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From Regulation to Prohibition: Rethinking the Promotion and Regulation of Online Gaming Act 2025

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ABSTRACT

The Promotion and Regulation of Online Gaming Act, 2025 represents a decisive policy shift in India's digital regulatory landscape from fragmented state-level oversight to centralized prohibition of online money games. This article critically examines the Act's legislative intent, structural design, economic implications, and constitutional vulnerabilities. It traces the evolution of online gaming from a legally ambiguous sector to one governed by comprehensive statutory control, abolishing the long-standing judicial distinction between games of skill and games of chance. While the Act aims to address concerns such as youth addiction, money laundering, and national security risks, it simultaneously dismantles an industry valued at ₹16,428 crore in FY23, jeopardizing over 200,000 jobs and deterring foreign investment. The establishment of a centralized Online Gaming Authority signals a move toward uniform governance; however, the blanket prohibition of monetized gaming raises challenges of enforceability, technological circumvention, and migration to unregulated markets. Comparative analysis with regulatory models in the United States, United Kingdom, and Australia reveals India's position as an outlier embracing absolute prohibition over calibrated regulation. The paper argues that the 2025 Act, though well-intentioned, risks constitutional infirmities under Articles 14 and 19(1)(g) due to its overbroad classification and potential arbitrariness. It concludes that a more sustainable model would involve licensing, differentiated regulation, and transparent oversight mechanisms rather than prohibition. Such an approach would balance innovation, economic opportunity, and social protection ensuring that India's rapidly evolving digital economy remains both secure and globally competitive.

I. INTRODUCTION

Indian online gaming shelter comprises of more than 56 Crore active users out of which “Real Money Gaming” accounted for more than 85% of the total revenue of the sector in 2024.² The past decade has shown the growth of this sector from inconsequential to a significant economic

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² Interactive Entertainment and Innovation Council (IEIC) and WinZO "India Gaming Report" 2024.

contributor owing to factors such as expanding youth population, increased access to consumer grade technologies such as PCs, Laptops, Smartphones and better internet accessibility.

While online gaming started as a mere mode of entertainment, it has successfully evolved into a source of livelihood and a thriving business opportunity. Companies such as Dream11, MPL, ZOOPY and others took note of the opportunity and emerged as “Real Money Gaming” platforms which allowed users to invest and earn money through online mobile games. However, the expansion of such companies brought with it problems such as fraud, tax evasion, money laundering, terror funding and such. While the businesses created livelihood opportunities, along with it emerged a threat to national security, public order and integrity of the state. The government tried to issue patchwork orders through legislative clarifications, regulations and judicial interpretations; however, such actions failed to achieve desired effects and the sector continued to grow in an unstructured and irregular manner. Technological developments such as widespread availability of smartphones, laptops, and internet connectivity also raised the quantum of significant negative impacts, particularly on young individuals.

The introduction and passing of the Promotion and Regulation of Online Gaming Act, 2025 marks a watershed in digital policy, reflecting a sharp shift from prior permissive or patchwork regimes toward centralized prohibition of “online money games.” The law seeks simultaneously to promote gaming as an industry (by recognizing e-sports and social gaming) and to prohibit games involving monetary stakes regardless of whether they involve skill or chance. This dual mandate places the Act at a delicate balancing point between innovation and social regulation.

To understand and assess the implications of this enactment, this article examines the need and the provisions of the statute. Comparative lessons from other jurisdictions will help in identifying probable challenges and potential opportunities towards the future development of the statute.

II. TRANSFORMATION OF ‘ONLINE GAMING’ FROM AMBIGUITY TO STATUTORY PROVISIONS

Prior to the enactment of the Promotion and Regulation of Online Games Act, 2025, the online gaming sector existed in a legal grey area, lacking a uniform legislative framework. Its regulation was fragmented across various states and primarily guided by judicial interpretations distinguishing between games of skill and games of chance. In absence of defined legislative framework, the whole sector faced several economic and social issues. Lack of uniform standards governing advertisements for online games resulted in promotional campaigns that were misleading and enticing, lacking transparency, accuracy, and truthfulness. Online gaming

portals operated as the preferred routes for money laundering and for terror funding posing a risk to national security. Further, in absence of regulation, gaming developed into an addiction especially among the youth. Such addiction often resembled unauthorized gambling, further exacerbating the problem.

The Act was introduced in Lok Sabha on 20 August 2025 and passed by both houses; it received Presidential assent on 22 August 2025.³ The rules for its implementation are under process awaiting responses from stakeholders.⁴ At its core, the statute defines key categories: “Online Game” (any game played via electronic or digital means, mediated over networked communication)⁵ “Online Money Game” (games involving payment or stake, with expectation of monetary or equivalent return)⁶ “e-Sports” (competitive multi-player games, officially recognized under the National Sports Governance Act, outcomes driven by skill, excluding wagering)⁷ “Online Money Gaming Service” (any service facilitating online money game).⁸

A central innovation is the creation of an Online Gaming Authority (or central regulator) empowered to issue operating guidelines, register/classify games, address complaints, and enforce compliance.⁹ The Act also commands that banking, financial, and intermediary services must not facilitate prohibited transactions, and empowers blocking of related web content under the IT Act.¹⁰

Violations attract both penal and monetary sanctions up to three years imprisonment and fines up to ₹1 Crore (for main offences), and up to two years or ₹50 Lakhs for advertisements or promotion of online money games.¹¹ The Act further claims an overriding effect over inconsistent statutes.¹² A striking departure from prior jurisprudence is that the Act does not distinguish on the basis of “game of skill” vs “game of chance.” All online games involving stakes or financial returns, irrespective of skill content, are classified as prohibited. Simultaneously, the statute mandates promotional support and regulatory recognition for e-sports and social gaming.

Prior to this enactment, the primary governing statute was the Public Gambling Act, 1867,

³ The Promotion and Regulation of Online Gaming Act, 2025 (32 of 2025).

⁴ Notice inviting feedback/comments of stakeholders on the Draft of “The Promotion and Regulation of Online Gaming Rules, 2025” available at <https://www.meity.gov.in/static/uploads/2025/10/275f784cc6401f46214a02107e941b91.pdf> (Last visited on Oct 12, 2025).

⁵ The Promotion and Regulation of Online Gaming Act, 2025 (Act 32 of 2025), s 2(f).

⁶ Ibid, s. 2(g).

⁷ Ibid, s. 2(c).

⁸ Ibid, s. 2(h).

⁹ Ibid, s. 8.

¹⁰ Ibid, s. 5,6 & 7.

¹¹ Ibid, s. 9.

¹² Ibid, s. 18.

which under Section 12 exempted games of mere skill from its purview. States also made their respective amendments to regulate the sector with the most notable being; Telangana in 2017 amended its Gaming Act, 1974, to prohibit all forms of online money gaming even the ones which required skills. and Andhra Pradesh amended Andhra Pradesh Gaming Act, 1974, in 2020 to ban all real-money online gaming which implemented a blanket ban on all forms of Tamil Nadu passed the Prohibition of Online Gambling and Regulation of Online Games Act, 2022. Even Nagaland Passed the Nagaland Prohibition of Gambling and Promotion and Regulation of Online Games of Skill Act, 2015 and Sikkim Enacted the Sikkim Online Gaming (Regulation) Act, 2008.

On a central level, through the 2023 amendment to the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, the Central Government had proposed the establishment of self-regulatory bodies (SRBs) to register online money games and classify them as permissible or non-permissible. However, in practice, no such SRBs were constituted, thereby rendering the framework ineffective and unenforceable.

While all of these enactments failed to properly and adequately address the underlying problems, the enactment imposes an absolute ban on online money games with effectively banning their operation across all the digital platforms. With this, it also extends to the promotional and the advertisement content which encourages participating in these games.

The bifurcated regulatory regime which is a combination of both prohibition in the domain of online money games and facilitation in the domain of e-sports and recreational games is a deliberate legislative design. This legislative architecture reflects a deliberate choice: to dismantle the existing legal ambiguity, centralize oversight, and eliminate monetized online gaming under a single national standard, displacing state-level variation and judicial fragmentation. The policy tradeoffs between innovation, consumer protection, moral regulation, revenue losses, and enforceability are significant and require further scrutiny.

III. ECONOMIC IMPACT OF THE ABSOLUTE BAN ON ONLINE MONEY GAMES

The online gaming industry in India had been valued at ₹16,428 in FY23 with forecasts reaching INR33,243 by 2028¹³ making it the largest and fastest-growing segments within the media and entertainment industry. However, the current enactment, which imposes a complete ban on online money games and removes the financial aspect from such gaming, is likely to halt this

¹³ New frontiers - Navigating the evolving landscape for online gaming in India *available at* https://www.ey.com/en_in/insights/media-entertainment/new-frontiers-navigating-the-evolving-landscape-for-online-gaming-in-india (Last visited on Oct 8, 2025).

trajectory of growth, reversing the upward momentum previously observed in the Indian market. Major platforms like Dream11, MPL, PokerBaazi, Zupee, My11Circle, etc., which relied on real money gaming or fantasy stakes, face existential risk.¹⁴

The prohibition will severely curtail business models based on entry fees, prize pools, or token wagers. The loss of investments, employment, and ancillary economic activity (advertising, sports sponsorship) is potentially substantial.¹⁵ Beyond economic disruption, the social rationales cited by the legislature and promoters include preventing addiction, financial distress, money laundering, and misuse of platforms for illicit finance or terror financing.¹⁹ However, empirical data linking online money games to national security or terror financing in India is scarce, making some rationales appear speculative.

To the extent youth addiction and consumer harm are real, targeted regulation (limits, cooling periods, mandatory disclosures) might have sufficed but the legislature opts for prohibition instead of harm-reductive regulation. Implementation poses formidable challenges as online platforms and servers are often offshore; classification and blocking enforcement require sophisticated detection infrastructure and cooperation from telecommunication and hosting providers. Preventing circumvention, proxy usage, and cross-border operations will require continual policing.

The regulatory authority must process classification requests, appeals, grievance redressal, and auditing of compliance creating a heavy institutional burden. The complete ban also forces a shift of user behavior where users may migrate to unregulated grey or black-market platforms, raising safety risks. Thus, the policy carries risks of overreach, regulatory evasion, economic upheaval, and enforcement gaps. But it also signals a strong state posture toward digital moral regulation and consumer protection in the gaming economy.

The economic impact can be summarized as follows:

a) Impact on government

The decision of the Central Government to ban online money games reflects a conscious choice prioritizing national interest and national security over immediate financial gains. However, this decision is likely to cause significant financial losses to the government.

¹⁴ Ibid.

¹⁵ Guiding Principles for the Uniform National-level Regulation of Online Fantasy Sports Platforms in India, NITI AYOJ available at https://www.niti.gov.in/sites/default/files/2020-12/FantasySports_DraftForComments.pdf (Last visited on Oct 8, 2025).

- **Tax Revenue Loss:** Before the ban, the online money gaming sector contributed substantially to government revenue through the Goods and Services Tax (GST) and Tax Deducted at Source (TDS). occurred in around loss of Rs 20,000 crore in tax revenues¹⁶
- **Destruction of a High-Growth Sector:** Online money games were among the fastest-growing segments of the media and entertainment industry, as shown in the figures above. The ban has crippled a sector with immense potential to attract foreign investment and generate economic growth.
- **Job Displacement:** The ban has led to mass layoffs in major companies such as Dream11 and MPL, along with professional gamers losing their primary source of income. This has contributed to a rise in unemployment. This move threatens to wipe out 200,000 jobs.¹⁷
- **Discouragement for Foreign Investment:** The abrupt and sweeping nature of the ban has created regulatory uncertainty, damaging investor confidence. As a result, foreign investors now perceive the Indian market as a potential risk, leading to reduced foreign capital inflows and hindering economic development.

b) Impact on professional gamer

The enactment of 2025 has had a devastating impact on the income and careers of professional gamers or professional players in real online money games like online poker, rummy, and fantasy sports. Their livelihood has been banned. All the main streaming platforms for these online money games, such as Dream11, Mobile Premier League (MPL), PokerBaazi, and Gameskraft, have suspended their paid content in regard to this 2025 Act. There has been no distinction on the basis of skill under the current Act, as stated under the definition in Section 2(1)(g), which applies irrespective of whether it is a game of skill or chance. Online money games are absolutely barred, which invalidates the expertise and time invested by these professionals in skill-based games. This will also result in career collapse and forced occupational shifts. Many full-time professionals have now been displaced due to this enactment, which has made online money games obsolete and created an unemployment crisis for them.

¹⁶ Online Gaming Bill: Proposed clampdown *available at* <https://www.moneycontrol.com/news/business/companies/online-gaming-bill-proposed-clampdown-may-put-2-lakh-jobs-at-risk-lead-to-loss-of-rs-20-000cr-in-tax-revenue-13469219.html>. (Last visited on October 15, 2025).

¹⁷ Id. at 12.

IV. COMPARATIVE ANALYSIS

A comparative perspective reveals several alternative regulatory postures and gradual evolution of laws around online gambling and gaming. In the United States, the Unlawful Internet Gambling Enforcement Act (UIGEA) 2006 does not itself criminalize online gambling per se but prohibits gambling businesses from accepting payments in connection with unlawful internet bets.¹⁸ The approach is largely financial cut-off rather than blanket prohibition. The U.S. regulatory landscape is fragmented where state-by-state legalization (e.g., New Jersey, Pennsylvania) coexists with federal enforcement of payment intermediation restrictions¹⁹. Under USAID-2, like India, and prior position to the 2025 Act, there are some states in which the online regulation, online games are embraced and are permitted. This financial enforcement model reflects pragmatism by deterring flows of funds rather than trying to block all digital access.

In the United Kingdom, the Gambling Act 2005, and subsequent regulation by the UK Gambling Commission, adopts a licensing and oversight regime rather than prohibition. Operators must obtain UK licenses, comply with robust consumer protection, anti-money laundering, fairness, and advertising standards. Online gambling is legal under regulated conditions and is treated as a commercial industry carefully overseen.²⁰ This permissive-regulation posture allows tax revenues, consumer oversight, and innovation in a controlled environment. Furthermore, advertisement regulations have been introduced to ensure that participants and potential participants are informed about the risks of gambling and that marketing does not target high-risk or vulnerable groups of society. The aim of the UK's legislation is simple to establish a balance between the welfare of the people and the rapidly growing online gaming industry.

Australia's Interactive Gambling Act 2001 criminalizes the provision of certain online gambling services to Australians (e.g. casino-style gaming online) but allows licensed betting services under strict regulation. In recent years, the growth of online gaming in Australia has been driven by the expansion of mobile platforms and increased advertising. The primary regulatory body at the federal level is the Australian Communications and Media Authority (ACMA), whose main function is to oversee advertising and curb illegal offshore gambling.

¹⁸ Unlawful Internet Gambling Enforcement Act 2006 (US Public Law 109-347).

¹⁹ Foundational Legal Questions About Online Real Money Gaming *available at* <https://www.infolawgroup.com/insights/2025/7/25/foundational-legal-questions-about-online-real-money-gaming> . (Last visited on October 15, 2025).

²⁰ Gambling Laws in the UK *available at* <https://altenar.com/blog/gambling-laws-in-the-uk-all-you-need-to-know-about-regulation-and-legality-in-2024/> (Last visited on October 15, 2025).

The State and Territorial Regulatory Authorities handle licensing, compliance, and enforcement. Examples of these include the Victorian Gambling and Casino Control Commission, the Queensland Office of Liquor and Gambling Regulation, and Liquor and Gaming NSW. The approach is partial prohibition with carve-outs, and the law has been updated to encompass operators outside Australia targeting Australian users.²¹ The Australian model demonstrates how a regime can combine prohibitory measures for high-risk categories with regulatory oversight of lower-risk wagering.

Comparative evaluation shows three distinct models; financial cutoff (US), licensed regulation (UK), and targeted prohibition plus oversight (Australia). India's Act diverges sharply from all three by adopting full prohibition of monetary games, even when operators are willing to comply with consumer safeguards, and by eliminating the skill–chance distinction. The Indian choice represents one extreme of regulatory pessimism, sacrificing flexibility and market accommodation in pursuit of moral and protective policy goals.

V. CRITICAL ANALYSIS OF 2025 ACT

There has been no distinction provided under this Act between games of skill and games of chance. The earlier judicial position, prior to this enactment, clearly recognized this distinction that a game of skill involves a substantial degree of skill and effort by the player²², whereas a game of chance depends purely on luck, requiring no skill²³. It was also well established that a game of skill does not mean that there is no element of chance involved; however, the element of skill predominates and determines the result of the game²⁴. The 2025 Amendment, by failing to acknowledge this fundamental difference, disregards long-standing judicial precedents and undermines the constitutional protection granted to legitimate, skill-based gaming activities.

The Act's ambition is bold: to resolve ambiguity, centralize control, enforce normative boundaries, and promote regulated gaming without monetization. Yet this approach carries structural tensions and perils.

First, the elimination of the skill-chance distinction upends a long line of jurisprudence. Judicial doctrine had permitted games of mere skill (e.g. rummy, fantasy sports) under the “preponderance of skill” rule.²⁵ The Act's refusal to differentiate may open constitutional attacks on classification and proportionality. Unless the government convincingly shows that

²¹ Gambling and Betting in Australia-A Complete Guide 2025 available at <https://sumsub.com/blog/gambling-and-betting-in-australia-a-complete-guide/> (last visited on October 15, 2025).

²² Dr. K. R. Lakshmanan v. State of Tamil Nadu and Others, AIR 1996 SC 1153.

²³ State of Bombay v. R.M.D. Chamarbaugwala, AIR 1957 SC 699.

²⁴ Jungle Games India Pvt. Ltd. v. State of Tamil Nadu, AIR 2021 MAD 252.

²⁵ Ibid.

even stake-based skill games cause harms equivalent to betting, the classification may seem arbitrary under Article 14.

Second, from an economic perspective, the prohibition risks significant loss of industry momentum, foreign investment, job creation, and tax potential. Instead of capturing revenue and controlling the sector, the state may drive business underground or offshore. The disincentive effect on tech entrepreneurs is nontrivial.

Third, enforceability and evasion pose chronic challenges. Digital platforms can operate across jurisdictions, use encryption, proxy servers, or blockchain mechanisms. Even strong blocking regimes are likely to be circumvented. The central authority will require high technical capacity, inter-agency cooperation, and dynamic surveillance. Yet regulatory capture or institutional under-strength become real risks.

Fourth, the dichotomy between prohibition and promotion is inherently unstable. By promoting e-sports and social gaming, the Act invites blurred lines: when does a social game become monetized? If user donations or tipping arise, does the law criminalize them? The regime's boundary draws may be contested continually.

Fifth, constitutional risk looms large. The Supreme Court must determine whether the intrusion on trade (via Article 19) and the sweeping classification stand up to proportionality and reasonableness tests. The centralization of power and displacement of state laws may also implicate federal balance. The transfer of all High Court challenges to the Supreme Court underscores the stakes of this case²⁶.

VI. WAY FORWARD

The Promotion and Regulation of Online Gaming Act, 2025 marks the first attempt by the Central Government to introduce a uniform regulatory framework for online gaming in India. Prior to this enactment, there was limited interference from the Central Legislature, and it was the states that enacted laws either permitting or restricting online gaming. The primary objective of this Act is to prevent the exploitation of finances and young individuals who, attracted by the prospect of monetary gain, often fall into the trap of gaming addiction especially those in vulnerable age groups who lack financial awareness and decision-making maturity.

Because gambling and betting have long been considered state subjects under Entries 34 and 62 of the State List in the Seventh Schedule, the Act's validity depends on whether the central

²⁶ CLUBBOOM 11 SPORTS AND ENTERTAINMENT PRIVATE LIMITED vs. UNION OF INDIA, Diary No. - 57396/2025.

legislature can validly intrude into those domains. The statute attempts to anchor itself under central competences (e.g. under the Union's power over information technology, commerce, and financial regulation) and also invokes the doctrine of implied repugnancy or overriding effect in conflicts with state statutes.²⁷ From a doctrinal standpoint, courts will assess the Act's validity under (a) Article 14 (equality / classification), (b) Article 19(1)(g) (trade, business), and (c) Article 21 (life, personal liberty). The Act's blanket prohibition on all online money games might face challenge under overbreadth or arbitrary classification principles: is the classification between "monetary games" and "non-monetary games" a valid intelligible differentiation? The inclusion of even skill-based stake-games may be open to disproportionate treatment arguments.

The Act's impugned intrusion into commerce (online gaming as a business) may invite claims under Article 19(1)(g), although the state may justify restriction under the "reasonable restrictions" doctrine. The state could rely on harm mitigation, public order, addiction, consumer welfare, youth protection, and anti-money laundering rationales. But whether the interference is proportionate (i.e. least restrictive) remains contestable. Due to separation of powers and constitutional limits, judicial review must examine whether the ban is too sweeping, whether it distinguishes unduly between classes, and whether it respects federal boundaries. The Supreme Court's transfer of all pending challenges from High Courts ensures that a singular apex scrutiny will decide the Act's fate.²⁸ While central competence and permissible regulatory restrictions offer plausible anchors, the Act's sweeping character, possible arbitrariness in classification, and impact on trade/business raise serious constitutional vulnerability that the Court must carefully scrutinize.

With this enactment, the government has attempted to establish a balanced approach between all stakeholders, which is crucial for the sector's growth. By maintaining this balance, India can foster an effective and sustainable online gaming ecosystem that operates without adverse effects and functions in a regulated and structured manner. An absolute ban on online money games aims to curb addiction and prevent financial exploitation. However, a more balanced approach would be to regulate these games through licensing and the creation of a dedicated regulatory authority for ongoing oversight. Measures such as setting spending limits over specific time periods, enforcing mandatory age and identity verification, and clearly distinguishing between skill-based and chance-based games can make the system more transparent, secure, and less prone to exploitation. Public awareness and education can be

²⁷ The Constitution of India, art. 246.

²⁸ *Supra* Node 26.

strengthened to inform players about responsible gaming, addiction risks, and financial management. Additionally, implementing robust data protection and security protocols can safeguard personal identification, monitor gaming habits securely, and protect funds stored within these platforms.
