and driving the economy forward. A PricewaterhouseCoopers India report¹⁰ underlines potential by stating that the country's fantasy sports industry can create over 5000 direct and 7000 indirect jobs over the next three years. It also estimates that this sector can contribute GST revenue worth between Rs 3000 crore to Rs 3500 crore over the next five years.¹¹ Additionally, income tax on winnings and corporate tax paid by OFSP operators will also significantly contribute to the exchequer, with the combined contribution of the industry estimated to range from Rs 7,000 crore to Rs 10,000 crore over the same period. Furthermore, the OFSP industry has also brought in over Rs 1,000 crore in foreign direct

investment, a figure which is expected to grow exponentially in the coming years.¹²

These figures are despite ambiguity around taxation in this context, and providing clarity would help further boost these numbers. While the current format of taxation applicable on fantasy sports are unclear on the national level, states such as Maharashtra have issued an 18% GST under entry 998439¹³ of the GST Act. Thus, this has created a lack of clarity and also leads to questions regarding there being separate taxation percentages between 'games of chance' and 'games of skill' or even whether the taxation is applicable on the gross value including prize money or only on the platform fees charged to the user. An evaluation of the judiciary's understanding of fantasy sports entails that there optimally should be a differential taxation on the basis of skill as taxation has historically been higher on gambling due to its negative connotations. The responsibility to determine this issue has been delegated to a Group of Ministers constituted by the GST Council that can be expected to build upon the judiciary's approach.



9. *Id.*

10. PricewaterhouseCoopers India's report: Federation of Sports Gaming – Report on Taxation of Online Fantasy Sports Gaming Market in India (May 2019).

11. *Id.*

12. *Id.*

13. Services Accounting Code (SAC) 998439, Taxation of Other Online Contents NEC, Goods and Services Tax, Chapter 99, available at <http://www.e-way-bill.co.in/sac-code/998439.html>

VIII. PROMOTING OVERARCHING SPORTS AND COMMUNITY ENGAGEMENT

Apart from the direct benefits that greater investment and job creation will bring, the fantasy sports industry also has multiple public interest arguments, increasing sporting culture and engagement, prime among them. Playing a fantasy sports game creates an immersive experience for the user, increasing their investment in the real-world decisions and actions of coaches, sportspeople's performances, and the result of any particular match-up.

With sporting leagues becoming increasingly global, fantasy sports serve as a tool to increase engagement and active participation from viewers. The increased user engagement has led to official partnerships between sports leagues and fantasy sports platforms, visible from Dream11 sponsoring the IPL, and MPL Sports, the apparel arm of MPL, sponsoring the Indian cricket team. We are also seeing social media influencers and podcasts detailing strategies for fantasy sport, and in turn increasing the overall traction for the sport itself.

This impact is beginning to trickle down to the grassroots, and these platforms are sponsoring sporting events at a youth level. This connection between OFSPs and real-world sport can be further strengthened by tying up with sports universities and organisations, and increasing the overall connection of these platforms with the community.

Many users of OFSPs have also pointed towards how they began watching new sports after using fantasy gaming applications. A recent study¹⁴ by Federation of Indian Fantasy

Sports and Nielsen highlighted that 37% of fantasy sports players consume more than 6-8 hours of real-life sports content every week. To underline this point further, 62% of fantasy sports players watch leagues even when their team/country is not participating, the study finds.

So, in a cricket-crazed country like India, sports such as hockey and kabaddi have benefitted from the increased viewership in recent years, which is a trend that those in the industry partially attribute to their popularity on fantasy gaming platforms.

This point is backed by the co-founder of MPL, Mr Sai Srinivas who said,

“An increase in engagement across sports is an important knock-on effect of fantasy gaming. Imagine a situation where there are thousands of OFSP users invested in games such as archery, chess, kabaddi and shooting. This will generate an interest in who is winning medals in these domains, and it's only natural that tournaments with increasing viewership and user participation will help create a massive amount of real-world engagement with these sports.”

14. Urvi Malvania Malvania, IFSG report: Fantasy sports players watch more sports than non-fantasy sports players - ET BrandEquity ETBrandEquity.com (2019), <https://brand-equity.economicstimes.indiatimes.com/news/business-of->

[brands/nielsen-ifsg-report-fantasy-sports-players-watch-more-sports-than-non-fantasy-sports-players/71384145](https://brand-equity.economicstimes.indiatimes.com/news/business-of-brands/nielsen-ifsg-report-fantasy-sports-players-watch-more-sports-than-non-fantasy-sports-players/71384145) (last visited Jun 2, 2021).

IX. KEY CHALLENGES:

A) GAMES OF CHANCE VS GAMES OF SKILL

One of the major points of contention within the OFSP and the broader gaming space has been of these games being misrepresented and grouped together with gambling. This has resulted in ethical connotations impeding the growth of the industry, and leading to a lack of regulatory clarity. The issue boils down to clearly distinguishing between games of skill and chance by judging whether the element of luck or the participant's competence are the predominant factor in determining the outcome. Being able to clearly identify and demarcate between the same will go a long way towards reducing ambiguity in future regulation.

There are multiple precedents wherein the Supreme Court and various high courts have clearly stated that games of skill are permissible and should be allowed to thrive. The Rajasthan¹⁵ and Bombay High Courts¹⁶ have gone on to add that a game of skill is a legitimate business activity protected under Article 19(1)(g) of the Constitution. However, as alluded to above, the issue of interpreting what would constitute a game of skill in a particular context varies from game-to-game, and format-to-format. There are a few criteria and tests that have been put forward in the past, and examining these can form the basis for determining the difference.

The foundational principle for a demarcation between a game of chance and skill involves the features identified by the Hon'ble Supreme Court in *Dr. KR Lakshmanan v. State of Tamil Nadu*¹⁷ which further defined a game of skill as a game "in which, although the element of chance necessarily cannot be entirely eliminated, success depends principally upon the superior knowledge, training, attention, experience, and

15. Chandresh Sankhla v. State of Rajasthan, 2020 SCC OnLine Raj 264.

16. Gurdeep Singh Sachar v. Union of India, (2019) 3 AIR Bom R (Cri) 467.

17. 1996 SCC (2) 226.

adroitness of the player." This definition of a game of skill has been the benchmark adhered to in subsequent determinations by Courts on this issue.

Till date, three High Courts, namely Punjab and Haryana (2017)¹⁸, Bombay (2018¹⁹), and Rajasthan (2020)²⁰, have approved fantasy sports as a 'game of skill' on grounds such as: (a) requirement of material skill; (b) presence of a budget to select team; (c) attribution to fantasy points system; (d) fair play and healthy competition; (e) presence of 'how to play' and 'frequently asked questions' on the OFSP, among others.

Despite this guiding framework, creating a singular list of criteria which will act as a bright line test for identifying games of chance and skill is a separate challenge altogether. There are other judgments which have displayed a greater variance in interpreting this definition. For example, the case of *State of Andhra Pradesh v. K.Satyanarayana*²¹ examined the following in order to establish if a game could be categorised as 'gambling' – whether it is predominantly a game of skill and if the operator stands to earn a profit from any "game played for stakes". The judgement, in effect, limits the profit-making ability of operators of games of skill.

Subsequently, the Punjab & High Court in the case of *Varun Gumber v. Union Territory of Chandigarth & Ors.*²² held that players have to exercise "superior skill, knowledge, judgement and attention" while engaging with OFSPs and that Dream11 (fantasy sports app in India) was "exempt from the provisions of the Public Gambling Act, 1867." While this was the stance

18. Shri Varun Gumber v. Union Territory of Chandigarh and Ors., CWP No. 7559 of 2017.

19. Gurdeep Singh Sachar v. Union of India, (2019) 3 AIR Bom R (Cri) 467.

20. Chandresh Sankhla v. State of Rajasthan, 2020 SCC OnLine Raj 264.

21. A.I.R. 1968 S.C. 825.

22. CWP No. 7559 of 2017.

adopted by the Bombay High Court²³, the same has been appealed before the Supreme Court. The Supreme Court ruling will play a pivotal role in determining the characteristics of a ‘game of skill’.

Another state which has adopted a different route to regulating this issue is Nagaland. The Nagaland Prohibition of Gambling and Promotion and Regularisation of Online Games of Skill Act, 2015 (‘Nagaland Regulation’) introduced a licensing regime for skill based games. This legislation was enacted prior to the interventions discussed in this section. The Act provides a list of skill games which include any game held to be skill game by any Court in India and all digital versions of physical sports. The Nagaland regulation recognised “virtual fantasy league games” and “virtual team selection games” as skill games. Additionally, the Act also defines “games of skill”²⁴ as follows:

“all such games where there is preponderance of skill over chance, including where the skill relates to strategizing the manner of placing wagers or placing bets or where the skill lies in team selection or selection of virtual stocks based on analyses or where the skill relates to the manner in which the moves are made, whether through deployment of physical or mental skill and acumen.”

Studying past jurisprudence from various states involves a degree of variance, however it helps us move towards developing a mechanism that successfully maps the idea of the predominance of skill or chance in a particular game. Having said that, the lack of clear central guidelines or a legislation mapping out clear-cut distinguishing criteria has resulted in differences in regulation across states. The lack of uniform definitions in regulation across states is another contributing factor, and this dissonance is especially exacerbated by the fact that fantasy sports games operate on a predominantly digital medium which minimises the enforceability across state lines and

23. State of Maharashtra v. Gurdeep Singh Sachar & Ors., SLP (Cri.) Diary No. 42282 of 2019.

24. §2(3), Nagaland Prohibition of Gambling and Promotion and Regularisation of Online Games of Skill Act, 2015.

complicates compliance.

Based on our research as well as discussions with stakeholders, it is clear that it is important to develop and identify the core criteria based on which we can clearly demarcate between games of chance and games of skill, while steadily working towards developing central guidelines aimed at the same. This will be expanded upon in subsequent sections.

B) CONFLICT BETWEEN STATE AND CENTRAL JURISDICTION

There exists regulatory ambiguity in India when it comes to regulating fantasy sports platforms. For example, The Public Gambling Act, 1867 which imposes a penalty for running or being in charge of a public gambling house.²⁵ The Act has been adopted by at least 16 states and Union territories and has an exception to games of skills. Goa and Sikkim are two states where gambling is allowed to thrive, and most other states have not taken the same approach. The state of Goa has allowed gambling by enacting the Goa, Daman and Diu Public Gambling Act, 1976, while Nagaland²⁶ has allowed operators to offer fantasy and other skill game services as well.²⁷ An amendment of the Public Gambling Act allowed five-star hotels and offshore vessels to host slot machines and card-rooms, if so approved by the State Government. In addition to prior approval, they would also have to pay a specified recurring fee. The Sikkim Regulation of Gambling (Amendment) 2005 authorises the State government to notify the specified areas where permission can be granted for running of casinos on payment of a specified fee.²⁸ The

25. §3, Public Gambling Act, 1867.

26. Nagaland Prohibition of Gambling and Promotion and Regulation of Online Games of Skill Act, 2015.

27. The Sports Law & Policy Centre, *The Laws Relating to Fantasy Sports Games in India*, February 2018, <http://www.sportslaw.in/reports/FantasySportsPublication-Web.pdf>.

28. Shweta Bharti, A Walk Through The Gambling Laws In India - Media, Telecoms, IT, Entertainment - India Mondaq (2017), <https://www.mondaq.com/india/gaming/617478/a-walk-through-the-gambling-laws-in-india> (last visited Jun 2, 2021).

states of Assam²⁹, Andhra Pradesh³⁰, Odisha³¹, Sikkim and Telangana have placed restrictions on games of skill as well.

In most other states, games of skill are excluded from the ambit as they have the legitimacy from the Supreme Court with precedents that allow for these models to operate. The spectrum in state regulation ranges from no restriction/limited restriction (Goa) to outright bans on games of skills, including fantasy sports (Andhra Pradesh³²). This creates an uneven model for compliance, since these games are played on the online space, and there are issues regarding how to enforce such bans.

The inconsistency of regulations across the country leads to consumers having varied experiences with using OFSPs across different states. The consumers rights and duties against the OFSP and vice-versa also vary across jurisdictions and therefore, add a problematic level of ambiguity to grievance redressal mechanisms. Such uncertainty also hinders the OFSP's ability to innovate and scale, and consequently adversely affects their growth potential. This has the potential to negatively impact returns on investment, reducing the ability of the industry to attract foreign direct investment, generate employment opportunities and contribute revenue to the public exchequer. These factors can also act as a barrier to entry for new companies establishing themselves in the industry.

The widespread disparity in state-laws poses huge compliance burdens for online gaming platforms, which include OFSPs. With the uptake of internet and smart devices by a larger section of Indians, the number of players on these apps has increased - causing these platforms to operate on a massive scale. Regulations provide clarity and an established paradigm within which action can be held valid. It legitimises businesses activities and rules out some as well. This clarity allows for entrepreneurs to innovate, create, and foster

economic activity.

Stemming from the nature of the gaming space and the current legal framework, there can be considerable clashes that can be anticipated when it comes to establishing a pan-India regulatory model. With some states such as Andhra Pradesh imposing a complete ban, it needs to be seen how the regulatory model will gain validity. Any attempt to establish a self-regulatory body would also be challenging considering the presence of divergent state laws. The Nagaland Prohibition of Gambling and Promotion and Regulation of Online Games of Skill Act, 2015 for example establishes a licensing regime which increases the compliance burden of OFSPs.³³

The NITI Aayog' discussion paper makes it mandatory for OFSPs to comply with "all applicable laws, regulations and rules in force in India". There is a need to develop novel solutions to ease the tension created by diverse state-level regulations.

Based on our interactions with stakeholders, the consensus was that the regulatory uncertainty would continue. However, the NITI Aayog draft is a good first step in recognising the economic value of the sector, and a principle based approach can help move the sector towards the required uniformity in approach. As far as investors are concerned, the lack of regulatory certainty and the muddled thinking of policymakers makes it harder for them to bet on sectors such as gaming. Investors obviously look for sunrise opportunities, and the benefit of doing so early on is the increased returns. Online gaming is one such sector that already attracts tremendous capital, which can go up-if given the right regulatory and investment environment. Light touch regulation would also be beneficial for a sector that is still fresh and growing, since it provides ample scope for innovation, while protecting businesses, consumers, and investors.

29. Assam Game and Betting Act, 1970.

30. Andhra Pradesh Gaming Act, 1974.

31. Orissa Prevention of Gambling Act, 1955.

32. *Supra* note 24.

33. Sohini Banerjee & KS Roshan Menon, How to achieve effective self-regulation for fantasy sports The Financial Express (2021), <https://www.financialexpress.com/brandwagon/how-to-achieve-effective-self-regulation-for-fantasy-sports/2201497/> (last visited Jun 2, 2021).

C) CONSTITUTING AN EFFECTIVE SELF REGULATORY ORGANISATION

The need for regulation within this industry has been sufficiently highlighted in the previous sections. However, with the absence of a central legislation or guidelines issued by the central government, several platforms within the industry have turned to the establishment of a self regulatory body ('SRO'). It may prove to be extremely beneficial in dealing with the ambiguity associated with this sector.

Self-regulation could be defined as "a regulatory process whereby an industry-level organisation (such as a trade association or a professional society), as opposed to a governmental organisation, sets and enforces rules and standards relating to the conduct of firms in the industry."³⁴ A few examples of self-regulatory bodies in India are the Advertising Standards Council of India ('ASCI'), the Board of Control for Cricket in India ('BCCI'), the Medical Council of India ('MCI') etc.

The NITI Aayog principles provided for a light-touch regulatory framework with a single, government recognised self-regulatory body. The guidelines prescribed that the SRO should consist of members who have over 66% of the overall consumer base engaged on their application.³⁵:-

1. If two or three major operators have more than 66% of registered fantasy sports users in the country, these platforms could solely constitute the self-regulatory body. An effective governance mechanism needs to be evolved for SROs to prevent any scope for monopolistic intentions to play out.
2. It is difficult for any regulatory body to assess whether a particular self-regulatory body has members whose users added together meet the 66% threshold. The difficulty in accurately counting the number of users is also compounded by the fact that

fantasy players play on multiple platforms, and hence it is possible that multiple self-regulatory bodies can qualify. Such an occurrence might go against the initial objective of creating a single overarching self-regulatory body.

3. An SRO however may not be able to bring about significant change within the regulation of the industry on its own, and might need recognition by the government. In our discussion with various stakeholders, we realised that the lack of government support may lead to duplicity of SROs and lead to regulatory arbitrage. Players might have several different bodies that they can approach to settle their grievances and will choose the body that is most likely to favour them. A single SRO distinct for online fantasy sports needs to be recognised by the government.

While the establishment of an SRO might have certain challenges, it is a concept that is worth exploring and needs to be developed. It will be able to address the fragmentation within the industry and make a stronger case for regulation before the central government.

D) CONSUMER CHALLENGES

1. Element of Financial Risk

While the apps are designed to cater to consumer interests and attempt to get users to return to the apps, systems can be designed in a way to ensure that people are aware of the risks associated with investing real money in these avenues. The discussion around financial risk is two fold. Firstly, there's always a risk the user is going to lose the money invested. The money invested may not always have favourable returns. Most fantasy sport apps charge their users an entry fee. Subsequently, users are free to invest an amount of their choice into the game. The degree of risk, therefore, is something that the users can control. They are given the autonomy to choose the amount of money they are comfortable losing.

34. Anil K. Gupta & Lawrence J. Lad, *Industry Self-Regulation: An Economic, Organizational, and Political Analysis*, 8 *The Academy of Management Rev.* 417 (1983).

35. *Supra* note 5.

It's also important to note that the entry fee of most pay-to-play fantasy sport apps is most commonly as low as INR 35. Further, in addition to the pay-to-play formats of fantasy sports, there are also several free-to-play apps. Keeping in mind the financial risk associated with these games, operators make this very clear in their advertisements and provide requisite disclaimers.

To enhance consumer safety and ensure that fraud detection is timely, the industry has been deploying various technological mechanisms as checks and balances. OFSPs users are safeguarded from having any unfair advantage versus other users while playing these games through mechanisms such as multiple account checks, withdrawals limits etc. to ensure that possibilities of frauds are reduced.

The best customers of OFSPs inherently tend to be regular users who are ready to invest money and time constantly over a period. This is another factor to take into account and is something that some platforms have started to flag as part of the disclaimers discussed earlier.

2. Element of Addiction

Like any other application, most of the fantasy sports apps are designed to hold user attention and ensure that users return to the application. With the added element of real money investments, there may exist a certain risk of addiction to fantasy sports apps. However, as mentioned earlier, there are also free-to-play apps available to the users, partially mitigating this factor.

A KPMG survey pointed out that 72% of the users primary motivator to engage with these platforms is that of 'fun and excitement'; 74% of the users engage with the platforms 1-3 times a week; and 54% of the users play fantasy sports for free.³⁶ The hours a user spends on a fantasy sports app depends on several different factors, such as the sport itself.³⁷ A

36. *Id.*

37. BI India PartnerSep, Around 80% of the online fantasy sports users in India prefer participating in the 'free-to-play' format Business Insider (2020), <https://www.businessinsider.in/advertising/ad-tech/article/around-80-of-the-on>

variety of factors such as off-season periods and player injuries also reduce the number of users on these apps simply because of the absence of real-time sporting events.³⁸ These external factors contribute towards limiting the scope of addiction.

3. Minors

Most of the concern towards the addictive nature of these platforms stems from the assumption that majority users of the platforms are minors. Keeping this in mind, most of the fantasy sports platforms introduce "age restriction" measures which ensure that minors cannot engage with the platform. In their draft guiding principles, the NITI Aayog stated that "Pay-to-play formats of fantasy sports contests should not be offered by an OFSP operator to users who are less than 18 years old. All necessary safeguards to protect minors must be instituted."³⁹ The concerns about minors engaging with fantasy sports platforms also stems from the significant amount of personal and sensitive personal data that OFSPs collect.

4. Data Protection

The privacy policies of several OFSPs provide the collection of demographic data (such as time zone, postal address and location details)⁴⁰, PAN card details⁴¹ and in some cases even the gender of the user.⁴² OFSPs also collect data related to player statistics and match events in order to reward participants for their choices.

Web beacons or "clear GIFs" are also used to track user patterns and improve app quality, functionality and "let advertisers know the geographic locations from where our visitors

[line-fantasy-sports-users-in-india-prefer-participating-in-the-free-to-play-format/articleshow/78059025.cms](https://www.businessinsider.in/advertising/ad-tech/article/around-80-of-the-online-fantasy-sports-users-in-india-prefer-participating-in-the-free-to-play-format/articleshow/78059025.cms) (last visited Jun 2, 2021).

38. Aihik Sur, Nazara Revenues Increase By 84%; Cautious About 'Real Money Skill Gaming' MediaNama (2021), <https://www.medianama.com/2021/06/223-nazara-earnings/> (last visited Jun 7, 2021).

39. Guiding principle no.3, Supra note 5.

40. MPL, Privacy Policy, <https://about.mpl.live/privacy/>, (last visited Jun 2, 2021).

41. My11Circle, Privacy Policy, <https://www.my11circle.com/privacy-policy.html>, (last visited Jun 2, 2021).

42. CricPlay, Privacy Policy, (last visited Jun 2, 2021).

come”.⁴³

In addition to the privacy challenges associated with fantasy sports platforms and every other operator with an internet presence, it's important to take into consideration the other consumer interests cited earlier. OFSPs design their apps in a way that encourages users to spend more time and return to the application frequently. The behavioral data collected by these applications can help the OFSPs cater to the specific needs of individual users. However, the absence of responsible gaming practices and a data protection regulation may encourage risky financial behaviour.⁴⁴ “Vulnerable” users are easily identifiable and put at further risk if this practice remains unchecked.

43. *Supra* note 32.

44. Adam Satariano, What a Gambling App Knows About You The New York Times (2021), <https://www.nytimes.com/2021/03/24/technology/gambling-apps-tracking-sky-bet.html> (last visited Jun 2, 2021).

X. GLOBAL APPROACH TO FANTASY SPORTS REGULATION

UNITED STATES

A case study conducted in New York pointed out that blanket prohibitions on fantasy sports would restrict the increasing revenue potential of the industry in the state.⁴⁵ Various companies appealed the Supreme Court judgement that classified fantasy sports as a game of chance. The efforts were successful and led to the formulation of the Interactive Fantasy Sports Bill in New York that classified fantasy sports as ‘skill-based’ and approved licensed operations. This had a positive impact on the industry as several sports franchises, and sports teams are hosted in New York, such as the Yankees, Mets and Jets.

Taking inspiration from the New York study, several states began to lift their bans on fantasy sports. Nevada, for example, introduced a licensing regime. The two-tiered regulation thus established has been discussed in our recommendations.

1. Use in Indian Jurisprudence

The United States government being federal in nature allows ‘fantasy sports’ to be subject to both state and federal laws. The manner in which OFSPs are regulated depends on whether the state considers fantasy sports to be synonymous with gambling. Several courts throughout the country have formulated tests in order to determine the same-- the predominant purpose test, the material element test or the chance test. The predominant purpose test has been applied by the Indian Supreme Court on numerous occasions including *the*

45. Zachary Shapiro, Regulation, Prohibition, and Fantasy: The Case of FanDuel, DraftKings, and Daily Fantasy Sports in New York and Massachusetts, 7 HARV. J. SPORTS & ENTMT (2016).

*Satyanarayana case*⁴⁶ (rummy) and the *Lakshmanan case*⁴⁷ (horse-racing).

AUSTRALIA

The federal law regulating this space is the Interactive Gambling Act, 2001. It defines a ‘gambling service’ as a game of chance or of mixed chance and skill; played for money or anything else of value; and when the customer pays to play the game. While fantasy sports technically fall under this definition, Section 8A of the Act has listed several exceptions, including betting on sporting events or a series of sporting events. Fantasy sport hasn’t expressly been listed as an exception. In the early days of fantasy sports operators coming up in Australia, they were first regulated as a form of trade promotion. However, recent years have witnessed the transition to the state regulating the same as a form of bookmaking. The Interactive Gambling Amendment (Sports Betting Reform) Bill, 2015 does not restrict access to offshore gambling sites but requires that onshore Australian betting providers must offer regulated interactive gambling services.

Therefore, OFSPs in Australia are governed under the gambling regime. In the case of *Betfair Pty Limited v. Western Australia*⁴⁸, the Court held that “a high constitutional hurdle must be overcome if a state or territory were to seek to prohibit its residents from engaging in fantasy sports provided by a vendor registered in another Australian state or territory.”

46. State of Andhra Pradesh v. K. Satyanarayana, AIR 1968 SC 825.

47. Dr. K.R. Lakshmanan v. State of Tamil Nadu, AIR 1996 SC 1153.

48. (2008) 234 CLR 418.

ASIA

While the developments in Australia and the United States provide interesting perspectives, it's important to bear in mind that the traditional approach to the industry differs. The United Kingdom and Australia, for instance, are far more open to gambling and allied activities. India and several other countries in Asia have a very different, more closed-off approach, towards gambling.

Countries in Asia face similar challenges in regulating this industry, and fantasy sports haven't found a strong footing here for several reasons. Countries like Bangladesh and the United Arab Emirates ('UAE') haven't legalised fantasy sports, while Singapore and Hong Kong have an ambiguous regulatory approach.

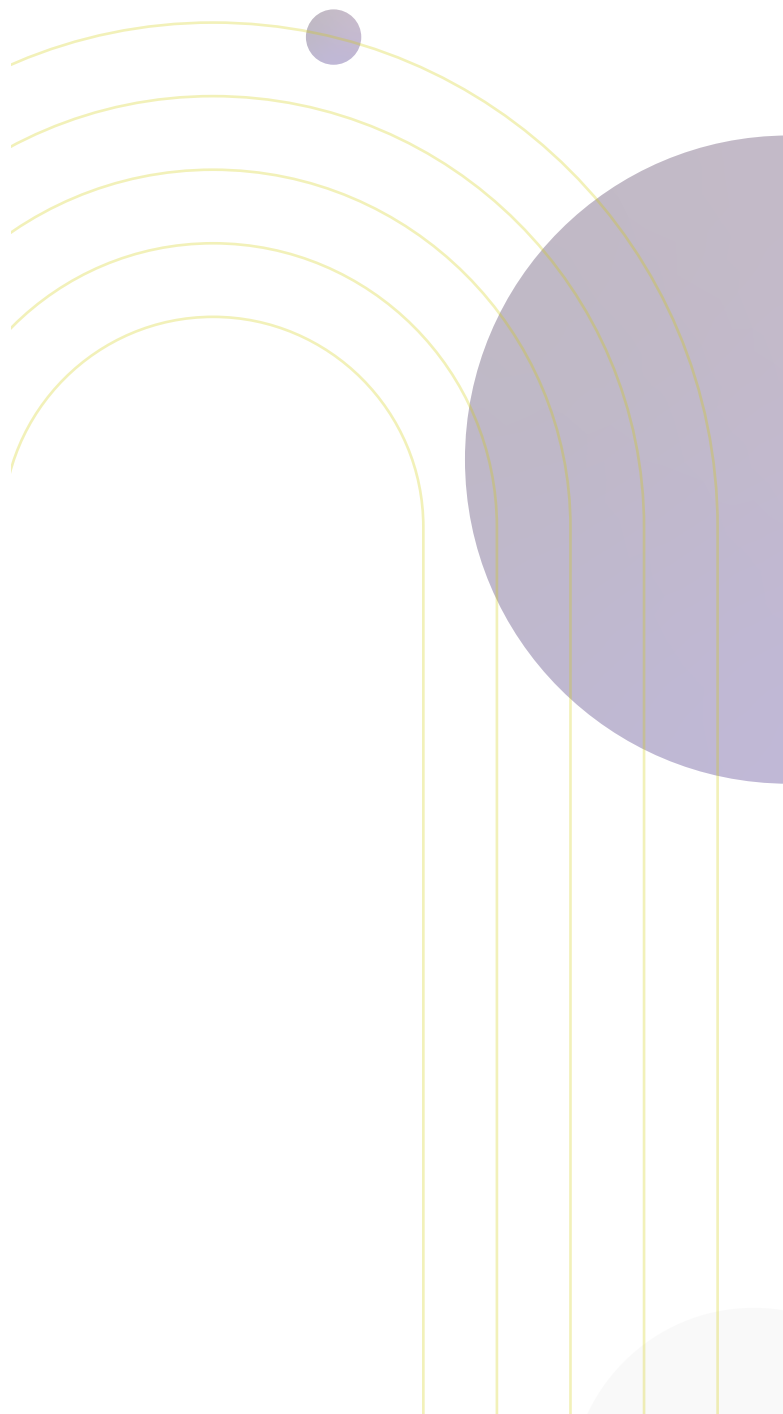
The Remote Gambling Act of Singapore provides for a definition of a game of chance—"(a) a game that involves both an element of chance and an element of skill or (b) a game that is presented as involving an element of chance."⁴⁹ While fantasy sports have not been specifically excluded from the application of this Act, the legislation is carefully worded to pave the way for an exemption in the future. Recent developments in this space have legalised sports betting, which makes the future of fantasy sports in this country far more optimistic.

Similar to the Singapore legislation, the Gambling (Amendment) Ordinance, 2002 in Hong Kong does not provide for express exemptions. However, the state doesn't seem to be too keen on expressly prohibiting or attempting to shut down operations (as was seen in New York). This has led several to believe that fantasy sports could be 'quasi-exempted'. It is likely, therefore, that OFSPs may be able to operate in Hong Kong with no regulatory intervention.

While there are several regulatory approaches that have been adopted by countries across the globe, only a few seem to have expressly legalised fantasy sports to operate in those

regions. A licensing regime is extremely popular because it allows for consumer interests to be protected and allows the government to exercise light-touch regulation. Asia will not only provide useful insight into how to deal with challenges that are unique to the Global South, but may also inform Indian regulation to become far more accepting of the fantasy sports industry.

The subsequent section discusses our recommendations for how India should proceed with regulating this sector.



49. §4, Remote Gambling Act, 2014.

XI. RECOMMENDATIONS

1. CENTRAL LEGISLATION

The absence of central regulation in the industry has led to fragmentation and a variety of regulatory approaches being adopted by different states. A centralised regulation will harmonise the regulations in this space and bring about a necessary degree of homogeneity. In addition to the issue of fragmentation, states may not be equipped to regulate interstate or international play.

The long-term goal within the industry is to have Central regulation and support. However, this poses several challenges, particularly in the absence of a parent Ministry. Our discussions with stakeholders pointed out the importance of central support via a Ministry, such as the Ministry of Electronics and Information Technology ('MeiTY') and/or the Sports Ministry, which will not only provide a welcome push towards a central legislation but will also help increase the legitimacy of the sport. Efforts by the government will pave the way for central guidelines to be issued and bring about regulatory clarity in the short-term.

Model Guidelines

An industry that is still in its nascent stages would benefit from light-touch regulation, as pointed out by the NITI Aayog.⁵⁰ The lack of policy experience in the field and its dynamic nature pose significant challenges to any policy maker. Regulation within this space may also allow for responsible gaming across all platforms hosting games of skill.

As a more immediate measure, it would be helpful to develop overarching model guidelines that provide for a definition of games of skill, games of chance and basic principles that state legislatures can adopt. It's also important that the guidelines provide for an SRO in order to grant it legitimacy and autonomy. This will

50. *Supra* note 5.

allow the regulatory model to remain sensitive to changes within the industry.

Two-tiered Regulation

A harmonised regulation could also develop a two-tiered licensing regime as adopted by the United States. At the first level, the objective of the regulation will be to restrict games that could be classified as gambling or those that have gambling as the predominant element. These would include games that are purely event-centric. At the second tier, licensing could be introduced. In some cases, companies that employ advertisements as part of their marketing will automatically have to obtain a license from the state. Colorado, having adopted this system, mandates that OFSPs with over 7,500 players must obtain a license and must register players in order to confirm that they are over 18 years of age. A licensing regime has been fairly popular in Russia, Australia, Philippines and Thailand.

2. A WELL-STRUCTURED SELF REGULATORY ORGANISATION

The importance of an optimally functioning self regulatory organisation has been underlined in various contexts throughout this paper. An SRO that consists of representatives across stakeholders, including those within the industry themselves, will serve several purposes, and it is commendable that NITI Aayog has proposed the constitution of an SRO. It will not only make sure that the industry continues to operate independently, but will also allow the body the benefit of technical expertise from various stakeholders within the industry. Furthermore, an SRO will help integrate efforts across platforms promoting games of skill in the country along with playing an active role in the actual formulation of regulations.

There are several challenges that an SRO can potentially help mitigate -

Information asymmetry: Collaboration among various stakeholders will most likely reduce information asymmetry and make industry and product information available to everyone, which will in turn encourage consumer participation. Needless to say, in order for such a body to be established, the 66% threshold may be re-looked and amended.

Central guidelines: Collaboration with the central government will allow for the Centre to issue overarching guidelines relating to the criteria based on which a game can be classified as one of “skill” or “chance”; provide for procedures to establish transparency and accountability in the functioning of the body; and guidelines based on which disputes must be resolved etc.

Inordinate Delays: An SRO will help eliminate bureaucratic delays and will be far more flexible than an executive body, which will allow it to mould itself to the dynamic nature of the industry. The reduced red-tapism will also help reduce transaction and compliance costs.

Grievance Redressal: The creation of a dispute resolution mechanism will lead to faster grievance redressal and will help build consumer trust. Consumers will be able to turn to courts in case of an appeal, but such a mechanism would also prevent overburdening the courts.

Having said that, the establishment of an SRO in several industries was not met with sufficient success. Developing an enabling framework which mitigates these challenges is made possible only by carefully developing the foundations of an SRO. The foundation of any self-regulatory body must be built on the FITE principles of fairness, independence, transparency and expertise embedded into it. ‘Fairness’ includes factors such as adhering to the values of natural justice, efficient grievance redressal mechanisms, as well as a system of checks and balances being set up. The second part of this acronym is ‘Independence’, which involves ensuring the adjudicating committee is not connected to any of the regulated OFSPs. Hence, guidelines based on who can be appointed, the democratic process of

voting, and the overall length of the term must be described. Adopting a high standard of ‘Transparency’ is integral to the success of any self-regulatory organisation and they must host regular meetings of members conducted in a democratic manner, along with summarising the activities of the organisation on a monthly basis and in an annual report. Finally, members of the adjudicating body should be chosen according to a set of criteria which help establish their ‘Expertise’ and qualification for the position.

The composition of the committee should also be mapped out, and it is important to have representation from lawyers, gamers and sportspeople, among others. Athletes will play a pivotal role in such a committee, considering the nuanced understanding of the ‘skill’ elements of the game.

A government-backed SRO built on the aforementioned principles will be able to create a level playing field for all OFSPs and will garner a reputation as an unbiased and authoritative body. This will also strengthen their position in dealing with the government on issues such as establishing formal mechanisms for the manner in which the self-regulatory authority would interact and collaborate with state and central governments. In turn, this would help create an enabling environment for the entry of newcomers, the promotion of competition and the creation of incentives for the producers to comply with the regulations. In addition to such measures encouraging growth and innovation in this sector moving forward, this will also help develop and maintain common standards in the industry.⁵¹

3. BRIGHTLINE TEST TO IDENTIFY GAMES OF SKILL

While most courts in India have followed the predominance test used by the courts in the United States, it’s important to bring some homogeneity within this space. A more comprehensive test was suggested by Professor Zvi Gilula⁵², who found that fantasy sports games are predominantly skill based

51. *Supra* note 19.

52. *Id.*

and uses the following criteria to make this judgement -

i) The player's decision making has a direct effect on the results of the contest;

ii) Contest result data should indicate that skilled, well-informed players should do better than randomly selected non-skilled players within a set period of games; and

iii) Players should be able to get better at this game through repetition by developing their skills, awareness and analytical abilities over time.

Other studies⁵³ have also drawn similar parallels in terms of criteria to adjudge predominance, and while this list isn't exhaustive, it does help form the foundation upon which a bright-line test can be developed.

4. CONSUMER CHALLENGES

A. Financial Risk

In terms of mitigating the financial risk undertaken by users, it is important for platforms to offset the possibility of vulnerable consumers being taken advantage of. They can do so in a variety of ways. Most platforms already put out disclaimers regarding the risks associated with engaging in these games, as well as providing a variety of contests which are low stakes or free-to-play in the form of conscious advertisements or within the applications. This allows users to make conscious, informed decisions, a factor backed by a KPMG survey pointing out that most of the money spent on these platforms are in the form of "reinvestments from previous winnings ... and utilisation of cash bonuses given to high engagement users."⁵⁴

Another useful measure which a few platforms have implemented is creating algorithms which

alert a platform when users are displaying uncharacteristic behaviour in terms of their investing pattern, as well as when the losses of a user cross a certain threshold. The platform can then notify the user and provide them with an opportunity to reconsider their decision to make further investments. The specifics of these measures and thresholds will have to be discussed in-depth with relevant stakeholders through the medium of a government recognised self-regulatory organisation described above.

B. Addiction

There are two primary concerns relating to addiction. The first pertains to users spending several hours on the application. This can be offset by the fact that fantasy sports games don't require constant engagement, and hence platforms can provide notifications when users utilise their applications beyond the recommended hours.

The other concern is closely tied to the point made regarding financial risk above, and involves users who are vulnerable to indulging their tendencies of spending large amounts of money. Arriving at ways in which platforms can nudge users towards positive expenditure patterns will protect the consumers and platforms alike. While these issues are layered, a regulatory organisation establishing comprehensive industry standards around the subject will help ensure the issues and discourse around addiction to fantasy sports applications are mitigated.

C. Minors

Age verification mechanisms are different from age screening or age gating. The latter involve allowing the user to self-declare their age and subsequently engage with the platform. These mechanisms are fairly easy to circumvent because platforms cannot confirm whether or not the user's listing is accurate. Age verification mechanisms, as the name suggests, only allow the user to engage with the platform once their age has been appropriately verified.

53. Vishal Misra et. al., *Is It Luck or Skill: Establishing Role of Skill in Mutual Fund Management and Fantasy Sports*, MIT, 2020; Shailaja Grover et.al., *Fantasy Sports: A Game of Skill or Chance*, IIM Bangalore and Cartesian (2020).

54. *Supra note 3*.

Restriction of all minors from access to fantasy sports is essential. Therefore, most OFSPs choose to employ an age verification mechanism. Most operators collect financial details like PAN cards while the user registers on the platform. The Government-issued ID can therefore act as proof of age and can be used for age verification as well. The approach of leveraging existing electronic identity architectures has also been used by Spain, Italy and Denmark.⁵⁵

Given the existing fragmentation in the industry, it would also be helpful to have a common standard for age verification. The Age Verification Providers Association ('AVPA') listed out the following benefits of a standardised approach:

- It will promote competition and interoperability within the marketplace, while boosting consumer choice; and
- It will help educate the public about age verification and its efficacy;
- It will enable the industry to develop standardised solutions to meet a given level of assurance and audit.⁵⁶

Another important aspect of an effective age verification mechanism is the establishment of trust. The robust technical standards coupled with a mechanism that addresses privacy, data protection, security, safety, usability and accessibility considerations will have a valuable impact.⁵⁷ The NITI Aayog has also emphasised on the importance of enabling an age verification mechanism or any other necessary safeguards to protect minors.⁵⁸ Several use the services of third-party providers in order to

build public trust and ensure that the platform only has access to the age of the user and no other identifiable factors.

D. Data Protection

Most protection standards adopted by gaming platforms in the United States focus on player protection. These measures include two-factor authentication or gaming limits on amount deposited or stakes plated. In addition to these, operators are also subject to audits, are meant to hire a security staff etc. New Jersey, for example, has a requirement for annual independent security testing. A third party is given the responsibility of assessing the security of the site and reporting to the regulators.

The Vice President of SeNet International – a company dealing with information security, penetration testing and security audits – Gus Fritschie, recommended that OFSPs should be required to meet a set of security controls. Following such certification, the OFSP must undergo annual security testing similar to New Jersey mandates. This audit must involve the evaluation of technical, operational and management security controls.

In order to ensure uniform adoption of the aforementioned data protection measures, it's important to have an established regulatory body which can monitor compliance and a central regulation that can provide for compliance requirements and guidelines. A robust data protection regime and regulation in this sector will not only help protect user privacy but will also encourage responsible gameplay.

5. ESTABLISHING THE LINK TO REAL WORLD SPORT AND COMMUNITY ENGAGEMENT

One factor discussed earlier in the paper which is an essential aspect of the growth and rise of fantasy sports is its inherent connection to real-world sport. Unlike other kinds of digital gaming, this is one of the central tenets of the appeal of fantasy sports. OFSP platforms can increase engagement, usage and their connection to society and culture at large by

55. University of Oxford, *Effective age verification techniques: Lessons to be learnt from the online gambling industry*, December 2013, <https://www.oii.ox.ac.uk/archive/downloads/publications/Effective-Age-Verification-Techniques.pdf>

56. Canberra Parliament, 2. Methods for online age verification Home – Parliament of Australia (2020), https://www.apf.gov.au/Parliamentary_Business/Committees/House/Social_Policy_and_Legal_Affairs/Onlineage-verification/Report/section?id=committees%2Freportrep%2F024436%2F72614#footnote43ref (last visited Jun 7, 2021)

57. *Id.*

58. *Supra* note 5.

taking up a more active role in the community and actively sponsoring youth and grassroots sport. This is similar to the digital version of physical, which has recently also found widespread popularity due to their inclusion by the International Olympic Committee in the inaugural Olympic Virtual Series. Since, fantasy sports and digital versions of physical sports are linked to actual physical sports, they build interest in the actual sport and are a good way to deepen this engagement at the grassroots level. This will help with further strengthening of sporting culture within the gaming community.

This connection can be further strengthened by these platforms tying up with sporting universities and institutions, signalling their commitment to the long-term success of sport in India. Furthermore, these platforms allow users to compete in fantasy games across sport, and there are esports of games like chess, archery and shooting. This has inherently increased exposure for lesser-known sports in a country which predominantly follows cricket. This will help drive up engagement, viewership, and hence the long-term health of these sports.

In a scenario where OFSPs and esports platforms adequately prioritise their linkage to real-world sport and take measures to develop their engagement with the community, these platforms have the opportunity to be viewed as a force for good. Integrating into the everyday lives of people across contexts will also increase user traction, and will have a positive knock-on effect on innovation and growth leading to businesses flourishing.

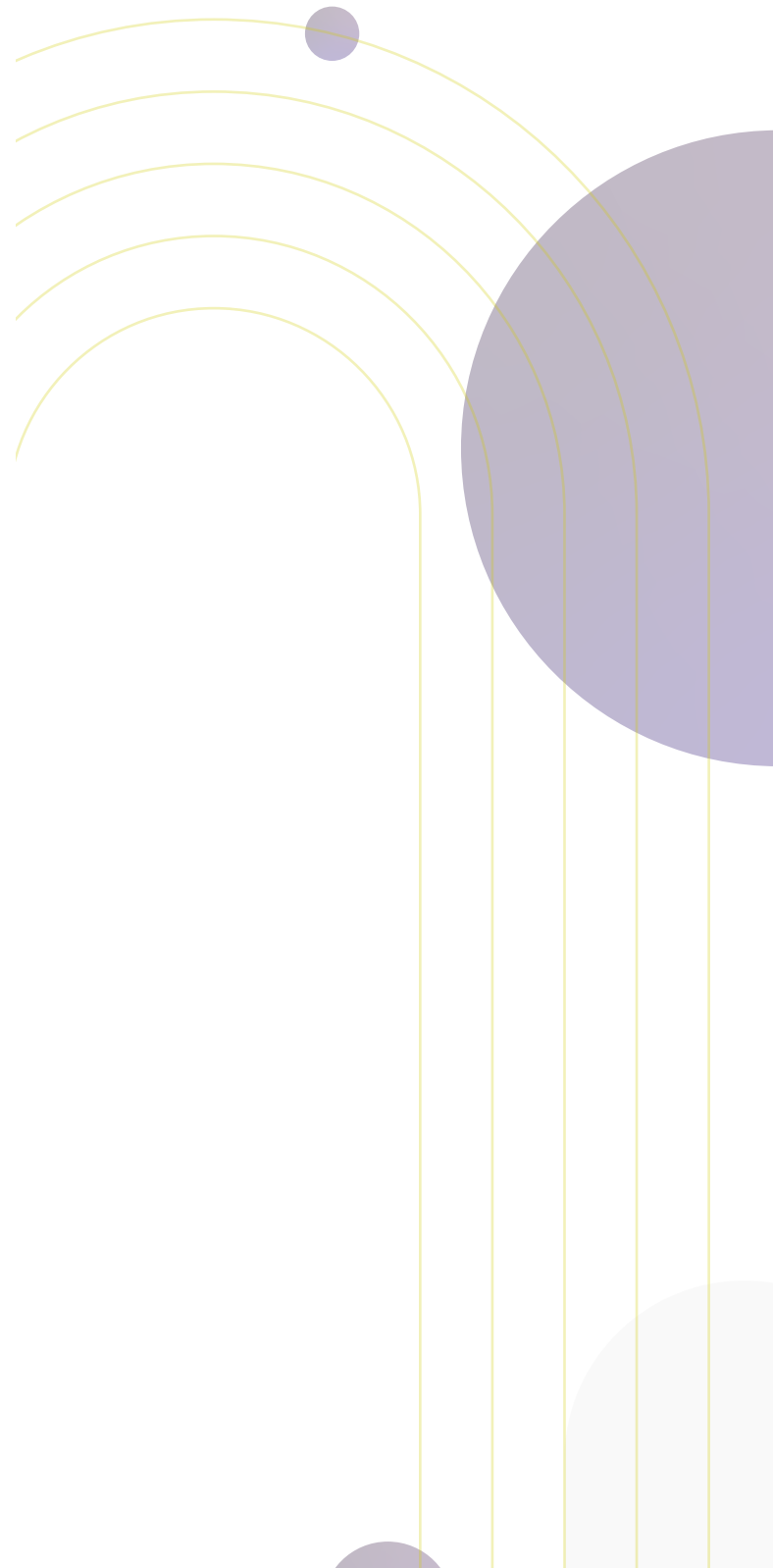
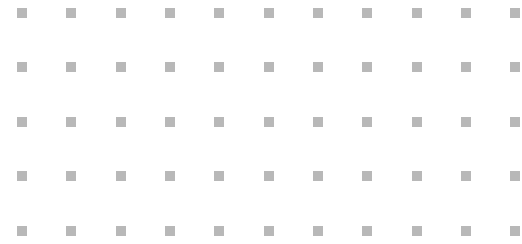


XII. CONCLUSION

Most of the challenges discussed in the earlier sections point to a problem of perception. The overarching belief of several stakeholders is that fantasy sports and esports cannot be given the same legitimacy as traditional sports. It's important to bear in mind the difference between fantasy sports, esports and traditional sport, but all three must be granted legitimacy. The efforts of those within the industry and civil society must be to facilitate conversation and encourage the development of awareness drives all over the country. Conducting competitions at the grassroots level and also focussing efforts in Tier-II and III cities will provide for a push in the right direction.

A sunrise sector such as this has vast economic potential. This is underlined by the fact that OFSP operators are estimated to contribute Rs. 7,000 cr. to Rs. 10,000 cr. to the exchequer, and also bring in over Rs. 1000 cr. in foreign direct investment. The allied effects of regulation are those of increased sports and community engagement. The ultimate goal of those within such a fragmented industry is that of Central regulation. It will bring about homogeneity and harmony within the industry and allow for active participation of all stakeholders--platforms, players, and the government, to list a few.

Our research study has attempted to highlight a way forward for an industry in its nascent stages. We highlighted the various pain points of the industry and the various obstacles standing in the way of harmonious legislation. We concluded with a set of recommendations that may help ameliorate the problems discussed in the short-term, while encouraging work towards the long-term goal of central regulation. Any policy intervention must reflect the ever-changing nature of the industry and must maintain this dynamism.



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