PROMOTION AND REGULATION OF ONLINE GAMING ACT, 2025: A LEGAL, CONSTITUTIONAL, SOCIAL AND COMPARATIVE STUDY

by

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ABSTRACT

The transformation of entertainment through digital technologies has created a complex regulatory challenge for contemporary legal systems. Online gaming has emerged as an important component of India's digital economy, generating opportunities in software development, electronic sports, creative industries, digital entrepreneurship and technological innovation. Simultaneously, the expansion of online money gaming has raised serious concerns regarding financial vulnerability, compulsive gaming behaviour, consumer deception, data protection, cybercrime and the protection of minors. The conflict between economic innovation and social protection has consequently become a significant issue in Indian constitutional and regulatory law.

Against this background, Parliament enacted the Promotion and Regulation of Online Gaming Act, 2025, which establishes a national legislative framework for the development of electronic sports and online social games while prohibiting the offering, facilitation, advertising and financial processing of online money games. The Promotion and Regulation of Online Gaming Rules, 2026, which came into force on 1 May 2026, provide an implementation framework for the statutory scheme. The legislation represents a substantial departure from earlier approaches that frequently relied upon distinctions between games of skill and games of chance, as well as a fragmented combination of state gambling laws and general information technology regulations.

This paper critically examines the legislative objectives, institutional arrangements, prohibitions and enforcement mechanisms of the Act. Particular attention is given to the constitutional distribution of legislative powers under Articles 245, 246 and 248 and the Seventh Schedule; the relationship between Entry 34 of the State List and Entry 31 of the Union List; the freedoms guaranteed under Article 19(1)(g); the equality principle under

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Article 14; personal liberty under Article 21; and the implications of digital surveillance and search powers for informational privacy. The analysis also evaluates the relevance of leading Indian judicial decisions concerning gambling, games of skill, commercial freedom and proportionality.

A comparative assessment of the United States and the United Kingdom illustrates the different ways in which legal systems respond to online gaming risks. Whereas the United States combines federal restrictions with substantial state-level regulatory autonomy, the United Kingdom employs a licensing-oriented framework under the Gambling Act 2005. These approaches provide useful, although not directly interchangeable, models for evaluating India's prohibition-centred strategy.

The paper argues that protecting vulnerable users is a legitimate and important legislative objective, but the effectiveness and constitutional sustainability of regulation depend upon precise definitions, transparent classification, proportionate enforcement, procedural safeguards and independent review. It recommends a comprehensive regulatory approach incorporating evidence-based policymaking, safeguards against unlawful offshore operations, effective grievance redressal, privacy-preserving age verification, consumer education and periodic legislative evaluation. The central conclusion is that digital gaming governance must reconcile public welfare with constitutional accountability and technological development.

Keywords: Promotion and Regulation of Online Gaming Act, 2025; online money games; constitutional law; legislative competence; games of skill; electronic sports; digital regulation; informational privacy; proportionality; comparative gaming regulation.

1. Introduction

1.1 Background and emergence of the regulatory problem

Digital technology has substantially altered the relationship between entertainment, commerce and social interaction. Activities that were traditionally conducted in physical environments can now be undertaken through mobile applications, websites, cloud-based systems and interconnected digital platforms. Online gaming exemplifies this transformation. It includes recreational games, educational applications, competitive electronic sports, multiplayer social environments and platforms in which users participate with the expectation of obtaining monetary or monetary-equivalent rewards.

The expansion of online gaming has created opportunities across several economic sectors. Game design, programming, animation, cybersecurity, digital marketing, broadcasting, tournament organisation and professional electronic sports have become relevant areas of economic activity. For a country with a large digital population and an expanding technology sector, the development of a sustainable gaming ecosystem presents opportunities for employment, entrepreneurship and technological innovation.

Nevertheless, the economic potential of online gaming cannot be evaluated independently of its associated risks. Certain platforms encourage users to deposit money repeatedly, promote unrealistic expectations of financial gain, employ aggressive advertising techniques and design reward systems that may encourage excessive participation. Users who experience repeated financial losses may encounter debt, family conflict, psychological distress and difficulties in controlling their behaviour.

These concerns become particularly significant when gaming services operate through complex corporate structures, foreign servers, digital payment intermediaries and rapidly changing application interfaces. Regulatory authorities may encounter difficulties identifying the responsible operator, tracing financial transactions, preserving digital evidence and enforcing domestic decisions against entities located outside India.

The resulting policy problem is not simply whether online gaming should be permitted or prohibited. It concerns the appropriate legal distinction between beneficial digital entertainment and commercially organised activities that create unacceptable risks for individuals and society.

1.2 The Indian legislative response

Before the enactment of a dedicated central statute, India's legal approach to gaming was influenced by colonial-era gambling legislation, state-specific laws, judicial interpretations concerning skill and chance, and general information technology regulations.

The Public Gambling Act, 1867, together with state enactments and subsequent judicial developments, formed part of the historical background. However, traditional gambling legislation was not designed specifically for contemporary digital platforms operating across state boundaries or from foreign jurisdictions.

The constitutional position was also complicated by the distribution of legislative authority between Parliament and state legislatures. Entry 34 of List II of the Seventh Schedule places betting and gambling within the State List, while Entry 31 of List I concerns specified matters involving communications and telecommunications.

In April 2023, amendments to the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, introduced a framework concerning online gaming and proposed self-regulatory mechanisms. These developments reflected an attempt to address the sector through subordinate legislation under the existing information technology framework.

The regulatory landscape subsequently changed with the enactment of the Promotion and Regulation of Online Gaming Act, 2025 (hereafter, the PROG Act). The Act received presidential assent on 22 August 2025. Its provisions were brought into force on 1 May 2026, and the implementing rules were also made operational from that date. The statutory scheme distinguishes between the promotion of e-sports and online social games and the prohibition of online money gaming.

The legislation is significant because it does not preserve the traditional skill-versus-chance distinction as a general exemption for online money games. Instead, its central regulatory approach focuses on the monetary character of the activity and the statutory definition of an online money game.

1.3 Research problem

The central research problem is whether a prohibition-centred national framework can adequately protect individuals from financial and psychological harm while remaining consistent with India's constitutional structure, fundamental rights and commitment to technological development.

Three competing considerations arise.

First, the State has a legitimate responsibility to address exploitation, fraudulent financial practices, risks to minors and activities that may damage public health.

Second, digital gaming is not a uniform activity. Recreational games, competitive electronic sports, educational applications and money-based platforms differ in their economic structures, user expectations and potential consequences.

Third, the legal authority to regulate digital activities must be established through constitutional interpretation rather than inferred solely from the desirability of uniform regulation.

The constitutionality and practical effectiveness of the legislation therefore require examination through several connected legal questions.

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1.4 Research objectives

The principal objectives of this study are:

1. To examine the legislative background, objectives and structure of the PROG Act, 2025.
2. To analyse the legal classification of online money games, e-sports and online social games.
3. To evaluate the constitutional distribution of legislative powers between Parliament and state legislatures.
4. To examine the implications of the prohibition for Articles 14, 19(1)(g) and 21 of the Constitution.
5. To assess the relevance of judicial precedents concerning gambling, games of skill and commercial freedom.
6. To investigate the social, economic, psychological and technological implications of online money gaming.
7. To compare India's approach with the regulatory frameworks of the United States and the United Kingdom.
8. To propose reforms that improve consumer protection, regulatory accountability and constitutional compliance.

1.5 Research questions

The study addresses the following questions:

- Does Parliament possess sufficient constitutional authority to establish a nationwide framework for prohibiting online money games?
- Can the legislative treatment of skill-based and chance-based money games be justified under Articles 14 and 19(1)(g)?
- What procedural and institutional safeguards are necessary when regulatory authorities classify games, investigate alleged violations and direct the blocking of digital services?
- How should the law distinguish between the legitimate development of digital entertainment and activities associated with financial exploitation?
- What lessons can India derive from the regulatory experiences of the United States and the United Kingdom?

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1.6 Research hypothesis

The principal hypothesis is that a prohibition on online money gaming may pursue legitimate public-interest objectives, but its constitutional sustainability and long-term effectiveness depend upon the precision of statutory definitions, the strength of legislative competence, the proportionality of restrictions and the availability of transparent procedural safeguards.

A secondary hypothesis is that prohibition alone cannot eliminate demand for unlawful gaming services unless it is accompanied by effective enforcement against offshore operators, public awareness, financial-system cooperation and accessible support for affected individuals.

1.7 Research methodology

This study adopts a doctrinal and comparative legal methodology. Primary materials include the Constitution of India, the PROG Act, 2025, the implementing rules, relevant statutory provisions and judicial decisions.

Secondary materials include legislative research, government publications, regulatory documents and academic literature concerning digital platforms, gambling regulation, consumer protection and informational privacy.

The comparative component examines the federal structure of gaming regulation in the United States and the licensing-based framework of the United Kingdom.

The study is primarily qualitative. It does not claim to establish a causal relationship between the Act and changes in suicide rates, financial losses or cybercrime without verified longitudinal evidence. Such claims require reliable data and an appropriate research design.

The constitutional discussion evaluates legal arguments rather than assuming that the Government's stated objectives conclusively establish the validity of every provision. Similarly, industry objections are treated as arguments requiring judicial and evidentiary assessment rather than as proof that the legislation is unconstitutional.

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2. Evolution of Online Gaming Regulation in India

2.1 Historical foundations of gambling law

Indian gambling regulation developed through a combination of colonial legislation, state enactments and judicial interpretation.

The Public Gambling Act, 1867, represented an early statutory response to gambling houses and related activities. Its historical significance is considerable, but its assumptions and

enforcement mechanisms arose in a social and technological environment substantially different from that of contemporary digital commerce.

Online gaming creates problems that traditional gambling legislation could not have anticipated in detail. A platform may operate through a foreign company, distribute software through an application store, receive deposits through digital payment intermediaries and communicate with users through automated systems.

Consequently, the physical location of an operator, the place where a transaction is processed and the jurisdiction in which a user experiences harm may all be different.

These characteristics complicate the application of conventional territorial rules and require coordination among regulatory authorities.

2.2 Constitutional distribution of authority

The Seventh Schedule distributes legislative subjects between Parliament and state legislatures.

Entry 34 of List II assigns betting and gambling to the State List. This allocation reflects the historical recognition that gambling regulation has important connections with public order, local conditions and state-level policy choices.

Entry 31 of List I concerns posts and telegraphs, telephones, wireless, broadcasting and other specified forms of communication. Its contemporary relevance must be assessed in the context of the constitutional treatment of communications technologies.

The Union may also rely on other constitutional provisions where their requirements are satisfied. However, the existence of internet technology does not automatically transfer every activity conducted through the internet into exclusive Union jurisdiction.

The legal character of the regulated activity, the statutory scheme and the relevant constitutional entries must be examined together.

This distinction is central to the constitutional evaluation of the PROG Act.

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2.3 Judicial development of the skill-versus-chance distinction

Indian courts have historically distinguished gambling from certain activities in which skill substantially determines the outcome.

In State of Bombay v. R.M.D. Chamarbaugwala,[2] the Supreme Court examined the constitutional treatment of prize competitions and the relationship between gambling activities and commercial freedom.

[2] AIR 1957 SC 699.

In State of Andhra Pradesh v. K. Satyanarayana,[3] the Court considered the character of rummy and recognised the significance of skill in determining the nature of the activity.[3]

In Dr. K.R. Lakshmanan v. State of Tamil Nadu,[4] the Court examined betting and horse racing, explaining the relevance of skill and the constitutional distinction between gambling and other activities.

These decisions contributed to a legal framework in which the classification of an activity could affect its treatment under gambling legislation and Article 19(1)(g).

However, these judgments should not be interpreted as establishing that every game described as skill-based is necessarily lawful in every commercial setting. The legal consequences depend upon the applicable statute, the actual characteristics of the activity and the issue presented before the court.

2.4 The 2023 information technology framework

The 2023 amendments to the Information Technology Rules represented an attempt to establish a regulatory framework for online gaming through subordinate legislation.

The approach contemplated self-regulatory arrangements and the identification of permissible online games under prescribed conditions.

A central difficulty with self-regulation is that commercial platforms may possess financial incentives that do not always align with consumer protection. Effective self-regulatory systems therefore require independence, transparency, conflict-of-interest controls and credible enforcement.

At the same time, the limitations of self-regulation do not establish that every alternative must take the form of a complete prohibition.

The relevant policy question is whether the risks can be addressed through licensing, conduct requirements, financial safeguards and enforcement, or whether the legislature has sufficient evidence to conclude that a broader prohibition is necessary.

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2.5 Enactment of the PROG Act, 2025

The PROG Act introduced a dedicated statutory framework for online gaming.

Its stated objectives include the promotion of e-sports and online social games, the establishment of an institutional authority and the prevention of harms associated with online money gaming.

[3] AIR 1968 SC 825.
[4] (1996) 2 SCC 226.

Sections 3 and 4 address the recognition and development of e-sports and online social games. Sections 5, 6 and 7 establish the principal prohibitions concerning online money games, associated advertisements and financial transactions. Section 8 provides for the establishment of an authority, while subsequent provisions address penalties, investigation, blocking, search and seizure, and rule-making powers.

The legislative approach reflects a policy choice to distinguish between digital gaming as an economic and recreational activity and online money gaming as a category requiring prohibition.

Whether this distinction is sufficiently precise and constitutionally justified remains a matter for legal analysis.

2.6 Implementation through the 2026 Rules

The implementing rules provide the operational framework for the Act. Their commencement on 1 May 2026 marked the transition from legislative enactment to an operative regulatory structure.

The significance of delegated legislation should not be underestimated. Definitions in the parent statute establish the essential legal boundaries, while rules may prescribe procedures for registration, classification, applications, appeals and administrative decision-making.

However, rules cannot lawfully enlarge the parent statute beyond the authority delegated by Parliament. Nor can administrative convenience substitute for procedural fairness where a decision significantly affects rights or commercial interests.

A complete evaluation must therefore examine both the Act and the rules rather than treating the statute as an isolated instrument.

3. Legal Classification of Online Gaming

3.1 Online money games

The statutory definition of an online money game is central to the entire regulatory scheme.

Section 2 of the Act contains the relevant definitions, while Section 5 establishes the principal prohibition. The classification must therefore be determined by reading the definition and operative provision together.[1]

The central concern is whether the user participates by paying, depositing or staking money or another legally relevant item of monetary value in anticipation of a monetary or equivalent reward.

This approach shifts attention from the traditional question of whether skill or chance predominates to the economic structure of the activity.

The distinction has substantial consequences. Under the statutory framework, the fact that an activity requires strategy, knowledge, memory or experience does not, by itself, establish an exemption if the activity falls within the definition of an online money game.

Nevertheless, classification must remain a legal exercise. A regulator should not treat every digital purchase, subscription or non-transferable virtual reward as a monetary stake without examining the statutory language.

The legal analysis should consider the economic substance of the transaction, the nature of the user's payment, the reward mechanism and the relevant definitions in the legislation.

3.2 E-sports

E-sports involve organised competitive gaming conducted according to predefined rules and structured formats.

They may create opportunities for professional competition, training, broadcasting, sponsorship, event management and software development.

The statutory recognition of e-sports is intended to support this segment of the digital economy while maintaining the prohibition on online money gaming.

The distinction is important because competitive activity does not necessarily constitute gambling. A tournament may involve skill, rankings, prizes or sponsorship without necessarily requiring participants to stake money in the manner prohibited by the Act.

However, the legal treatment of a particular competition depends on its structure and the statutory definitions. Calling a platform an e-sports service cannot automatically exempt an arrangement that substantively falls within the prohibition.

A transparent classification process is therefore necessary to prevent both regulatory evasion and the unnecessary exclusion of legitimate competitions.

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3.3 Online social and educational games

Online social games facilitate recreation, communication, collaboration and informal learning.

Educational games may support language learning, problem-solving, scientific understanding and digital literacy.

These activities can provide social and educational benefits when designed responsibly.

The legislation's recognition of social gaming creates an opportunity to encourage locally developed content and improve access to safe digital entertainment.

Nevertheless, the absence of monetary stakes does not eliminate every possible risk. Social games may still involve excessive screen time, inappropriate content, collection of personal information, manipulative purchases or exposure to unsuitable communications.

Accordingly, the promotion of non-money gaming should be accompanied by age-appropriate design, privacy safeguards, transparent commercial practices and effective mechanisms for reporting harmful content.

3.4 The difficulty of classifying hybrid products

Contemporary gaming products frequently combine multiple commercial features. A single application may offer free participation, paid subscriptions, optional purchases, competitive tournaments and rewards.

Some products may change their monetisation structure over time.

This creates a risk of inconsistent classification if regulatory authorities rely solely on the platform's declared description rather than its actual operation.

An effective framework should establish transparent criteria addressing the economic relationship between payment, participation and reward.

The authority should also explain its reasons when a classification has significant legal consequences. Where uncertainty remains, an accessible review mechanism would help prevent arbitrary decision-making.

3.5 Skill and chance after the Act

The traditional distinction between skill and chance remains relevant to understanding Indian gambling jurisprudence. However, its role under the PROG Act must be analysed in light of the statutory definition of online money gaming.

The Act adopts a monetary-stake-based prohibition rather than preserving skill as a general defence.

This creates a significant doctrinal question: whether the legislature may constitutionally adopt a different classification for a distinct regulatory purpose even where earlier decisions recognised the importance of skill.

The answer cannot be derived merely by repeating that gambling is outside protected trade or by asserting that every skill-based game deserves constitutional protection.

The relevant questions concern legislative competence, the purpose of the classification, the relationship between the restriction and the identified harm, and the constitutional limits on legislative discretion.

4. Principal Prohibitions and Enforcement Mechanisms

4.1 Prohibition of offering and facilitating online money games

Section 5 establishes the principal prohibition against offering, aiding, abetting, inducing or otherwise engaging in the offering of online money games and related services.

The provision is designed to address the supply side of the prohibited activity.

Its significance extends beyond the immediate operator because a digital gaming service may depend on several interconnected commercial relationships, including technical infrastructure, payment processing, promotional arrangements and other forms of facilitation.

Nevertheless, the precise liability of each participant must be determined according to the statutory language and applicable legal requirements. The existence of a commercial relationship with a platform does not necessarily establish criminal liability without the necessary legal elements.

4.2 Advertising and promotional restrictions

Section 6 prohibits advertisements that directly or indirectly promote or induce participation in online money games.

The provision addresses a major feature of the online gaming market: the use of advertising, sponsorship and public endorsements to attract users.

Advertising restrictions may reduce exposure to misleading representations concerning financial gain. They may also limit the ability of prohibited operators to use public figures or digital content creators to create an appearance of legitimacy.

However, implementation requires clear distinctions between prohibited promotion and legitimate reporting, academic discussion, public-interest communication and neutral references to gaming services.

A carefully administered advertising restriction should focus on the conduct prohibited by law without unnecessarily restricting unrelated expression.

4.3 Financial transaction restrictions

Section 7 prohibits banks, financial institutions and other persons facilitating financial transactions from facilitating payments for online money gaming services.[1]

This provision recognises that digital money gaming depends upon payment infrastructure.

Financial restrictions may make it more difficult for prohibited platforms to receive deposits or process transactions through regulated domestic systems.

However, financial enforcement raises practical issues. Transactions may be routed through multiple intermediaries, foreign entities or arrangements designed to obscure the ultimate recipient.

Effective implementation therefore requires clear instructions, reliable identification standards, appropriate compliance procedures and coordination among relevant institutions.

At the same time, safeguards should prevent unnecessary blocking of lawful transactions and provide procedures for correcting mistaken restrictions.

4.4 Penalties and criminal liability

Section 9 establishes penalties for contraventions covered by the Act. The legislation provides for imprisonment and financial penalties, with enhanced consequences for specified repeat offences. The provisions concerning advertising and other forms of non-compliance must be read separately rather than treating every violation as carrying an identical punishment.

The seriousness of criminal penalties requires attention to the principles of legality, fair notice and proportionality.

A sound enforcement system should distinguish between deliberate, large-scale commercial operations and less serious conduct where the statutory framework permits differentiated treatment.

Corporate responsibility must also be assessed in accordance with the relevant provisions. The existence of a company does not eliminate the need to establish the legal basis for attributing responsibility to particular individuals.

4.5 Cognizability and bail

The Act provides for specified offences to be treated as cognizable and non-bailable in accordance with its provisions.

These classifications have important procedural consequences. Cognizability affects the authority of law-enforcement agencies to initiate specified investigative action, while non-bailability means that release is not automatic as of right under the ordinary bailable-offence framework.

Neither classification should be understood as removing judicial supervision or the procedural protections applicable to criminal proceedings.

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The enforcement framework must remain consistent with the Constitution and the applicable criminal procedure legislation.

4.6 Blocking of prohibited services

Section 14 addresses the blocking of online money gaming services.

Blocking can be important where a platform operates from outside India or repeatedly violates domestic requirements.

However, blocking also creates questions concerning the accuracy of identification, the scope of the order, the treatment of related lawful services and the availability of review.

An effective blocking mechanism should provide a clear legal basis, a recorded decision, an appropriately limited scope and a means of correcting errors.

4.7 Investigation, search and seizure

Sections 15 and 16 address investigation and search-and-seizure powers.

These powers may assist in collecting evidence of prohibited operations, identifying responsible persons and tracing financial relationships.

At the same time, digital searches can expose large quantities of personal and commercially sensitive information unrelated to the suspected violation.

Searches of devices, electronic records and digital accounts should therefore be governed by safeguards concerning legal authority, relevance, scope, preservation of evidence and protection against unnecessary disclosure.

The constitutional validity of particular enforcement measures depends on their precise statutory basis and practical operation.

4.8 Regulatory authority and administrative accountability

Section 8 provides for an authority responsible for the statutory framework. The implementing rules establish the operational arrangements for the regulatory system.

An authority exercising classification and enforcement functions should operate through transparent procedures.

At a minimum, good administration requires published criteria, reasoned decisions, consistent treatment of comparable cases, conflict-of-interest safeguards and effective grievance redressal.

Where an administrative determination may result in criminal exposure or the exclusion of a commercial service, procedural fairness becomes particularly important.

The authority should not be treated as a substitute for the judiciary. Its decisions remain subject to the applicable statutory review mechanisms and constitutional principles.

5. Constitutional Analysis

5.1 Legislative competence and the federal structure

The constitutional validity of the PROG Act requires careful examination of the distribution of legislative powers.

Article 246 allocates legislative authority by reference to the Union List, State List and Concurrent List. Article 248 concerns Parliament's residuary legislative powers, subject to the constitutional scheme. Article 245 addresses the territorial extent of legislation.

Entry 34 of the State List specifically concerns betting and gambling. This creates a serious question when Parliament adopts a nationwide prohibition that directly affects activities historically associated with that entry.

The Union's position may emphasise the digital and cross-border character of online money gaming, the involvement of communications infrastructure, the need to regulate financial transactions and the difficulty of enforcing fragmented state laws against offshore operators.

These considerations are relevant to the legislative purpose and context. They do not, by themselves, conclusively determine legislative competence.

The constitutional inquiry must identify the true nature and character of the legislation and assess whether its provisions fall within a constitutionally available source of legislative power.

The doctrine of pith and substance is relevant because legislation may incidentally affect a subject assigned to another legislative field without necessarily becoming invalid. However, the doctrine does not authorise Parliament to displace a state subject merely by describing the regulated activity as digital or technological.

A further question concerns the extent to which different provisions of the Act have different constitutional foundations. Rules concerning communications infrastructure, financial transactions, consumer protection and the prohibition of gambling-related activities may require separate analysis.

The issue is therefore not simply whether online gaming is a national problem. It is whether the constitutional basis for each relevant legislative intervention is sufficient.

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5.2 Entry 31 of the Union List and the limits of technological characterisation

Entry 31 of List I addresses specified communications-related subjects.

The Union may argue that online money gaming depends on internet-based systems and cross-border digital networks, making national regulation necessary.

However, a technological medium does not automatically determine the constitutional classification of every activity conducted through it.

For example, the use of a telephone or website does not necessarily convert every underlying commercial activity into a communications subject. The regulated activity and the legal operation of the statute must also be examined.

A constitutionally sound analysis should therefore distinguish between regulating communications infrastructure and regulating the substantive activity carried on through that infrastructure.

This distinction is especially important in a federal Constitution, where the distribution of legislative authority is part of the constitutional structure rather than a matter of administrative preference.

5.3 Article 14 and the prohibition of arbitrariness

Article 14 guarantees equality before the law and equal protection of the laws.

A challenge to the Act may argue that the prohibition treats materially different categories of games alike by failing to preserve a general distinction between games predominantly determined by skill and games predominantly determined by chance.

The Government may respond that the relevant legislative concern is not merely the probability of winning but the financial structure of online money gaming, including the risks associated with repeated monetary participation and potentially manipulative platform design.

The constitutional assessment must examine the object of the law, the classification adopted and the relationship between the two.

The mere fact that a law treats different activities similarly does not automatically establish an Article 14 violation. Conversely, the assertion of a legitimate objective does not immunise a classification from scrutiny.

The Court may need to consider whether the monetary-stake criterion bears a rational relationship to the identified harms and whether the statutory scheme contains unjustified distinctions or inconsistencies.

The doctrine against manifest arbitrariness may also become relevant where a statutory classification is alleged to be capricious, irrational or insufficiently connected with the legislative purpose.

A serious constitutional analysis must recognise both sides of the argument without prematurely treating either the prohibition or the industry's objections as conclusive.

5.4 Article 19(1)(g) and commercial freedom

Article 19(1)(g) protects the right of citizens to practise a profession or carry on an occupation, trade or business, subject to constitutionally permissible restrictions.

The online gaming industry may argue that a comprehensive prohibition prevents businesses from operating even where their games depend substantially on skill, involve transparent rules and provide safeguards against financial abuse.

The Government may rely on Article 19(6), which permits reasonable restrictions in the interests of the general public and contains provisions concerning professional and occupational regulation.

The Supreme Court's decision in State of Bombay v. R.M.D. Chamarbaugwala is relevant to the constitutional treatment of gambling and prize competitions.[2] However, its principles must be applied in light of the facts and legal framework of the later dispute.

The central question is whether the activities prohibited by the PROG Act fall within a category that may constitutionally be excluded from protected commercial freedom, or whether particular applications of the prohibition interfere disproportionately with otherwise legitimate business activities.

This question cannot be resolved merely by labelling every affected platform as gambling or every gaming business as a legitimate technology enterprise.

The constitutional inquiry should consider the actual nature of the activity, the severity of the restriction, the legislative objective and the availability of less restrictive measures.

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5.5 Proportionality and the necessity of a blanket prohibition

Proportionality provides a structured method for evaluating restrictions on fundamental rights.

A typical proportionality inquiry examines whether a measure pursues a legitimate objective, is rationally connected to that objective, is necessary in the relevant constitutional sense and maintains an appropriate balance between the public interest and the rights affected.

The protection of minors, the prevention of financial exploitation and the reduction of harmful gaming behaviour are legitimate public-interest objectives.

A prohibition may be rationally connected to these objectives because removing the legal market for online money games may reduce the availability of certain high-risk services.

The more difficult question concerns necessity and balancing.

Could certain risks be addressed through licensing, deposit restrictions, independent auditing, limits on advertising, identity verification, mandatory disclosures and effective intervention mechanisms?

The Government may contend that such safeguards would not adequately control the harms associated with online money gaming, particularly where platforms operate from offshore jurisdictions or employ manipulative commercial practices.

Industry participants may argue that a comprehensive prohibition captures activities that could otherwise be regulated through less restrictive measures.

The constitutional evaluation requires evidence concerning the nature and extent of the harm, the effectiveness of alternative regulatory mechanisms and the reasons for selecting the prohibition.

It would be inappropriate to assume that a less restrictive alternative must always be adopted. Equally, it would be inappropriate to presume that a complete prohibition is necessarily proportionate merely because it may advance public welfare.

5.6 Article 21 and personal liberty

Article 21 protects life and personal liberty. Its interpretation has developed to include principles of dignity, fairness and substantive protection against arbitrary state action.

In the context of online gaming, Article 21 may arise in several ways.

First, the State may rely on its responsibility to protect individuals from serious risks to health, dignity and personal security.

Second, users may invoke personal liberty and autonomy when challenging restrictions on their choices and activities.

Third, individuals and businesses may question enforcement procedures that interfere with privacy, liberty or property-related interests.

These interests do not necessarily carry identical constitutional weight. The legal analysis must identify the particular right affected and the nature of the restriction.

A public-health justification should be supported by credible evidence and should not become a general substitute for constitutional scrutiny.

Similarly, the concept of autonomy does not establish an unrestricted constitutional entitlement to participate in every commercial activity.

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The appropriate approach is to examine whether the particular restriction has a sufficient legal basis, pursues a legitimate purpose and satisfies the relevant constitutional standards.

5.7 Informational privacy and the Puttaswamy principle

In Justice K.S. Puttaswamy (Retd.) v. Union of India,[5] the Supreme Court recognised privacy as a constitutionally protected right.

Digital gaming platforms may collect identity information, transaction histories, device identifiers, behavioural data, location information and other personal details.

Investigations into prohibited gaming may legitimately require access to some of this information. However, access to digital records can reveal extensive information about individuals unrelated to the suspected offence.

The relevant constitutional questions concern the legal basis for collection, the purpose for which data may be accessed, the scope of the investigation, the treatment of irrelevant information and the availability of review.

The privacy implications of search and seizure should therefore be assessed through the applicable statutory safeguards and the principles established by the Supreme Court.

The existence of a regulatory objective does not remove the need for lawful and proportionate information gathering.

5.8 Procedural fairness and the rule of law

Administrative authorities exercising significant powers should operate within clear legal limits.

Procedural fairness is particularly important where classification or enforcement decisions may lead to substantial financial consequences, the blocking of services or criminal proceedings.

A fair framework should provide clear notice of the alleged violation where appropriate, an opportunity to respond when legally required, reasoned administrative decisions and access to the available review mechanisms.

Urgent action may sometimes be necessary to prevent immediate harm. However, emergency powers should remain confined to their legal purpose and should not eliminate meaningful accountability.

The rule of law requires that executive power be exercised according to law rather than through unstructured discretion.

[5] (2017) 10 SCC 1.

5.9 Excessive delegation and administrative discretion

The Act and the implementing rules necessarily allocate certain administrative responsibilities to the regulatory authority and the Central Government.

Delegated legislation is an established feature of modern governance. Technical sectors often require detailed procedures that cannot be fully prescribed in a primary statute.

Nevertheless, essential legislative choices must remain within the constitutional limits governing delegation.

The relevant questions include whether the parent statute establishes an intelligible policy, whether the authority's discretion is sufficiently guided, and whether administrative decisions remain reviewable.

In a sector where classification can determine whether a commercial activity is prohibited, the clarity of the statutory criteria becomes especially significant.

The need for technical expertise cannot justify unlimited administrative discretion.

6. Judicial Precedents and Their Continuing Relevance

6.1 State of Bombay v. R.M.D. Chamarbaugwala

In State of Bombay v. R.M.D. Chamarbaugwala,[6] the Supreme Court considered prize competitions and the constitutional position of activities involving gambling.

The decision is important for understanding the relationship between gambling and the freedom of trade and commerce.

Its relevance to the PROG Act lies in the broader constitutional question of whether particular activities may be treated differently from ordinary commercial enterprises because of their gambling-related character.

However, the decision does not independently settle every question arising from the statutory definition of online money games. The facts, the legal classification of the activity and the constitutional issue must be examined carefully.

6.2 State of Andhra Pradesh v. K. Satyanarayana

In State of Andhra Pradesh v. K. Satyanarayana,[7] the Supreme Court examined rummy and recognised the importance of skill in determining the game's legal character.

[6] AIR 1957 SC 699
[7] AIR 1968 SC 825

The decision remains significant because it demonstrates that courts have historically examined the actual nature of a game rather than relying exclusively on its commercial description.

Its relevance to contemporary online gaming is principally interpretive. It helps explain the earlier legal framework and the arguments concerning the distinction between skill and chance.

The decision should not, however, be treated as establishing an automatic exemption from every later statute regulating online money gaming.

6.3 Dr. K.R. Lakshmanan v. State of Tamil Nadu

In Dr. K.R. Lakshmanan v. State of Tamil Nadu,[8] the Supreme Court examined the relationship between skill, betting and gambling, including the legal treatment of horse racing.

The decision is relevant to the proposition that the constitutional and statutory treatment of gaming-related activities may depend on their substantive characteristics.

The judgment provides an important historical reference point for evaluating the departure represented by the PROG Act.

The central issue under the new legislation, however, is whether the legislature may adopt a different criterion for a distinct regulatory purpose and whether that criterion satisfies the Constitution.

6.4 All India Gaming Federation v. State of Karnataka

The Karnataka High Court's decision in All India Gaming Federation v. State of Karnataka,[9] concerned state restrictions affecting online gaming.

The judgment is relevant to the relationship between gaming regulation, commercial freedom and the constitutional distinction between different forms of gaming activity.

However, its precise ratio and procedural history must be distinguished from the later nationwide statutory framework.

A state-level challenge to a particular enactment does not automatically determine the validity of a subsequent parliamentary statute enacted under a different legislative framework.

6.5 Justice K.S. Puttaswamy (Retd.) v. Union of India

[8] (1996) 2 SCC 226

[9] W.P. No. 18722 of 2021 (Karnataka High Court).

The decision in Justice K.S. Puttaswamy (Retd.) v. Union of India,[10] provides the principal constitutional reference point for privacy.

Its significance lies in the protection of personal autonomy and informational privacy against unjustified state interference.

For online gaming regulation, the decision supports scrutiny of data collection, digital searches and other measures affecting personal information.

The application of its principles depends on the specific statutory provision, the purpose of the interference and the safeguards available.

6.6 The 2026 online gaming GST judgment

In Directorate General of Goods and Services Tax Intelligence (HQS) v. Gameskraft Technologies Private Limited,[11] the Supreme Court addressed disputes concerning GST treatment, actionable claims and online gaming transactions.

The judgment is relevant to the taxation of online gaming and the legal characterisation of transactions involving monetary stakes.

However, taxation and the constitutional validity of the PROG Act are distinct questions.

A judgment upholding a particular tax framework does not automatically determine whether a separate statutory prohibition satisfies Articles 14 and 19(1)(g), or whether Parliament possesses legislative competence for every provision of the PROG Act.

The two legal issues may share factual background but must remain doctrinally distinct.

6.7 Pending constitutional challenge

The constitutional challenge to the PROG Act has been considered in the Supreme Court proceedings associated with Head Digital Works v. Union of India and connected matters. The principal issues include legislative competence, the treatment of skill-based games, commercial freedom and the validity of the prohibition.

The challenge is important because it places the legislation's central constitutional assumptions before the Court.

Until an authoritative final determination is available, academic analysis should distinguish between the arguments of the parties, interim procedural developments and the law conclusively established by a final judgment.

[10] (2017) 10 SCC 1

[11] 2026 INSC 595, decided on 27 May 2026

It would be inaccurate to describe disputed constitutional questions as having already been finally resolved merely because the Act has commenced.

7. Social and Economic Implications

7.1 Financial vulnerability and household welfare

One of the principal justifications for restricting online money gaming is the possibility of significant financial loss.

Users may initially regard participation as entertainment or as an opportunity to earn additional income. Repeated participation, however, may expose them to cumulative losses, especially where the platform encourages continued deposits or creates unrealistic expectations of recovering earlier losses.

The consequences may extend beyond the individual participant.

Households may experience reduced savings, unpaid obligations, disagreements concerning expenditure and increased financial insecurity.

The severity of these consequences may depend on household income, access to financial services, the frequency of participation and the availability of support.

A sound public-policy analysis should distinguish documented cases from general assumptions and should not treat every user as equally vulnerable.

7.2 Psychological distress and compulsive behaviour

Some gaming environments employ reward mechanisms, rapid feedback and repeated opportunities for participation.

For certain individuals, these features may contribute to difficulty controlling gaming behaviour.

Where substantial financial losses occur, the resulting stress may aggravate existing psychological difficulties and affect family relationships, educational performance or employment.

Nevertheless, the relationship between gaming and mental-health outcomes is complex. It is not scientifically appropriate to attribute every case of depression or suicide to online gaming without evidence establishing the relevant connection.

A rigorous research paper should therefore rely on verified public-health data, peer-reviewed research and carefully documented investigations.

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The legislation's public-health justification may be strengthened by integrating prevention, early identification and accessible support services into the broader regulatory response.

7.3 Protection of minors

Children and adolescents may face particular risks when exposed to persuasive advertising, inappropriate content or financial features that they do not fully understand.

Age-appropriate design is therefore an important component of digital regulation.

Possible safeguards include proportionate age verification, parental controls, transparent purchase information, limits on manipulative design and effective reporting mechanisms.

These measures should be implemented with due regard to privacy and data minimisation.

A system intended to protect minors should not collect more personal information than reasonably necessary for its legitimate purpose.

7.4 Advertising, celebrity endorsements and consumer deception

Advertising may influence perceptions of risk and the likelihood of financial success.

Promotional material that emphasises exceptional winnings while obscuring the possibility of loss may create misleading expectations.

Celebrity endorsements and influencer campaigns can amplify these effects by associating a platform with public credibility.

The statutory prohibition on advertisements for online money games therefore has a consumer-protection dimension.

However, implementation must distinguish between prohibited promotion and legitimate reporting, criticism, research and public education.

Regulatory clarity is necessary to prevent the suppression of lawful speech unrelated to prohibited commercial activity.

7.5 Cybercrime and financial integrity

Digital gaming platforms may be exploited for fraud, identity misuse, unauthorised data collection or unlawful financial transactions.

Cross-border operations may complicate investigations because evidence and financial records can be distributed across several jurisdictions.

However, it would be inaccurate to assume that every online gaming service is associated with money laundering or organised cybercrime.

The relevant policy objective should be to identify and prevent specific unlawful practices through evidence-based enforcement.

Coordination between gaming regulators, financial institutions, law-enforcement agencies and cybersecurity authorities can improve the identification of suspicious activities.

7.6 Employment and technological innovation

The gaming industry supports activities extending beyond the operation of money-based platforms.

These include programming, software testing, animation, digital design, cybersecurity, broadcasting, competitive gaming and educational content development.

A prohibition that affects parts of the existing industry may consequently have economic effects on employees, contractors and associated businesses.

The scale and distribution of these effects require empirical examination rather than assumption.

The statutory promotion of e-sports and social games may create opportunities for some activities to develop under a different legal model.

However, the extent to which employment losses are offset by new opportunities should be assessed through labour-market evidence, business data and longitudinal research.

7.7 The risk of migration to unlawful offshore platforms

A prohibition may reduce the availability of services operating openly within the domestic legal system.

Nevertheless, demand may persist, potentially encouraging some users to seek unregulated alternatives.

Such migration may expose users to weaker consumer protection, unclear dispute-resolution mechanisms and greater difficulty recovering funds.

This possibility does not prove that prohibition is ineffective. It demonstrates that the effectiveness of the law depends partly on enforcement against unlawful operators and the availability of safer, lawful digital alternatives.

The policy should therefore be evaluated by reference to actual outcomes rather than the number of blocked applications alone.

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7.8 Public welfare and the limits of moral regulation

The State may legitimately protect vulnerable individuals and respond to activities that create substantial social harm.

However, public morality should not be treated as an unlimited basis for restricting every activity that some members of society consider undesirable.

Constitutional governance requires a reasoned connection between the legal restriction and the public interest relied upon.

The strongest justification for online gaming regulation therefore rests on demonstrable risks, transparent objectives and proportionate legal measures rather than moral disapproval alone.

8. Comparative Legal Analysis

8.1 The United States: federalism and state-level regulation

The United States provides a useful comparison because gaming regulation operates through a combination of federal and state laws.

Federal statutes address particular aspects of gambling and related financial or communications activities. State governments retain substantial authority over the licensing and regulation of many forms of gaming within their jurisdictions.

The Wire Act, 18 U.S.C. § 1084, and the Unlawful Internet Gambling Enforcement Act of 2006 form part of the relevant federal framework.

The Unlawful Internet Gambling Enforcement Act primarily addresses specified financial transactions associated with unlawful internet gambling. Its operation should not be confused with a universal federal prohibition on every form of online gaming.

The interpretation and application of federal gambling statutes may depend on the statutory text, judicial decisions and the relationship between federal and state law.

The United States model is therefore not accurately described as a single nationwide licensing system or a complete prohibition on all online money gaming.

8.2 Murphy v. National Collegiate Athletic Association

In Murphy v. National Collegiate Athletic Association,[12] the United States Supreme Court examined federal legislation that restricted state authorisation of sports gambling.

The Court held that the relevant federal prohibition violated constitutional principles governing the relationship between federal and state governments.

[12] 584 U.S. 453 (2018)

The decision is relevant to India because both systems must address the constitutional limits of central authority in a field with substantial state-level implications.

However, the constitutional structures of the two countries differ. The American anti-commandeering principle does not translate directly into Indian constitutional doctrine.

The comparative value of Murphy lies in its broader demonstration that the desirability of uniform policy does not eliminate the need to respect constitutional allocations of authority.

8.3 The United Kingdom: licensing and regulatory supervision

The United Kingdom follows a substantially different model.

The Gambling Act 2005 establishes the principal statutory framework for gambling regulation in Great Britain, while the Gambling Commission performs important licensing and regulatory functions.

The system relies on licensing requirements, regulatory supervision and obligations designed to protect consumers and reduce gambling-related harm.

Relevant safeguards may concern age verification, fair treatment, responsible commercial practices, compliance monitoring and the handling of customer complaints.

The licensing model allows certain forms of commercial gaming to operate within a regulated framework rather than treating all money-based gaming as categorically prohibited.

Nevertheless, licensing does not eliminate the risks associated with gambling. Its effectiveness depends on enforcement, compliance, regulatory capacity and the willingness of operators to meet their obligations.

The United Kingdom model also has jurisdictional limits and should not be assumed to govern every gaming activity throughout all parts of the United Kingdom in an identical manner.

8.4 Comparison of regulatory philosophies

The three systems reflect different constitutional and policy choices.

India's PROG Act adopts a prohibition-centred approach to online money games while supporting e-sports and online social games.

The United States combines federal restrictions with substantial state-level variation.

The United Kingdom generally relies on a licensing framework for regulated gambling activities.

These differences arise from distinct legal traditions, constitutional arrangements, political choices and regulatory institutions.

Consequently, the mere existence of a licensing system in another country does not prove that India must adopt the same model. Nor does the existence of serious gaming-related harms establish that prohibition is necessarily superior to regulation.

The comparative inquiry should focus on outcomes and institutional capacity.

Relevant indicators include the accessibility of unlawful platforms, consumer losses, enforcement costs, regulatory compliance, protection of minors, complaint resolution and the effectiveness of safeguards.

8.5 Lessons for India

The United States experience highlights the importance of constitutional federalism and the need to identify the proper relationship between national and state authority.

The United Kingdom experience illustrates the potential role of licensing, independent supervision and enforceable consumer-protection standards.

India's approach reflects a stronger emphasis on prohibiting online money gaming while promoting other forms of digital entertainment.

A possible lesson from both jurisdictions is that effective regulation requires more than the selection of a formal legal model.

The success of any approach depends on institutional independence, reliable information, enforcement capacity, procedural fairness and periodic evaluation.

India may therefore benefit from adopting relevant consumer-protection and accountability practices without necessarily reproducing the entire regulatory structure of another country.

9. Critical Evaluation of the PROG Act, 2025

9.1 Strengths of the legislative framework

The Act's principal strength is the creation of a dedicated statutory framework for online gaming.

A central statute can provide greater legal visibility than an arrangement dependent exclusively on older gambling enactments and general information technology regulations.

The Act also recognises that online gaming is not a uniform category. Its provisions concerning e-sports and social games acknowledge the economic and social value of digital entertainment.

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The restrictions on prohibited gaming services, associated advertising and financial transactions address several parts of the commercial structure rather than focusing solely on individual users.

The statutory framework may also improve coordination in a sector where operators and financial transactions frequently cross state and national boundaries.

9.2 Constitutional uncertainty

The principal legal difficulty concerns the relationship between the nationwide prohibition and the constitutional allocation of legislative powers.

Entry 34 of the State List creates a substantial issue that cannot be resolved merely by referring to the internet-based character of the activity.

The Union's legislative competence must be established through constitutional interpretation and the actual structure of the statute.

The pending constitutional challenge demonstrates the importance of this issue. Until the relevant questions are authoritatively resolved, the paper should avoid presenting the Act's constitutional validity as conclusively established.

9.3 Uniformity versus regulatory differentiation

Uniform regulation may reduce inconsistencies and make enforcement easier.

However, the activities covered by the online gaming market differ in their financial structure, degree of risk and economic purpose.

A uniform prohibition may simplify classification, but it may also affect activities that differ significantly in their social consequences.

The constitutional assessment must therefore consider whether the chosen classification is justified by the objective of the law and supported by sufficient evidence.

9.4 Enforcement against offshore operators

Domestic enforcement may be insufficient where the responsible operator is located abroad and does not maintain a substantial presence in India.

Blocking and financial restrictions can limit access through particular channels, but offshore operators may attempt to use alternative distribution methods.

International cooperation may be necessary for evidence gathering, financial investigations and the enforcement of applicable legal obligations.

At the same time, international cooperation must respect jurisdictional limits and applicable legal procedures.

9.5 Regulatory independence

An effective regulatory authority must be capable of applying statutory criteria consistently and without improper influence.

The quality of its decisions depends on the expertise of its members, the transparency of its procedures and the availability of meaningful review.

A regulatory framework may lose credibility if similarly situated services receive inconsistent treatment without adequate explanation.

Institutional independence is therefore a practical requirement as well as an element of sound administration.

9.6 Evidence-based policymaking

The public-interest case for regulating online money gaming should be evaluated using reliable evidence.

Relevant information includes the scale of financial losses, the characteristics of affected users, the prevalence of harmful gaming behaviour, the effectiveness of existing safeguards and the operation of unlawful offshore services.

Without reliable data, policymakers may struggle to distinguish between measures that reduce harm and those that merely change the distribution of activity.

Periodic evaluation would enable the Government and Parliament to assess whether the legislative objectives are being achieved.

9.7 The need for regulatory proportionality

A prohibition-centred framework may be justified where the evidence establishes that less restrictive measures would not adequately address serious risks.

However, the law's long-term credibility depends on the strength of its constitutional justification and the quality of its enforcement.

The relevant question is not whether public welfare should be protected. It is how that objective can be achieved within the limits imposed by constitutional rights and the federal structure.

The Act should therefore be evaluated by reference to its legal precision, practical outcomes and responsiveness to emerging evidence.

10. Recommendations and the Way Forward

10.1 Clarification of statutory definitions

The legal classification of online games should be based on clear statutory criteria.

Ambiguity concerning payments, virtual rewards, monetary equivalence and hybrid commercial models may create uncertainty for users, developers and regulators.

The relevant rules should provide accessible explanations of the classification process while remaining within the scope of the parent statute.

Where legally permissible, reasoned determinations should explain why a particular activity falls within or outside the statutory definition.

10.2 Transparent classification procedures

Classification decisions should be governed by published standards and consistent procedures.

Where a decision has substantial consequences, affected parties should have access to the applicable review mechanism.

The process should distinguish between a preliminary administrative assessment and a final determination carrying significant legal consequences.

This would improve predictability while reducing the possibility of arbitrary or inconsistent treatment.

10.3 Constitutional review of legislative competence

The relationship between the PROG Act and the constitutional distribution of legislative authority requires careful judicial examination.

Parliament should ensure that the statutory framework is supported by a clearly identified constitutional basis.

The legislative record should explain the nature of the problem, the cross-border features of the activity and the reasons for adopting the chosen approach.

Such clarity would strengthen both constitutional accountability and the practical administration of the law.

10.4 Proportionate enforcement

Enforcement procedures should distinguish between different types of statutory violations to the extent permitted by law.

Relevant considerations may include the nature of the conduct, the scale of the operation, the degree of culpability, the harm caused and the steps taken to comply with lawful directions.

Criminal liability should be imposed according to the applicable statutory requirements and procedural safeguards.

Regulatory efficiency should not come at the expense of legal certainty or fair treatment.

10.5 Stronger protection of minors

The protection of minors should be a central objective of online gaming policy.

Appropriate measures may include age-appropriate design, transparent information about purchases, effective parental controls and accessible reporting mechanisms.

Where identity verification is necessary, it should be implemented with attention to data minimisation and privacy.

The system should avoid collecting or retaining unnecessary personal information merely because a user accesses a digital entertainment service.

10.6 Consumer education and public awareness

Public awareness programmes can help users understand financial risks, misleading promotional claims and the legal status of gaming services.

Educational initiatives should be accessible to students, families and communities with different levels of digital literacy.

Schools, universities, civil-society organisations and public institutions may contribute to digital literacy and responsible technology use.

Education should complement legal enforcement rather than substitute for it.

10.7 Support for affected individuals

Regulation should recognise that individuals experiencing harmful gaming behaviour may require assistance.

Public-health initiatives may include confidential counselling, referral services, financial literacy programmes and family support.

Such measures should be based on evidence and delivered in a manner that respects dignity and privacy.

A policy focused exclusively on punishment may overlook the circumstances of vulnerable individuals who require practical assistance.

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10.8 Cooperation against offshore operations

The Government should strengthen lawful cooperation among relevant regulatory authorities, financial institutions and cybersecurity agencies.

International cooperation may assist in identifying operators, preserving digital evidence and addressing unlawful financial activity.

Enforcement mechanisms should remain consistent with the applicable legal framework and respect procedural safeguards.

Particular attention should be given to mistaken identification and the protection of lawful services from unnecessary blocking.

10.9 Periodic regulatory evaluation

The effectiveness of the legislation should be assessed through periodic, evidence-based reviews.

Relevant indicators may include the availability of prohibited services, patterns of consumer harm, enforcement outcomes, complaint resolution, economic effects and the development of lawful gaming sectors.

The evaluation should distinguish between correlation and causation.

For example, a reduction in reported complaints after implementation would not necessarily establish that the underlying harm had declined; it might also reflect changes in reporting behaviour or access to complaint mechanisms.

Independent evaluation would help identify such limitations and improve future policymaking.

10.10 A balanced model of digital governance

The future of online gaming regulation should be informed by constitutional principles, empirical evidence and institutional experience.

The protection of vulnerable users and the development of legitimate digital industries are not necessarily incompatible objectives.

The challenge is to establish a legal framework that addresses demonstrable harms while preserving lawful activity, procedural fairness and accountability.

A sustainable model should combine clear legal definitions, competent institutions, proportionate enforcement, effective review mechanisms and continuing assessment of social outcomes.

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11. Conclusion

The Promotion and Regulation of Online Gaming Act, 2025 represents a significant development in India's approach to digital gaming governance. It establishes a national framework that promotes e-sports and online social games while prohibiting online money gaming, associated advertisements and the facilitation of related financial transactions.

The legislation responds to genuine regulatory concerns. Online money gaming may expose users to financial loss, misleading promotional practices, privacy risks and harmful patterns of participation. Digital platforms operating across state boundaries or from foreign jurisdictions may also create substantial enforcement difficulties.

Nevertheless, the existence of serious social concerns does not eliminate the need for constitutional scrutiny.

The distribution of legislative authority under the Seventh Schedule, the scope of Article 19(1)(g), the equality principle under Article 14 and the protections associated with Article 21 raise important questions concerning the scope and justification of the prohibition. The privacy implications of digital investigation and search powers also require attention to the principles established by the Supreme Court.

Earlier decisions concerning gambling and games of skill provide essential historical context, but they do not automatically determine every question arising under the new legislation. Likewise, the Supreme Court's 2026 decision concerning GST on online gaming transactions must be distinguished from the separate constitutional challenge to the PROG Act.

Comparative experience demonstrates that different jurisdictions have adopted different responses to gaming-related risks. The United States illustrates the significance of federalism and state-level regulatory authority, while the United Kingdom demonstrates the use of licensing and regulatory supervision. Neither model can be transplanted into India without considering the country's constitutional framework and institutional requirements.

The central argument of this paper is that the legitimacy of online gaming regulation depends on more than the seriousness of the problem it seeks to address. It also depends on whether the law rests on a sufficient constitutional foundation, defines prohibited conduct precisely, applies enforcement powers fairly and produces measurable public benefits.

Accordingly, the long-term effectiveness of the PROG Act should be evaluated through transparent classification, accountable institutions, privacy safeguards, proportionate enforcement, public education and independent assessment of its consequences.

Ultimately, the challenge is to ensure that digital regulation protects individuals without compromising constitutional governance. A legally sustainable framework must combine the

protection of vulnerable users with respect for federalism, fundamental rights, procedural fairness and the legitimate development of India's digital economy.

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