

## ERGO

*Analysing developments impacting business*

### THE ONLINE GAMING (REGULATION) BILL, 2022: MORE CONFUSION?

7 April 2022

Right in the midst of India's most premier sporting event, and on the heels of the upcoming sale of media rights of the Indian Premier League, which is likely to be picked at astronomical numbers, the Online Gaming (Regulation) Bill, 2022 (Bill) was introduced in the Lok Sabha on 1 April 2022 as a private members bill.

The Statement of Objects and Reasons accompanying the Bill has underscored that it has been introduced with the dual aims of preserving integrity in online gaming and also introducing a regulatory regime for online gaming.

The market value of the gaming industry in India was around INR 62 billion (USD 845.5 million) in 2019 and is estimated to go up to over INR 250 billion by 2024 (~USD 3.4 billion) (*Source: Statista.com*). Armed with the largest youth population in the world, India remains one of the most attractive markets for online gaming. However, owing to a lack of progressive regulatory policy framework, the stakeholders (especially, the legitimate business operators) in the online gaming industry in India often face the brunt knee-jerk legislative actions, government investigations and lawsuits.

Recognising the regulatory conundrum in this sector, the Bill seeks to implement a codified framework to streamline the conduct of online gaming platforms.

#### FEATURES OF THE BILL

As the name suggests, the Bill brings under its ambit all forms of online gaming irrespective of whether it is a game of skill or chance. The Bill envisages to establish a 'watch-dog' i.e. an Online Gaming Commission (Commission) which is to be constituted by the Central Government. The Commission shall have the power to oversee the functioning of online gaming websites and take measures to curb illegal online gaming. Further, the Bill envisages a licensing regime and empowers the Commission to grant, suspend and revoke licenses for online gaming websites. Further, it bars any entity from operating an online gaming server or an online gaming website without a license and even makes it a punishable offence. However, the Bill excludes persons providing backend services in India, including hosting and maintenances services, for any international gaming website based outside India.

Additionally, the Commission would have the power to formulate rules relating to licensing, manner of keeping accounts, persons who may be permitted to play online games, organization or exhibition of online games, conditions for admissions of participants and the fees to be charged, notices to be put on the online gaming website and conditions regarding providing credit facilities by a licensee to players of online games, regulation of participation by proxy in online games, etc.

### COMMENTS

Lately, various courts in India have nudged the state governments to look into the legislative void around online gaming in the state specific legislations (refer to our ERGOs [here](#) and [here](#)). The Bill seeks to put in place various checks and balances by delegating regulatory powers to the Commission.

However, the Bill may be highly regressive as it fails to draw a distinction between casual gaming and real money gaming platforms. The need of the hour is to have a regulatory framework for real money gaming and not casual gaming, which is already governed by various other legislations.

Further, the Bill does not draw from the licensing regime currently in place for real money games in certain laws passed by a few north eastern states of India.

The Bill seeks to establish a centralised agency by the Central Government which would have powers to regulate online gaming. However, the Bill, if passed, may face legal hurdles as gambling has been a 'state-subject' and the Bill vests the regulatory powers to an agency to be created by the Central Government, i.e., the Commission.

The Bill also fails to address certain impending issues like Know Your Customer (KYC) norms, customer grievance mechanisms, data protection of the users and other societal issues.

A similar bill called "The Sports (Online Gaming and Prevention of Fraud) Bill, 2018" was earlier introduced as a private members bill by Dr Shashi Tharoor in the Lok Sabha, on December 2018 which was more robust and a slightly more comprehensive draft covering within its ambit sports fraud and betting too. However, the Sports Bill lapsed with the dissolution of Parliament, prior to general elections in 2019 and was not reintroduced thereafter.

A robust regulatory and legal environment, devoid of uncertainties is the need of the hour for this sunrise industry to achieve its true potential and ensure that the business is able to scale quickly.

In its current form, the Bill appears to be scanty. Notwithstanding the "suspect" constitutionality of the Bill, considering gambling being a state-subject, it remains to be seen whether there is any political will to take this Bill forward.

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