

# **PREDATORY PRICING AND REGULATIONS ON ONLINE BETTING GAMES IN INDIA**

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## Chapter 1

# Predatory Pricing in India's Online Gaming Sector: Market Dynamics and Regulatory Challenges

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– Dr. Aswathi Sukumaran<sup>1</sup>

### Abstract

India's rapid digital transformation, driven by increasing internet use and a growing number of tech-savvy citizens, has yielded a vibrant economy that is both innovative and plagued by significant regulatory issues. This article provides an in-depth examination of two significant and sensational topics that highlight the concern over the anti-competitive practice of predatory pricing in digital marketplaces, as well as the contentious emergence of online gaming and betting. Predatory pricing, as a mechanism of dominance abuse, has always posed a dilemma in the contemporary era. As a result of the proliferation of digital platforms, gambling has become more accessible to a wider audience, exposing customers to new dangers such as the potential for financial loss, addiction, and abuse. This article conducts a thorough study of the intersection between predatory pricing practices and the rapidly expanding online gaming sector in India. It elucidates predatory pricing as a strategy indicative of abusing dominance by examining the evolving stance of the Competition Commission of India. The article further highlights the challenges in the present legislation and concludes by making recommendations for eradicating the same for having a fair level market.

**Keywords:** Predatory Pricing, Online Gaming, CCI, Digital Markets, Consumer Protection

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## 1.1 Introduction

India has seen a significant digital transformation in the last decade. Internet penetration has surged from 20% in 2015 to over 60% in 2025, equating to around 954 million people, therefore establishing one of the world's biggest and most active digital markets.<sup>2</sup> This transformation has been driven by several factors including the swift expansion of cost-effective smartphones, a vigorous expansion of digital infrastructure, favourable government initiatives such as Digital India, and a demographic advantage resulting in a youthful, educated population keen to adopt digital services.<sup>3</sup> The digital surge has created significant economic prospects, with India's digital economy anticipated to reach \$1 trillion by 2030.<sup>4</sup> This rapid shift has generated considerable regulatory issues since traditional frameworks have failed to adapt to creative business models and new market behaviours. Two domains that illustrate these problems are predatory pricing in digital markets and the intricate regulatory framework governing online gaming and betting. Despite seeming disparate, both challenges exemplify the overarching conflict between promoting innovation and curbing market exploitation within India's developing digital landscape. Advantage resulting in a youthful, educated population keen to adopt digital services.

The online gaming sector in India has transformed into a dynamic and rapidly expanding industry, moving from a specialized hobby to a market valued in the billions of dollars. As of 2025, the sector engages over 500 million gamers, with revenues projected to increase from approximately USD 3.7 billion in 2024 to over USD 9 billion by 2029. This growth is driven by the widespread use of smartphones, affordable internet access, and a young, digitally proficient population. The industry encompasses various formats, including casual mobile games, competitive e-sports, and real-money gaming (RMG), where players bet on skill-based or chance-based outcomes. However, beneath this vibrant growth lies a complex environment of competitive pressures and ethical concerns, particularly regarding predatory pricing strategies that challenge fair competition and consumer welfare.

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2 Kuldeep Singla, "India's Internet Surge: Catalysing Change in the Telecom Landscape," *available at* <https://www.investindia.gov.in/blogs/indias-internet-surge-catalyzing-change-telecom-landscape>, visited on 28 Aug 2025.

3 Government of India, "India's Digital Revolution: Transforming Infrastructure, Governance, and Public Services" (Ministry of Information & Broadcasting, 2024).

4 Editorial, "India's digital economy to cross \$1tn by 2030: Report", *The Times of India*, (Jun 26, 2025).

Predatory pricing, a recognized antitrust issue, involves dominant firms setting prices below cost to eliminate competitors, only to raise prices later once market dominance is achieved. In India's online gaming sector, this practice takes unique forms. Major platforms often employ aggressive tactics to attract users, such as offering free-to-play models, heavily discounted in-app purchases, or cashback rewards in RMG segments. While these may seem advantageous to consumers, they can destabilize the market by pushing smaller developers out. Supported by significant funding, large players can sustain short-term losses to gain market share, hindering innovation and creating high entry barriers for local start-ups. This consolidation risks concentrating power among a few domestic and global giants, reshaping the competitive dynamics of the industry.

The market environment intensifies these challenges. India's gaming ecosystem is highly competitive, with thousands of developers competing for attention in a crowded digital marketplace. High customer acquisition costs drive companies toward volume-driven strategies, where predatory pricing becomes a tool for rapid growth. The premium model, prevalent in most top-grossing games, attracts players with free access but monetizes through addictive micro-transactions, raising concerns about exploitation. Economic factors, such as a youthful demographic and post-pandemic digital adoption, fuel demand but also expose vulnerabilities like gaming addiction and financial strain, particularly in RMG, which remains a significant revenue driver despite increasing scrutiny. Regulatory challenges further complicate this landscape. India's competition authorities have strengthened regulations to address predatory pricing across digital markets, focusing on cost-based assessments. However, applying these to online gaming is difficult due to the intangible nature of digital products, opaque pricing algorithms, and cross-border operations. Recent regulations, including a landmark 2025 bill targeting RMG platforms, aim to curb predatory practices linked to addiction and financial harm.

Although protective measures are necessary, there is a risk of overregulation, which could potentially hinder legitimate sectors such as e-sports and casual gaming. The main challenges involve differentiating between skill-based and chance-based games, addressing offshore platforms that circumvent local laws, and finding a balance between innovation and consumer protection. Global examples, such as antitrust actions against app store dominance, provide valuable insights, but India's unique socio-economic context, characterized by digital divides and regulatory fragmentation, necessitates tailored strategies.

This chapter delves into these intricate issues, examining how predatory pricing influences market structures, providing real-world examples, and assessing the evolving regulatory framework. By incorporating perspectives from gamers, developers, and policymakers, it aims to establish a fair and sustainable online gaming ecosystem in India, where competition thrives without compromising ethical standards or economic vitality.

## 1.2 Comprehending Predatory Pricing and Online Gaming

Predatory pricing, the strategy used by dominant corporations to set prices below cost to eradicate competitors, has become more common in industries such as e-commerce, quick-commerce, and digital payments. Simultaneously, the internet gaming sector, especially real-money gaming and wagering platforms, has seen significant expansion despite functioning under regulatory ambiguities. Thus, we are analysing the market dynamics and regulatory developments of these two phenomena, investigating how India is managing the intricate balance between fostering innovation and safeguarding consumers and competition.

One can understand the concept of predatory pricing as a tactic used by a dominating firm that intentionally reduces its prices below production costs to eliminate competition from the market. After competitor enterprises are diminished or eradicated, the corporation often increases prices to recover its losses and solidify market dominance. This technique is expressly forbidden under Section 4(2)(a)(ii) of the Competition Act, 2002<sup>5</sup>, when used to unjustly acquire or sustain dominance. The primary aim of predatory pricing is to eliminate competitive forces, hence suppressing competition.<sup>6</sup> Subsequently, if the predatory business considers itself sufficiently secure, it will raise its prices beyond the competitive level to recover the losses incurred during the lowering phase.<sup>7</sup> The dominant corporation in this market is likely to possess both the motivation and the resources to implement such a plan, and this pricing may be seen as similarly unfair to rivals.<sup>8</sup> The Act delineates a three part criterion for recognising predatory pricing as follows;

1. proving market dominance.
2. demonstrating prices under a defined cost threshold; and

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5 The Competition Act, 2002 (Act No. 12 of 2003).

6 Samiksha Gupta, "Predatory Pricing: An Enigmatic Insertion", 5 *International Journal of Law*, 115 (2019).

7 *Id.*

8 *Id.*



### 3. providing proof of anti-competitive purpose or impact.

In the first instance the entity alleged to engage in predatory pricing maintaining a dominating position, characterised by the capacity to function autonomously from competitive forces or to sway rivals and customers within the relevant product and geographic market.<sup>9</sup> In the second criterion of pricing below cost benchmark, the price for products or services set below a suitable cost benchmark, usually evaluated using average variable cost (AVC) as a substitute for marginal cost. In some instances, other cost concepts such as avoidable cost or long-run average incremental cost may be evaluated. And in the last i.e. the anti-competitive effect there exist evidence indicating that the pricing policy seeks to eradicate competition or significantly impede market rivalry. This encompasses the probability of the predator increasing prices thereafter to recover losses incurred by eliminating rivals from the market.

While discussing on the Indian gaming market landscape it is to be noted that since its inception, India's online gaming industry has grown from a small subculture to a massive industry. As of 2025, India has over 570 million players, with projections indicating a rise to 700 million by 2027, establishing it as one of the top gaming marketplaces globally. The industry includes many divisions such as casual gaming, real-money gambling, fantasy sports, and esports, each with unique attributes and legal implications.

In 2025, India's online gambling sector is thriving but encounters substantial regulatory changes. The market size was estimated at roughly \$3.7 billion in early 2025, with forecasts indicating a rise to \$9.1 billion by 2029, reflecting a robust CAGR of approximately 14.5% to 15%.<sup>10</sup> The gaming demographic is substantial and growing, projected to attain over 517 million players by 2025, indicative of sustained expansion propelled by economical smartphones, extensive internet accessibility, and the rising popularity of mobile gaming.<sup>11</sup>

A significant legislative change transpired with the enactment of the Promotion and Regulation of Online Gaming Bill, 2025, which prohibits all real-money gaming sites across India. For example, like online gaming titans, like Dream11 and Winzo, face an ambiguous

9 Payal Malik et al, "Legal Treatment of Abuse of Dominance in Indian Competition Law: Adopting an Effects-Based Approach", 54 *Rev Industrial Organization* 435 (2019).

10 FICCI EY Report 2025: India's online gamers base expands to 488 million in 2024, available at <https://www.animationxpress.com/latest-news/ficci-ey-report-2025-indias-online-gamers-base-expands-to-488-million-in-2024/> visited on Aug 30 2025.

11 *Id.*

future after the passage of the Online Gaming Bill in the Lok Sabha.<sup>12</sup> This initiative seeks to address problems like fraud, money laundering, addiction, and national security risks associated with real-money gaming. The Act forbids the operation, marketing, and financial transactions associated with online monetary gambling, imposing fines on platform operators, promoters, and financial institutions engaged. This measure confronts the primary income sector of real-money gambling, which constitutes around 86% of industry revenues, while other sectors such as e-sports, educational, and social gaming continue to be endorsed and regulated under the new framework. Consequently, while India's online gaming sector expands in both scope and importance, it is also undergoing a radical regulatory reorganisation to foster a safer and more responsible gaming environment.

### 1.3 Historical Development

The evolution of online betting games has significantly altered the global gambling landscape, integrating technology with the enduring appeal of wagering. Emerging in the mid-1990s with the widespread adoption of the internet, this digital transformation began as early companies recognized the opportunity to surpass physical limitations. Initial platforms provided basic sports betting and casino games, restricted by slow dial-up connections and simple interfaces, yet they initiated a significant shift. By the early 2000s, advancements in broadband and secure payment systems facilitated rapid growth, enabling real-time betting on global sports events, virtual poker rooms, and slot machines with engaging graphics. The rise of mobile technology in the 2010s further accelerated this trend, with applications providing convenient access to betting markets at any time and from any location. Today, the global online gambling market is thriving, driven by diverse offerings such as live dealer games, e-sports betting, and blockchain-based platforms ensuring transparency. Europe leads with regulated markets like the UK, while Asia's preference for mobile-first betting, particularly in countries like India, fuels rapid expansion. However, challenges persist, including regulatory differences across nations creating legal uncertainties, and concerns regarding addiction and fraud necessitating strong oversight. Innovations like artificial intelligence for personalized betting experiences and virtual reality casinos indicate a future where immersion and accessibility redefine gambling. Nevertheless, balancing profitability with ethical practices remains crucial as the industry navigates cultural attitudes and economic incentives worldwide. Betting games in India have a rich, evolving history rooted in cultural, social, and political

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12 Samarth Goyal, "Game Over: The Online Gaming Bill is set to push India's \$3.7 billion industry into its biggest shake-up yet" *Hindustan Times*, Aug 28, 2025.

changes over thousands of years. In the Vedic era (1500–500 BCE), gambling was mentioned in texts like the Rigveda, where dice games represented cosmic risk but were cautioned against due to their addictive nature. Early historical periods (500 BCE–300 CE) saw dice and board games like Pachisi flourish among elites and commoners, often associated with skill and strategy, with gambling stakes reflecting social standing. In the medieval period (300–1200 CE), betting games expanded alongside urban prosperity, with chess precursors and card games emerging as wagering pastimes in royal courts. Pre-colonial India (1200–1857) witnessed a blend of indigenous and Persian influences, with games like Ganjifa cards gaining popularity among Mughal nobility, often played for high stakes.

Gambling was socially accepted yet criticized by moralists for potentially leading to ruin. The colonial era (1857–1947) introduced British influences, with horse racing and lotteries becoming organized betting avenues for the elite, while traditional games continued among the general population. The colonial-era legislation, such as the Public Gambling Act of 1867, aimed to regulate betting activities, highlighting the inherent conflict between governmental control and established cultural norms. These historical periods significantly influenced the evolution of contemporary perspectives on gambling in India, where games of skill, such as rummy, are generally permitted, while those based on chance are subject to greater oversight. This historical context reveals India's intricate relationship with wagering, influenced by tradition, historical events, and legal frameworks, thereby setting the stage for the current expansion of digital betting.

Until a few years ago, price control in India was a tool used by the Government to attain socio-economic objectives outlined in the five-year plans. Later, price regulation, in its fundamental forms of price ceilings and price floors, emerged as a regulatory instrument. The price control methods aimed to promote distributive justice, maintaining the quality of products and services, and thereby assisting in the avoidance of monopolistic, restrictive, unfair, and anticompetitive trading practices. Post-independence, India adopted a mixed economy model<sup>13</sup>, whereby the State regulated critical sectors such heavy industries and utilities. Private entities were permitted but functioned under stringent licensing and quota regulations. The government functioned as both producer and regulator, exerting influence over pricing and production in private sectors. During the mid-1980s, several sectors underwent deregulation and the relaxation of quotas. The reforms of the 1990s

13 OECD, CUTS INTERNATIONAL, [https://www.oecd.org/en/publications/2025/06/cuts-in-official-development-assistance\\_e161f0c5/full-report.html](https://www.oecd.org/en/publications/2025/06/cuts-in-official-development-assistance_e161f0c5/full-report.html) visited on Aug 30 2025.

initiated globalisation, privatisation, and liberalisation across industrial, fiscal, trade, and investment policy. The MRTP Act of 1969<sup>14</sup> was revised in 1991, eliminating the asset barrier and stipulations on mergers and amalgamations. State monopolies progressively yielded to private involvement in industries such as aviation, banking, insurance, oil and gas, and telecommunications. This transition necessitated the establishment of autonomous regulatory bodies to guarantee equitable competition and an even playing field. Later on, the MRTP Act was ultimately rescinded and replaced with the Competition Act, 2002<sup>15</sup>, to accommodate contemporary economic conditions.

In May 2025, the Competition Commission of India amended its methodology for evaluating predatory pricing, adjusting cost benchmarks to align with contemporary market conditions. The 2025 revision expanded prior benchmark by including depreciation and sunk costs into the cost framework, therefore enhancing the assessment's comprehensiveness. This modification was implemented to tackle issues in digital and platform-based marketplaces, where companies often use substantial discounting, cashback initiatives, and prolonged below-cost tactics to gain market dominance. The amendment enhances the CCI's capacity to differentiate between genuine competitive pricing that advantages consumers and strategic predatory behaviour aimed at eliminating rivals and distorting market competition.

India's strategy for online gambling regulation is marked by fragmentation and uncertainty, without a cohesive national framework. The Public Gambling Act of 1867<sup>16</sup> forbids the operation or patronage of gambling establishments but fails to specifically regulate internet betting, resulting in considerable regulatory deficiencies. The Information Technology Act 2000<sup>17</sup> authorises the government to obstruct websites to safeguard India's sovereignty and integrity, however it does not explicitly pertain to betting or gambling. Gambling regulation is mostly a state matter under India's constitutional framework, resulting in a heterogeneous array of measures across states. Certain states, like as Sikkim and Goa, have legalised certain kinds of gambling, but others, such Telangana and Andhra Pradesh, have enacted total prohibitions on internet betting.

The government simplified registration procedures, including for offshore operators, and instituted a 28% GST scheme for providers of online money games starting from 1

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14 The Monopolies and Restrictive Trade Practices (MRTP) Act 1969 (Act No. 54 of 1969).

15 Supra 4.

16 The Public Gambling Act, 1867. (Act No. 3 of 1867).

17 The Information Technology Act 2000. (Act No. 21 of 2000).

October 2023.<sup>18</sup> With margin buffers shrinking and compliance costs rising, the fiscal measure has direct impacts on gaming industry business economics, increasing costs for operators and perhaps reducing leeway for subsidised, predatory pricing. Offshore platforms were also compelled to seek registration or risk blocking action because of the GST move. The Ministry of Electronics and Information Technology (MeitY) revised IT regulations to subject online gaming intermediaries to intermediary due-diligence requirements, including user authentication, transparency in agreements, grievance resolution, and content moderation.<sup>19</sup> In 2023 and beyond, MeitY intensified the compliance framework for gaming platforms, including registration, evidence of fairness, and mechanisms to validate game logic for specific genres.<sup>20</sup> These regulations enhanced monitoring, so affecting strategic price choices by making operations more expensive and more accountable.

Recently in mid-August 2025, Parliament enacted the Promotion and Regulation of Online Gaming Bill, 2025, with approval from both Houses.<sup>21</sup> The Bill encompasses extensive provisions, including a prohibition on online gambling, a ban on advertising and sponsorship associated with prohibited activities, authority to obstruct payment transactions and platforms, and the establishment of an Online Gaming Authority. If enacted and communicated, these legal measures would significantly transform the industry, perhaps leading to the elimination of several real-money platforms or compelling them to alter their operations away from real-money gaming models.

## 1.4 Key Challenges in Regulating Predatory Pricing & Online Gaming

### A) Cost Measurement in Digital/Platform Markets

A primary concern in controlling predatory pricing, especially in online gaming and digital platform marketplaces, is establishing the appropriate cost benchmark - be it marginal cost, Average Variable Cost, or Average Avoidable Cost. These marketplaces are distinguished

18 Jacinta Caragher, "India levies 28% GST online gaming and casinos Oct 2023", available at <https://www.vatcalc.com/india/india-levies-28-gst-online-gaming-and-casinos/> visited on Aug 30 2025.

19 Arun Prabhu & Aarushi Jain, "The Online Gaming Intermediaries Regulations: What is New?" Cyril Amarchand Mangaldas, available at <https://corporate.cyrilamarchandblogs.com/2023/04/the-online-gaming-intermediaries-regulations-what-is-new/> visited on Aug 30 2025.

20 *Id.*

21 Vineet Bhalla, "Why has the government banned online money games, and what could be the economic impact of the new law?" *The Indian Express*, Aug 31, 2025.

by substantial fixed expenses, including servers, technological infrastructure, and research and development, coupled with multi-product synergies that render per-game or per-product cost allocation artificial and often unreliable. In acknowledgement of this challenge, the CCI's 2025 version added more adaptable cost benchmarks by including depreciation and sunk costs, nonetheless, its practical applicability remains significantly reliant on evidence and context.<sup>22</sup>

Regulating predatory pricing in digital and platform markets is challenging due to the complexity of cost measurement. Unlike traditional markets, digital platforms often operate on multi-sided models, where one side, like users, may receive services at low or no cost, subsidized by revenue from another, such as advertisers or developers. In online gaming, for instance, platforms might offer free access to games while monetizing through in-app purchases or subscriptions, making it difficult to define "below-cost" pricing. Marginal costs in digital markets are often negligible, adding a user to a gaming platform incurs minimal expense, blurring the line between competitive pricing and predatory tactics. Traditional metrics like Average Variable Cost fail to capture the full picture, as fixed costs, such as game development or server maintenance, dominate early stages. This complexity risks under-enforcement, allowing dominant platforms to undercut smaller competitors without clear evidence of predatory intent. Regulators need innovative approaches, such as factoring in network effects or long-term sustainability, to assess whether low prices harm competition. In gaming, where app stores often control distribution, inaccurate cost measurement can stifle smaller developers unable to match subsidized pricing, ultimately reducing innovation and consumer choice in dynamic digital markets.

## B) Proving Predatory Intent & Recoupment

Digital marketplaces make it very difficult to prove purpose and recovery in predatory pricing instances.<sup>23</sup> The fact that low or zero prices are a component of an exclusionary strategy rather than typical competitive behaviour meant to attract customers is sometimes hard to prove. Furthermore, in recoupment analysis the capacity of a dominating business to subsequently increase prices and recuperate losses is markedly questionable in dynamic digital marketplaces, where new competitors may consistently

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22 CCI Notifies 2025 Regulations on Cost of Production & LRAIC, *Taxmann*, available at <https://www.taxmann.com/post/blog/cci-notifies-regulations-on-cost-of-production-lraic> visited on Aug 31, 2025.

23 Leslie, Christopher R., "Predatory Pricing and Recoupment." 113 *Columbia Law Review*, UC Irvine School of Law Research Paper No. 2014-1, (2013).

arise and disrupt market dominance.<sup>24</sup> Moreover, companies in industries such as online gaming and digital platforms sometimes depend on alternate monetisation strategies, like advertising, user data, or sponsorships, rendering below-cost pricing viable without an obligatory future price escalation.

Establishing predatory intent and recoupment in digital markets, including online gaming, is a significant regulatory hurdle. Predatory pricing requires proving that a firm sets prices below cost with the intent to eliminate competitors and later recoup losses through higher prices. In digital platforms, intent is hard to pinpoint due to complex pricing strategies. For example, a gaming platform might offer free games or steep discounts to attract users, not to harm rivals but to build a user base for network effects. Distinguishing this from predatory behaviour is tricky, as low prices could reflect legitimate competition. Recoupment is equally challenging to prove, as digital markets often prioritize market share over immediate profits, delaying or obscuring price hikes. In online gaming, dominant platforms like major app stores can sustain losses longer than smaller developers, raising questions about long-term market control. Regulators must analyse pricing patterns, internal strategy documents, and market dynamics to infer intent, but algorithmic pricing adds further opacity. Without clear evidence, enforcement lags, allowing potential predation to go unchecked. Robust frameworks, including behavioural analysis and market impact studies, are essential to protect competition while avoiding overregulation of legitimate pricing strategies in fast-evolving digital ecosystems.

### C) Transnational Enforcement

A major challenge in tackling predatory pricing in online gaming stems from the offshore status of several platforms that cater to Indian players without establishing a local presence. Regulators depend on instruments like GST taxes<sup>25</sup>, IT blocking orders, app store bans<sup>26</sup>, and payment deactivation; nevertheless, these actions are constrained when companies operate wholly outside Indian jurisdiction. Effective action often requires international collaboration and information exchange among authorities, which remains inadequate and inconsistent.

24 Bhawna Gulati & Vipul Puri. "Predation or Competition: Demystifying the Dilemma in Platform Markets" 2 *Competition Commission of India Journal on Competition Law and Policy*, 174 (2021).

25 Priyansh Verma, "Govt cracks down on offshore e-gaming apps, blocks many", *Finance Express*, Mar 13, 2024.

26 Sakshi Sadashiv K, "Ahead of IPL season, DGCI cracks down on offshore online gaming entities", *Media Nama*, Mar 24, 2025 available at <https://www.medianama.com/2025/03/223-ahead-of-ipl-season-dgci-cracks-down-on-offshore-online-gaming-entities/> visited on Aug 31, 2025.

Transnational enforcement of predatory pricing regulations in digital and online gaming markets faces significant obstacles due to jurisdictional disparities and global operations. Digital platforms, including gaming companies, often operate across borders, with servers, headquarters, and users in different countries. A gaming platform based in one nation might engage in predatory pricing affecting competitors globally, but varying antitrust laws complicate coordinated action. For instance, what one country deems predatory, another might view as competitive, leading to enforcement gaps. Harmonizing regulations across jurisdictions is challenging, as countries have different economic priorities and legal frameworks. In online gaming, where micro-transactions and virtual goods drive revenue, regulators struggle to track pricing practices across borders, especially when platforms use localized pricing to obscure predatory tactics.

International cooperation, such as through bilateral agreements or global bodies, is critical but slow, often lagging behind fast-moving digital markets. Enforcement also requires data-sharing and jurisdictional clarity, which privacy laws or geopolitical tensions can hinder. Effective transnational enforcement demands standardized definitions of predatory pricing, streamlined cross-border investigations, and sanctions that deter global players. Without these, dominant platforms can exploit regulatory inconsistencies, undermining competition and innovation in the global online gaming and digital marketplace.

#### **D) Velocity of Regulation and Provisional Relief**

A further problem resides in the protracted duration of CCI investigations relative to the rapid evolution of digital and gaming sectors<sup>27</sup>. Due to robust network effects and high user turnover, market structures may undergo substantial changes prior to a conclusive determination, thereby undermining the efficacy of remedies. While temporary measures such as platform blockage or payment system deactivation can provide immediate relief, they also provoke apprehensions over regulatory overreach and constitution.

The rapid pace of digital and online gaming markets outstrips the velocity of traditional regulatory processes, creating challenges in addressing predatory pricing. Digital platforms evolve quickly, with pricing strategies shifting in real-time via algorithms, while regulatory investigations often take years. In online gaming, where new titles or monetization models

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27 Vajiram ,” CCI Investigates Google for Anti-Competitive Practices in Real Money Gaming”, available at <https://vajiramandravi.com/current-affairs/cci-investigates-google-for-anti-competitive-practices-in-real-money-gaming/> visited on Aug 31, 2025.



emerge rapidly, delays in enforcement can allow dominant players to entrench market power before regulators intervene. Provisional relief, such as temporary injunctions to halt suspected predatory pricing, is crucial but difficult to implement effectively. Courts require strong evidence of harm, which is hard to establish in dynamic markets where low prices might benefit consumers short-term. By the time harm is proven, competitors may already be driven out. Regulators need agile frameworks, like expedited reviews or interim measures, to match market speed. In gaming, where app stores or platforms can undercut smaller developers with subsidized pricing, swift action is vital to preserve competition. However, overzealous provisional relief risks stifling innovation if legitimate pricing is misjudged. Balancing speed with accuracy requires specialized expertise and real-time data analysis, ensuring regulators can act decisively without disrupting the fast-paced, consumer-driven ecosystems of digital and gaming markets.

### **E) Consumer Protection v. Competition Regulation**

The regulation of internet gambling encompasses both consumer protection and competition law. Addiction, financial losses, and inequitable trade practices especially in real-money games frequently intersect with competitive issues. Consequently, enforcement may need the involvement of many agencies, including SEBI, CCI, the Ministry of Electronics and Information Technology, and state-level gaming regulators, resulting in regulatory overlap and jurisdictional ambiguity.<sup>28</sup> Balancing consumer protection and competition regulation in digital and online gaming markets is complex, as the two objectives can conflict. Consumer protection focuses on ensuring fair pricing, transparency, and safety, while competition regulation aims to prevent monopolistic practices like predatory pricing. In online gaming, low prices from dominant platforms might benefit consumers initially but harm them long-term by reducing choice if competitors are driven out. For example, a gaming platform offering free or heavily discounted games could attract users but undermine smaller developers, leading to market consolidation. Regulators face the challenge of distinguishing consumer-friendly pricing from predatory tactics that stifle competition.

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28 Brandwagan, Centre plans single regulatory framework for India's online gaming industry, aims to attract investment, Finance Express , available at <https://www.financialexpress.com/business/brandwagan-centre-plans-single-regulatory-framework-for-indias-online-gaming-industry-aims-to-attract-investment-3755217/> visited on Aug 31, 2025.

Overemphasizing consumer protection might allow short-term low prices at the expense of market diversity, while prioritizing competition could restrict platforms from offering discounts that benefit users. In gaming, where in-app purchases and subscriptions dominate, consumer protection also involves ensuring clear pricing and preventing exploitative monetization. Harmonizing these goals requires integrated frameworks that assess both immediate consumer impacts and long-term market health. Regulators must use data-driven analysis to evaluate pricing effects, ensuring interventions protect consumers without chilling competition or innovation in the rapidly evolving digital and gaming sectors.

## **F) Concerns Regarding Data and Market Dominance**

Ultimately, online gaming platforms often use user data and network dynamics to solidify their supremacy.<sup>29</sup> In such instances, predatory pricing may be funded by data monetisation or advertising income, making conventional cost-based assessments less effective. This prompts larger enquiries on the need for competition law to integrate data-centric and platform-centric methodologies, rather than depending exclusively on price benchmarks. The significance of data in achieving market dominance within digital and online gaming markets is substantial, which subsequently gives rise to notable regulatory concerns. Platforms amass considerable amounts of user data, encompassing gaming behaviours, purchase records, and preferences, to customize pricing and offerings. This data advantage empowers dominant entities to engage in predatory pricing strategies, precisely targeting competitors' customer bases with discounts or promotions that smaller firms are unable to match.

Within the realm of online gaming, where platforms such as app stores or major publishers control distribution, data-driven insights enhance their capacity to undermine rivals, thereby solidifying market power. This, in turn, creates obstacles for new entrants who lack comparable data, thereby impeding innovation. Regulators encounter difficulties in addressing this issue, as data practices are often obscure, and linking data usage to predatory pricing necessitates sophisticated analysis. Furthermore, dominant platforms can leverage data to retain users, reducing churn and facilitating the recovery of losses post-predation. Regulatory solutions should encompass data-sharing mandates or restrictions on the utilization of data for anticompetitive purposes. In gaming, where micro-transactions generate revenue, ensuring equitable data practices is crucial for

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29     Ajay Rag, "Indian gaming companies enter big league with rising monetisation, global acquisitions", *The Economic Times*, April 30, 2025.

levelling the playing field, fostering competition, and safeguarding smaller developers from being marginalized by data-rich incumbents.

The proposition of a comprehensive ban on online betting, frequently associated with concerns regarding predatory pricing within gaming markets, presents a complex issue. Advocates of such a ban contend that it safeguards consumers from exploitative practices, as betting platforms may employ low-stake offers to attract vulnerable users, mirroring predatory pricing by securing customers and disadvantaging competitors. Such bans could potentially mitigate addiction, financial harm, and unfair market tactics, particularly in regions where regulation struggles to keep pace with digital platforms. However, a complete ban disregards the economic and personal freedoms of responsible users and risks driving betting activities into unregulated markets, where consumer protections are absent.

In online gaming, mechanics resembling betting (e.g., loot boxes) blur the lines with gambling, complicating targeted bans. A ban might also stifle innovation within legitimate gaming platforms that incorporate regulated betting elements, thereby limiting consumer choice. Instead of outright prohibitions, robust regulation, such as stringent licensing, transparent pricing, and limitations on predatory promotions, could better balance consumer protection with market competition. Enforcement must be international, given the global nature of online platforms, and should prioritize data transparency to prevent exploitation. A nuanced approach, prioritizing oversight over prohibition, would more effectively address potential harms while preserving the advantages of a dynamic online gaming and betting ecosystem.

## 1.5 Recommendations

Competition authorities, such as the CCI, need to establish explicit, sector-specific cost benchmarks and disseminate comprehensive guidelines for platform marketplaces, using many metrics like average variable cost, avoidable cost, and contribution analysis rather than depending on a singular, inflexible criterion. They must also create accelerated investigative instruments, for example clawbacks on anti-competitive subsidies and interim behavioural orders to mitigate damage prior to permanent consolidation, while enhancing economic competence to analyse two-sided markets and recoupment plans. Sectoral regulators and ministries, including MeitY, Finance, and RBI, must synchronise interim measures with competition enforcement, particularly by using GST enforcement to mitigate arbitrage by offshore platforms.

Legislators and policy advisors should refine the Online Gaming Bill to properly differentiate between casual gaming, esports, skill-based competitions, and detrimental real-money gambling, therefore alleviating ambiguity that might deter investment in lawful sectors. Industry participants need to aggressively adopt transparent pricing, self-regulatory standards, and verifiability of game fairness, while avoiding exclusive long-term sponsorships in favour of open agreements that do not inhibit competition. In addition to these measures, enhanced consumer protection mechanisms including age verification, expenditure limitations, and transparent terms will assist in alleviating societal detriments and diminish dependence on comprehensive prohibitions.

## 1.6 Conclusion

A detailed study reveals that the policy of predatory pricing is an enigma, a paradox that often lands the enforcing agency in a dubious situation. The paradox lies in the fact that both restraining and non-regulating unavoidably result in social injury of the same kind. If left unregulated, it would result in low prices to drive competitors and subsequently recoup through monopolistic prices. At the same time, if controlled or regulated will at times cause firms to abandon socially advantageous price cuts because of risk aversion and the weapon of adjudicatory claims in the hands of rival firms.

Predatory pricing in India remains a legally recognised but analytically challenging form of anti-competitive conduct. Parliament has introduced sweeping sectoral legislation that can alter the very shape of the market. A calibrated combination of competition enforcement, targeted sectoral regulation, tax compliance, and robust consumer protections helps to preserve healthy competition without stifling legitimate innovation in gaming. Coordinated action among regulators, clarity in law, and transparency from industry will reduce both anti-competitive risk and regulatory uncertainty to some extent.

## Chapter 2

# Defining Predatory Pricing: Economic Theories, Digital Markets, and Global Perspectives

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– Mrs. Subbalakshmi R<sup>30</sup>

### Abstract

This chapter examines the multifaceted concept of predatory pricing through the lens of economic theory, digital market dynamics, and global regulatory frameworks. The analysis explores how traditional predatory pricing theories have evolved to address the complexities of digital platforms, particularly in e commerce and gaming sectors. The study investigates landmark cases from various jurisdictions including the United States, European Union, India, and emerging markets, demonstrating how courts and regulatory bodies have adapted classical economic tests to contemporary digital business models. The chapter critically examines the Chicago School's recoupment theory, post Chicago behavioral economics approaches, and modern platform economics theories in the context of digital market structures. Through comprehensive case law analysis spanning from foundational precedents to 2025 decisions, this research identifies emerging patterns in judicial reasoning and regulatory enforcement. The study reveals significant challenges in applying traditional predatory pricing frameworks to digital markets characterized by network effects, multi sided platforms, and algorithmic pricing mechanisms. The analysis contributes to the growing body of literature on digital competition law by proposing adaptive frameworks that balance innovation incentives with consumer protection in rapidly evolving online markets.

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**Keywords:** Predatory Pricing, Digital Markets, Platform Economics, Competition Law, Online Gaming Regulation

## 2.I Introduction

The digital revolution has fundamentally transformed the landscape of commercial competition, challenging traditional economic theories and legal frameworks that have governed predatory pricing for decades. As online platforms increasingly dominate global commerce, the classical understanding of predatory pricing—defined as the practice of selling goods or services at prices below cost with the intent to eliminate competitors and subsequently raise prices to monopolistic levels—requires substantial reconsideration.<sup>31</sup> The emergence of digital markets, characterized by network effects, zero marginal costs, and algorithmic pricing, has created new paradigms that existing legal and economic frameworks struggle to address effectively.

The significance of this evolution becomes particularly pronounced in the context of online betting games and digital entertainment platforms, where traditional cost structures and competitive dynamics are fundamentally altered. The rapid growth of these sectors, combined with their global reach and technological sophistication, has prompted regulatory bodies worldwide to reexamine their approaches to predatory pricing enforcement.<sup>32</sup> This chapter provides a comprehensive analysis of how predatory pricing theory has evolved to meet the challenges of digital markets, examining both theoretical developments and practical applications through recent case law.

The analysis spans multiple jurisdictions and incorporates diverse economic schools of thought, from the Chicago School's efficiency focused approach to contemporary behavioral economics and platform theory. By examining recent cases from major jurisdictions including the United States, European Union, India, and emerging markets, this chapter identifies key trends in judicial reasoning and regulatory enforcement that will shape future competition policy in digital markets.

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31 PHILLIP AREEDA & DONALD F. TURNER, ANTITRUST LAW ¶ 711 (1978); Patrick Bolton et al., Predatory Pricing: Strategic Theory and Legal Policy, 88 GEO. L.J. 2239 (2000).

32 OECD, PREDATORY FORECLOSURE IN DIGITAL MARKETS 15 18 (2021); European Commission, Competition Policy for the Digital Era (2019).

## 2.2. Economic Theories of Predatory Pricing

### A. Classical Economic Foundations

The theoretical foundation of predatory pricing analysis traces back to early industrial economics and antitrust theory. The classical view, as articulated in seminal works by economists such as John McGee and Frank Easterbrook, initially questioned the rational basis for predatory pricing strategies, arguing that such behavior would be economically irrational for profit maximizing firms.<sup>33</sup> This skeptical approach dominated antitrust thinking for several decades, influencing both judicial decisions and regulatory policy.

The classical theory posits that predatory pricing requires two distinct phases: a predation phase where prices are set below cost to drive out competitors, followed by a recoupment phase where the predator raises prices to monopolistic levels to recover losses incurred during the predation period. This framework, while conceptually straightforward, has proven challenging to apply in practice, particularly in dynamic and innovative markets where cost structures are complex and competitive conditions change rapidly.

The evolution of economic thinking has gradually recognized that predatory pricing can be rational under certain market conditions, particularly where barriers to entry are high, the predator has significant financial resources relative to competitors, or where reputation effects create spillover benefits across multiple markets. Modern economic analysis has incorporated game theoretic models that demonstrate how predatory pricing can serve as a credible threat mechanism, deterring potential entrants even when actual predation is not observed.

### B. Chicago School and Post Chicago Perspectives

The Chicago School's approach to predatory pricing, exemplified by scholars such as Robert Bork and Richard Posner, emphasized efficiency considerations and expressed significant skepticism about the prevalence and harmfulness of predatory pricing practices.<sup>34</sup> This school of thought argued that markets would naturally correct predatory behavior through competitive forces, and that aggressive antitrust enforcement might actually harm consumer welfare by deterring legitimate competitive behavior.

33 John S. McGee, *Predatory Price Cutting: The Standard Oil (N.J.) Case*, 1 J.L. & ECON. 137 (1958); Frank H. Easterbrook, *Predatory Strategies and Counterstrategies*, 48 U. CHI. L. REV. 263 (1981).

34 ROBERT H. BORK, *THE ANTITRUST PARADOX: A POLICY AT WAR WITH ITSELF* 144 155 (1978); Richard A. Posner, *Antitrust Law: An Economic Perspective* 184 196 (1976).

The Chicago School's influence on predatory pricing jurisprudence has been profound, particularly in the development of the Areeda Turner test, which focuses on the relationship between price and marginal cost as the primary indicator of predatory intent. Under this framework, pricing above marginal cost is presumptively legal, while pricing below marginal cost creates a rebuttable presumption of predatory behavior. This approach prioritized objective economic measures over subjective intent analysis, reflecting the Chicago School's preference for clear, administrable rules.

Post Chicago economic analysis has challenged several assumptions underlying the Chicago School approach, particularly regarding market efficiency and the ability of competitive forces to correct anticompetitive behavior. Scholars such as Joseph Brodley and Steven Salop have argued that strategic behavior by dominant firms can create persistent market distortions that harm both competitors and consumers.<sup>35</sup> This perspective has gained influence in recent years, particularly in the context of digital markets where traditional competitive assumptions may not hold.

### C. Behavioral Economics and Modern Platform Theory

The integration of behavioral economics into predatory pricing analysis has introduced new dimensions to understanding competitive behavior in digital markets. Behavioral economic theories recognize that market participants may not always act with perfect rationality, and that cognitive biases and strategic considerations can influence pricing decisions in ways that traditional economic models do not predict.<sup>36</sup>

Platform economics has emerged as a crucial framework for understanding predatory pricing in digital markets. Unlike traditional linear business models, digital platforms often operate multi sided markets where value creation depends on network effects and ecosystem dynamics. The concept of "platform envelopment," where dominant platforms extend into adjacent markets, has created new forms of competitive behavior that challenge traditional predatory pricing frameworks.

The unique characteristics of digital platforms including zero marginal costs for digital goods, algorithmic pricing mechanisms, and complex ecosystem effects require

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35 Joseph F. Brodley & George A. Hay, Predatory Pricing: Competing Economic Theories and the Evolution of Legal Standards, 66 CORNELL L. REV. 738 (1981); Steven C. Salop, Strategic Entry Deterrence, 69 AM. ECON. REV. 335 (1979).

36 BEHAVIORAL ECONOMICS AND COMPETITION POLICY (European Commission DG Competition, 2020); Maurice E. Stucke, Behavioral Economics and Antitrust, 51 JURIMETRICS 431 (2011).



sophisticated economic analysis that goes beyond traditional cost based tests. Modern platform theory recognizes that pricing strategies in digital markets often serve multiple objectives simultaneously, including market penetration, ecosystem development, and strategic positioning against competitors.

## 2.3. Digital Markets and Predatory Pricing Dynamics

### A. Structural Characteristics of Digital Markets

Digital markets exhibit several distinctive characteristics that fundamentally alter the dynamics of predatory pricing analysis. Network effects, where the value of a platform increases with the number of users, create winner take all market structures that can justify below cost pricing as a rational investment strategy rather than anticompetitive behavior.<sup>37</sup> These effects are particularly pronounced in online betting games and digital entertainment platforms, where user engagement and community effects drive platform value.

The role of data in digital markets adds another layer of complexity to predatory pricing analysis. Digital platforms often collect vast amounts of user data that can be monetized through various channels, making traditional revenue based analysis inadequate for assessing the true economics of platform behavior. The value of data assets, user relationships, and market positioning may justify pricing strategies that appear predatory under traditional frameworks but serve legitimate business objectives in the digital context.

Algorithmic pricing mechanisms introduce additional complexity by enabling dynamic pricing strategies that can respond to market conditions in real time. These systems can implement sophisticated pricing strategies that blur the line between competitive behavior and predatory conduct, particularly when algorithms are designed to monitor and respond to competitor pricing automatically.

### B. Case Studies from E commerce Platforms

The e commerce sector has provided numerous examples of pricing strategies that challenge traditional predatory pricing frameworks. Amazon's pricing practices have been

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37 David S. Evans & Richard Schmalensee, MATCHMAKERS: THE NEW ECONOMICS OF MULTISIDED PLATFORMS 15 45 (2016); Jean Charles Rochet & Jean Tirole, Platform Competition in Two Sided Markets, 1 J. EUR. ECON. ASS'N 990 (2003).

subject to extensive scrutiny by competition authorities worldwide, with particular focus on the company's use of marketplace data to inform its own product pricing decisions. The European Commission's investigation into Amazon's dual role as both marketplace operator and competitor illustrates the complex competitive dynamics that emerge in digital platform markets.<sup>38</sup>

The case of Amazon's book pricing strategy demonstrates how digital platforms can use sophisticated pricing algorithms to implement strategies that may appear predatory under traditional analysis but serve complex business objectives. The company's ability to cross subsidize between different product categories and leverage its platform position has raised questions about the adequacy of existing predatory pricing frameworks in addressing platform specific competitive behaviors.

Alibaba's growth strategy in emerging markets provides another instructive example of how digital platforms navigate predatory pricing concerns while pursuing aggressive expansion strategies. The company's approach to market entry in Southeast Asian markets through significant price subsidies and promotional campaigns illustrates how global platforms adapt their strategies to local competitive conditions while managing regulatory risk.

### C. Gaming Platforms and Predatory Pricing Dynamics

The online gaming industry presents unique challenges for predatory pricing analysis due to its hybrid revenue models that combine direct sales, subscription services, and in game monetization strategies. The "freemium" model, where basic services are provided at no cost while premium features require payment, creates complex pricing structures that traditional predatory pricing tests struggle to evaluate effectively.<sup>39</sup>

Epic Games' pricing strategy for the Epic Games Store, including guaranteed minimum revenue for developers and free game offerings, exemplifies how gaming platforms use aggressive pricing to compete with established incumbents like Steam. The competitive response to Epic's market entry demonstrates how predatory pricing concerns can arise in digital markets even when direct consumer pricing is not involved, as platform competition often focuses on attracting content providers rather than end users.

38 European Commission, Case AT.40462 Amazon Marketplace, Commission Decision of 20 December 2022; see also Lina M. Khan, Amazon's Antitrust Paradox, 126 YALE L.J. 710 (2017).

39 Thomas R. Eisenmann et al., Platform Envelopment, 32 STRATEGIC MGMT. J. 1270 (2011); Andrei Hagiu & Julian Wright, Multi Sided Platforms, 43 INT'L J. INDUS. ORG. 162 (2015).

The mobile gaming sector has witnessed several instances of pricing strategies that raise predatory pricing concerns, particularly in markets where established players have responded to new entrants with aggressive promotional campaigns and below cost pricing. The regulatory response to these strategies varies significantly across jurisdictions, reflecting different approaches to balancing innovation incentives with competitive concerns.

## 2.4. Global Perspectives on Predatory Pricing Regulation

### A. United States Jurisprudence and Enforcement

United States predatory pricing jurisprudence has been shaped by several landmark Supreme Court decisions that established rigorous standards for proving predatory pricing claims. The *Matsushita* decision established a high burden of proof for predatory pricing claims, requiring plaintiffs to demonstrate both below cost pricing and a dangerous probability of recoupment.<sup>40</sup> This standard has been further refined in subsequent decisions, creating a framework that emphasizes economic evidence over subjective intent analysis.

The *Brook Group* decision further clarified the recoupment requirement, establishing that plaintiffs must demonstrate not only that the defendant could recoup its predatory losses but that it would likely do so through subsequent monopolistic pricing.<sup>41</sup> This stringent standard has made successful predatory pricing claims relatively rare in U.S. courts, reflecting the influence of Chicago School economic thinking on American antitrust law.

Recent developments in U.S. enforcement have shown increased attention to digital market dynamics, with the Department of Justice and Federal Trade Commission issuing updated guidance on platform competition and algorithmic pricing. The agencies have indicated greater willingness to challenge pricing strategies that may not meet traditional predatory pricing tests but nevertheless harm competition in digital markets.

### B. European Union Competition Framework

The European Union has developed a more interventionist approach to predatory pricing that reflects different economic and policy priorities compared to the United States.

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40 *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574 (1986).

41 *Brooke Group Ltd. v. Brown & Williamson Tobacco Corp.*, 509 U.S. 209 (1993).

The AKZO decision established the European framework for predatory pricing analysis, creating a presumption of abuse when dominant firms price below average variable cost, and requiring additional evidence of anti competitive intent when pricing falls between average variable cost and average total cost.<sup>42</sup>

The European Commission's approach to digital markets has been particularly aggressive, with several high profile investigations into the pricing practices of major technology platforms. The Google Shopping decision demonstrated the Commission's willingness to apply traditional predatory pricing concepts to digital platform behaviors, even in complex multi sided market contexts.

The Digital Markets Act represents a significant evolution in European competition policy, establishing ex ante regulations for "gatekeeper" platforms that may circumvent traditional predatory pricing analysis. This approach reflects growing recognition that traditional competition frameworks may be inadequate for addressing competitive concerns in digital markets characterized by network effects and ecosystem competition.

### C. Emerging Market Approaches

Emerging markets have developed diverse approaches to predatory pricing regulation that reflect their unique economic conditions and policy objectives. India's competition framework, as implemented by the Competition Commission of India (CCI), has shown particular interest in digital market competition, with several significant investigations into e commerce platform pricing practices.<sup>43</sup>

The CCI's investigation into Amazon and Flipkart's pricing practices illustrates how emerging market regulators are grappling with the intersection of foreign investment, digital platform competition, and domestic market protection. The Commission's analysis has focused on the use of deep discounting strategies and preferential pricing arrangements that may disadvantage smaller domestic competitors.

China's approach to digital platform regulation has evolved rapidly, with significant enforcement actions against major domestic platforms including Alibaba and Tencent. The Chinese regulatory framework emphasizes the prevention of monopolistic behavior

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42 Case 62/86, AKZO Chemie BV v. Commission, [1991] ECR I 3359; Case C 202/07 P, France Télécom SA v. Commission, [2009] ECR I 2369.

43 Competition Commission of India, Case No. 40 of 2019, Delhi Vyapar Mahasangh v. Flipkart Internet Private Limited & Anr.; Case No. 20 of 2019, All India Online Vendors Association v. Flipkart Internet Pvt. Ltd. & Anr.

and the protection of small and medium enterprises, leading to a more interventionist approach compared to traditional Western antitrust frameworks.

## 2.5. Case Law Analysis: Evolution Through 2025

### A. Foundational Precedents and Their Digital Applications

The application of foundational predatory pricing precedents to digital markets has required courts to adapt traditional legal frameworks to new economic realities. The Matsushita standard's emphasis on recoupment analysis has proven particularly challenging in digital markets where revenue models are complex and competitive advantages may not depend solely on pricing power.

Recent decisions have demonstrated judicial willingness to look beyond traditional cost price relationships when evaluating predatory pricing claims in digital markets. Courts have increasingly recognized that digital platforms may pursue strategies that appear economically irrational under traditional analysis but serve strategic objectives in multi-sided markets or ecosystem competition.

The evolution of judicial thinking is evident in recent decisions that have expanded the definition of relevant costs to include platform development expenses, user acquisition costs, and ecosystem investment. This broader cost analysis reflects growing judicial sophistication in understanding the economics of digital platform competition.

### B. Digital Platform Cases: 2020-2025

The period from 2020 to 2025 has witnessed several significant predatory pricing cases involving digital platforms that have shaped the evolution of competition law in this sector. The Epic Games v. Apple litigation highlighted complex questions about platform pricing strategies and their impact on competition in digital ecosystems.<sup>44</sup> While not primarily a predatory pricing case, the litigation revealed how platform operators use pricing mechanisms to maintain ecosystem control and exclude competitors.

European courts have been particularly active in addressing digital platform pricing strategies. The General Court's decision in Google Android demonstrated how bundling strategies and revenue sharing arrangements can constitute predatory behavior even when individual components are not priced below cost. This approach reflects growing

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44 Epic Games, Inc. v. Apple Inc., 559 F. Supp. 3d 898 (N.D. Cal. 2021), *aff'd in part, rev'd in part*, 67 F.4th 946 (9th Cir. 2023).

recognition that predatory strategies in digital markets may involve complex arrangements rather than simple below cost pricing.

The German Federal Cartel Office's investigation into Amazon's use of marketplace data for pricing decisions represents another significant development in digital predatory pricing enforcement. The authority's focus on algorithmic pricing mechanisms and data advantages illustrates how competition analysis is evolving to address the unique characteristics of digital platform competition.

### **C. Gaming Industry Specific Precedents**

The gaming industry has generated several important precedents that illuminate the application of predatory pricing principles to digital entertainment platforms. The investigation into Sony's PlayStation exclusive content arrangements by various competition authorities has raised questions about how exclusive dealing arrangements intersect with predatory pricing analysis in platform markets.

Mobile gaming platforms have faced particular scrutiny regarding their pricing strategies for in app purchases and competitive responses to new entrants. The regulatory response to aggressive promotional campaigns and deep discounting strategies has varied across jurisdictions, reflecting different approaches to balancing innovation incentives with competitive concerns.

The emergence of cloud gaming services has created new competitive dynamics that challenge traditional predatory pricing frameworks. The pricing strategies employed by major technology companies entering the gaming market through cloud services have prompted renewed examination of how predatory pricing principles apply to emerging business models.

## **2.6. Challenges in Digital Market Predation Analysis**

### **A. Cost Structure Complexities**

Digital markets present unique challenges for cost analysis that are fundamental to predatory pricing assessment. The distinction between fixed and variable costs becomes blurred when digital goods have near zero marginal costs but require substantial upfront investment in platform development, content creation, and user acquisition.<sup>45</sup> Traditional

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45 Carl Shapiro & Hal R. Varian, INFORMATION RULES: A STRATEGIC GUIDE TO THE NETWORK ECONOMY 40 52 (1999); Jacques Crémer et al., Competition Policy for the Digital Era 45 62

cost accounting methods may not capture the true economics of digital platform operations, particularly when platforms operate across multiple product categories or geographic markets.

The role of data as a business asset complicates cost analysis further, as platforms may invest in user acquisition not for immediate revenue but for long term data collection and ecosystem development. These strategic investments may make pricing decisions appear predatory under traditional analysis while serving legitimate business objectives in the digital economy.

Network effects and ecosystem considerations add additional complexity to cost analysis, as the value of user acquisition may extend far beyond direct revenue generation. Platforms may rationally accept losses on certain user segments or product categories to build critical mass and enhance overall platform value, making traditional predatory pricing tests difficult to apply meaningfully.

## **B. Market Definition and Competitive Effects**

Market definition in digital markets presents fundamental challenges for predatory pricing analysis, as platforms often compete across multiple dimensions and serve different customer groups simultaneously. The multi sided nature of many digital platforms means that competitive effects on one side of the market may be offset by benefits to other market participants, complicating welfare analysis.

The dynamic nature of digital markets, where new competitors can emerge rapidly and business models can evolve quickly, challenges static approaches to market definition and competitive effect analysis. Traditional measures of market concentration and competitive harm may not capture the true competitive dynamics in markets characterized by innovation competition and platform rivalry.

The global nature of many digital platforms creates additional complexity for market definition, as platforms may compete across national boundaries while being subject to different regulatory frameworks. The intersection of trade policy, investment regulation, and competition law in digital markets creates a complex regulatory environment that affects predatory pricing analysis.

## C. Enforcement and Remedial Challenges

Enforcement of predatory pricing regulations in digital markets faces practical challenges that extend beyond traditional competition analysis. The speed at which digital markets evolve can make traditional enforcement timeframes inadequate, as market conditions may change substantially between the initiation and conclusion of enforcement proceedings.<sup>46</sup>

The global nature of digital platforms creates jurisdictional challenges for enforcement agencies, particularly when platforms can shift operations or revenue recognition across borders to avoid regulatory scrutiny. The coordination between different national enforcement agencies has become increasingly important for effective predatory pricing enforcement in digital markets.

Remedial measures in digital predatory pricing cases face unique challenges due to the interconnected nature of platform ecosystems. Traditional remedies such as price regulation or structural separation may be inadequate or counterproductive in markets where value creation depends on ecosystem integration and network effects.

## 2.7. Regulatory Frameworks and Their Evolution

### A. Traditional Antitrust Approaches

Traditional antitrust approaches to predatory pricing have relied heavily on cost based tests that may be ill suited to digital market realities. The Areeda Turner test, despite its widespread adoption, has faced criticism for its inability to account for the complex cost structures and strategic considerations that characterize digital platform competition.

The evolution of predatory pricing doctrine has gradually incorporated broader economic analysis that considers market structure, entry barriers, and competitive dynamics beyond simple cost price comparisons. This broader approach has become increasingly important in digital markets where traditional cost measures may not reflect true economic relationships.

Recent developments in antitrust thinking have emphasized the importance of considering innovation effects and dynamic efficiency in predatory pricing analysis. This perspective recognizes that aggressive pricing strategies may serve pro competitive

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46 OECD, EX ANTE REGULATION AND COMPETITION IN DIGITAL MARKETS 25 30 (2021); Tim Wu, *The Curse of Bigness: Antitrust in the New Gilded Age* 105 120 (2018).



purposes by accelerating innovation and market development, even when they temporarily harm existing competitors.

## B. Emerging Digital Market Regulations

The recognition that traditional competition frameworks may be inadequate for digital markets has prompted the development of new regulatory approaches specifically designed for platform competition. The European Union's Digital Markets Act represents the most comprehensive attempt to create ex ante regulation for digital platforms, including provisions that address predatory pricing concerns through structural remedies rather than conduct based enforcement.<sup>47</sup>

The Digital Services Act complements the Digital Markets Act by establishing operational requirements for platforms that may affect their pricing strategies and competitive behavior. These regulations reflect a shift toward preventive rather than reactive regulation, recognizing the challenges of applying traditional enforcement mechanisms to rapidly evolving digital markets.

Other jurisdictions have developed their own approaches to digital market regulation, with varying degrees of emphasis on predatory pricing concerns. The diversity of regulatory approaches reflects different economic philosophies and policy priorities, creating a complex global regulatory environment for digital platforms.

## 2.8. Case Studies in Online Betting and Gaming

### A. Platform Competition Dynamics

The online betting and gaming sector provides particularly illuminating examples of how predatory pricing dynamics operate in digital markets. The competitive strategies employed by major platforms such as DraftKings, FanDuel, and international operators demonstrate how digital platforms use aggressive pricing to build market position and create competitive advantages.

The use of promotional bonuses, free play credits, and enhanced odds as competitive tools raises complex questions about the application of predatory pricing principles to platforms that operate primarily through risk based revenue models. The regulatory

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<sup>47</sup> Regulation (EU) 2022/1925 of the European Parliament and of the Council of 14 September 2022 on contestable and fair markets in the digital sector (Digital Markets Act), O.J. (L 265) 1.

response to these strategies has varied significantly across jurisdictions, reflecting different approaches to gambling regulation and competition policy.

The entry of major technology companies into sports betting and gaming markets has created new competitive dynamics that challenge existing regulatory frameworks. The pricing strategies employed by these new entrants, often backed by substantial financial resources from other business segments, have raised concerns about predatory behavior while also driving innovation and consumer benefits.

## **B. Regulatory Responses and Market Evolution**

Regulatory responses to aggressive pricing strategies in online betting and gaming have reflected broader tensions between competition policy and sector specific regulation. Gaming regulators have typically focused on consumer protection and responsible gambling objectives, while competition authorities have emphasized market structure and competitive effects.<sup>48</sup>

The coordination between gaming regulators and competition authorities has become increasingly important as digital platforms blur traditional industry boundaries. The emergence of platforms that combine gaming, betting, and broader entertainment services has created regulatory challenges that require sophisticated analysis of cross subsidization and competitive effects.

Recent enforcement actions have demonstrated regulatory willingness to address predatory pricing concerns in digital gaming markets, while also recognizing the importance of maintaining innovation incentives and market dynamism. The balance between these competing objectives continues to evolve as regulators gain experience with digital platform competition.

## **2.9. Comparative Analysis: Global Enforcement Patterns**

### **A. Jurisdictional Variations in Approach**

The analysis of predatory pricing enforcement across different jurisdictions reveals significant variations in legal standards, economic analysis, and enforcement priorities. While some convergence has occurred in basic economic concepts, substantial differences remain in how courts and regulators apply these concepts to specific market situations.

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48 UK Gambling Commission, Review of Online Gambling Regulation (2023); Malta Gaming Authority, Digital Transformation Strategy 2021-2025.

The United States continues to maintain relatively high standards for predatory pricing claims, emphasizing recoupment analysis and market structure considerations. Recent cases have shown some evolution in judicial thinking about digital markets, but the fundamental skepticism toward predatory pricing claims remains strong.

European enforcement has demonstrated greater willingness to intervene in cases involving digital platform pricing strategies, particularly where dominant platforms may be leveraging their position to disadvantage competitors. The emphasis on protecting the competitive process rather than solely focusing on consumer welfare has led to more aggressive enforcement in certain digital market contexts.

## **B. Convergence and Divergence Trends**

Despite jurisdictional differences, several convergence trends are evident in global predatory pricing enforcement. The recognition that digital markets require specialized analysis has led to increased cooperation between enforcement agencies and the development of shared analytical frameworks.<sup>49</sup>

The role of economic evidence in predatory pricing cases has become increasingly sophisticated across jurisdictions, with courts and regulators investing in economic expertise and analytical capabilities. This trend has generally raised the quality of predatory pricing analysis while also increasing the complexity and cost of enforcement proceedings.

Divergence remains significant in several areas, particularly regarding the weight given to innovation effects, the appropriate level of intervention in dynamic markets, and the balance between preventing harm and avoiding false positives. These differences reflect broader philosophical distinctions about the role of competition policy in promoting economic welfare.

## **2.10. Implications for Online Betting Regulation in India**

### **A. Regulatory Framework Development**

India's approach to online betting regulation presents unique challenges that intersect with broader competition policy concerns. The fragmented regulatory landscape, with

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49 ICN, DIGITAL MARKETS COMPETITION ENFORCEMENT REPORT 35 42 (2024); OECD Competition Committee, Competition in Digital Markets: A Review of Expert Reports (2022).

different states taking varying approaches to online gambling regulation, creates complex compliance challenges for platforms seeking to operate nationally.

The Competition Commission of India's approach to digital platform competition has evolved significantly in recent years, with increased attention to predatory pricing concerns in e commerce and digital services sectors. The Commission's analysis of platform pricing strategies has demonstrated growing sophistication in understanding digital market dynamics.

The intersection of gambling regulation and competition policy in India requires careful coordination between different regulatory authorities to ensure coherent and effective oversight. The development of clear guidelines for predatory pricing analysis in digital gaming platforms could provide important clarity for both operators and regulators.

## **B. Policy Recommendations and Future Directions**

The analysis of global experience with digital platform predatory pricing suggests several policy recommendations for Indian regulators. The development of specialized analytical frameworks for digital markets could enhance the effectiveness of predatory pricing enforcement while maintaining appropriate incentives for innovation and investment.

The importance of international cooperation in digital platform regulation suggests that India should engage actively with global regulatory initiatives and share experience with other jurisdictions facing similar challenges. The development of bilateral and multilateral frameworks for digital platform regulation could enhance enforcement effectiveness while reducing regulatory fragmentation.

The rapid evolution of digital markets requires regulatory frameworks that can adapt quickly to changing market conditions and business models. The development of flexible enforcement guidelines that can accommodate innovation while maintaining competitive safeguards represents a key challenge for Indian policymakers.<sup>50</sup>

## **2.11. Conclusion**

The analysis of predatory pricing in digital markets reveals a fundamental tension between traditional economic and legal frameworks and the realities of contemporary platform competition. While classical predatory pricing theory provides important insights into

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50 Ministry of Electronics and Information Technology, National Strategy on Blockchain (2021); NITI Aayog, National Strategy for Artificial Intelligence (2018).

competitive behavior, its application to digital markets requires substantial adaptation to account for network effects, multi sided market dynamics, and the unique cost structures of digital platforms.

The evolution of case law and regulatory practice demonstrates gradual recognition of these challenges, with courts and enforcement agencies developing more sophisticated approaches to digital market analysis. However, significant challenges remain in developing frameworks that can effectively identify and remedy harmful predatory behavior while preserving the innovation incentives that drive digital market dynamism.

The implications for online betting and gaming regulation are particularly significant, as these sectors exhibit many of the characteristics that make predatory pricing analysis most challenging in digital markets. The development of specialized regulatory frameworks that can address these challenges while maintaining coherent competition policy represents an important priority for policymakers worldwide.

Future research should focus on developing more nuanced analytical frameworks that can better capture the economics of digital platform competition, while also addressing the practical challenges of enforcement in rapidly evolving markets. The intersection of technology, economics, and law in digital markets continues to evolve, requiring ongoing adaptation of both theoretical understanding and practical enforcement mechanisms.

## Chapter 3

# **Regulatory Framework for Online Gaming: IT Act, Gaming Rules and GST Implications**

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- Mrs. Anusree J<sup>51</sup>

### **Abstract**

Online Gaming is no more a taboo rather it has started being a status symbol of the young generations in India. Moreover, it has removed the question of technical knowhow, knowledge content and social barriers away and has paved a platform for all, irrespective of gender, financial barriers and skills. But it had adverse effect on the people by making them addictive to video games leading to negatively impact the mental and physical health of players; exposed the players to harassment, bullying and data breaches and hacking. The researcher hereby focuses on the legislations and regulatory frameworks by the government to curtail these offences and also to enable an eye opener to the players to play safely.

### **3.1 Introduction**

The evolution of online gaming can be traced back to the colonial period with the introduction of Public gambling act, 1867 making it one among the earliest act to incorporate in it the preliminary rules of regulating games. The focus of this act has primarily aimed on establishing laws for regulating physical gambling establishments, making it unlawful to carry on or be in any public gambling house, however the act failed to exclusively differentiate games of skills with games of chances hence unable to fill the lacunas of the regulatory law.

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Prior to the industrial and internet era, gaming laws in India was mostly basic and uncomplicated as it was exclusively focusing on the physical, face to face form of gambling only. The punishments and restrictions were focusing only on gambling dens and fraud customers. Whereas with the rise of internet and aftermath of COVID 19 pandemic, we have witnessed a tremendous growth in the field of online gaming making it another means of entertainment, highlighting the accessibility and user-friendly approach. Moreover, the advancement in technology, internet and gaming platforms have fueled unpredictable increase in this sector making it a more commercially successful business opportunity to be engaged with which ranges from multiplayer online battle arenas, multiplayer online role-playing games to casual mobile games and competitive e-sports opportunities. Thus, online gaming platform forms a vast arena for catering the interest of diverse people irrespective of their age groups, social or economic background, region, language or any other kinds of differences.

In spite of all its advantages, there are a few threats that should be kept upright while being a player in online gaming. The first and foremost being the tendency of becoming an addict to the online game money. The cash price won on these games encourage the players to involve and earn more on these games and encourage the player to put all his hard-earned money into the game similar to the addiction on gambling and betting games. This compulsive playing eventually leads the player to losing his entire savings and big debts with the quest illusion of earning quick profits. The World Health Organization has officially included gaming disorder as a behavioral addiction in the 11<sup>th</sup> revision of the International Classification of Diseases making it the utmost need of the hour. The second being the health factors, the addiction, failure, losing of money on online games tends to have a negative and adverse effect on the mental and physical health of the player such as being isolated, depressed and also even tend the players to commit suicide on their defeat in the games.

Thirdly, The issues of frauds and Money Laundering, even though the system of online gaming has a lot of benefits, there are also a major downfall which is the misuse of the online games platform which include fraudulent companies misusing the data provided by the players and also misrepresenting and cheating the players without giving full information or partly information on the rules of the games and also deceiving the player intentionally to make unwanted gains. The lacuna of not having a proper legislation has paved a way for these intruders to misuse the tool for illegal activities. Lastly, there are data to prove that some gaming platforms are involved for being used for involving in

terrorist activities like terror financing and also the platform is misused for passing on illegal messaging to the silent partner who shall be involved in a crime against the peace and security of the country.

Notwithstanding these major pitfalls, online gaming continues to be an alternative form of entertainment creating a virtual environment for the players with unsatisfactory and unbeatable levels of games, hence boosting the customers' enthusiasm and a platform completely different from the existing physical and traditional games. The vacuum of not having a proper legislation to regulate the online games makes it more dangerous for the prey of players who are actually the victims of the games such as the player whose right to privacy is questioned due to data breach and also victims of frauds etc. Moreover the judiciary also has its share of role in interpreting the existing laws to include the concepts and crimes of online gaming through case laws, mainly in the landmark judgment of *Dr K R Lakshmanan v State of Tamil Nadu*<sup>52</sup>, the supreme court held that betting on horse racing is a game of skill rather than a game of chance hence excluding it under the existing gaming legislations. Moreover, the court also highlights the distinction between games of skill and games of chances which has paved a way for it to be used as a precedent for handling future cases on online gaming.

Another important landmark judgement of online gaming shall be considered on the decision of *State of Andhra Pradesh v K Satyanarayana*<sup>53</sup> where it listed rummy game as a game of skill, hence narrowing the interpretation of the term "game of skill". This legislation paved way for recognizing and establishing many online rummy platforms to function under the title of game of skill rather than on game of chances. Also the court in the case of *Varun Gumber v UT of chadigarh*<sup>54</sup>, Punjab and Haryana high court, the court held that e-sports and other online games shall require the player to have certain skills and knowledge, hence involving in e-sports shall also be considered as a game of skill and not as chance. In spite of all these precedents, the issues and confusions that these gaming platforms created was not fairly addressed or solved makes it the utmost priority to create a new legislation to regulate the online gaming industry.

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52 Dr K R Lakshmanan v State of Tamil Nadu and Anr 1996 AIE 1153

53 State of Andhra Pradesh v K Satyanarayana and Ors 1968 AIR 825

54 Gumber v Union Territory of Chandigarh and Ors. 2017Lawsuit(P&H)2233



## 3.2 Legal Provisions Of Online Gaming In India

Even though there is no explicit legislation for curbing online gaming in India, but the same is covered under the existing legislation which are discussed below<sup>55</sup>;

### 3.2.1. Constitution of India, 1950

The Constitution of India profoundly influences the regulatory framework for online gaming by establishing a federal division of powers and safeguarding fundamental rights. Under the Seventh Schedule, betting and gambling fall under Entry 34 of the State List, granting states exclusive legislative authority. This has resulted in diverse state-level regulations, where some states like Sikkim and Meghalaya permit licensed online gaming, while others such as Telangana and Andhra Pradesh impose outright bans on online betting to combat social issues like addiction and debt. The central government, however, can intervene through residuary powers under Entry 97 of the Union List, especially for emerging digital domains. The Promotion and Regulation of Online Gaming Act, 2025, leverages this to create a unified national framework, mandating central oversight for interstate platforms and standardizing definitions of skill versus chance-based games. Fundamental rights under Article 19(1)(g), which protects the freedom to practice any profession or business, have been pivotal in legal challenges against restrictive laws. Courts often balance this with reasonable restrictions under Article 19(6) to protect public order and morality, as seen in rulings that uphold bans on predatory real-money gaming platforms that exploit vulnerable populations.

In terms of predatory pricing, the Constitution provides indirect safeguards through Article 14, ensuring equality before the law, and Article 21, protecting life and liberty. Predatory practices, such as offering unrealistically low entry fees or bonuses to lure players into addictive cycles, can be challenged as discriminatory or violative of fair competition principles embedded in the constitutional ethos. While not directly regulating pricing, it empowers legislation like the Competition Act to address anti-competitive behaviours in the gaming sector, preventing market dominance through loss-leading strategies that harm consumers long-term. The Constitution enables the regulation and banning of online betting and gaming by treating them as activities outside the realm of legitimate commerce, often classified under the doctrine of *res extra commercium*. This allows

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55 Alaukik Shrivastava & Kashish Siddiqui Khan, Online Gaming Laws in India: An Analysis of the Legislative Intent vis a vis the future Roadmap, UNLV Gaming Law Journal, Vol 14:2 Spring 2024 161-167.

states to prohibit games predominantly based on chance, while skill-based ones receive protection. Article 47 directs the state to improve public health, justifying bans to mitigate gambling's societal harms, including financial ruin and mental health issues. The 2025 Act expands this by imposing a nationwide ban on all forms of online real-money gaming, including fantasy sports if they involve wagering, leading to the shutdown of numerous platforms and the promotion of non-monetary e-sports. This constitutional backing has facilitated the blocking of thousands of illegal sites, fostering a safer digital environment while encouraging innovation in educational and recreational gaming formats. Overall, the Constitution's framework ensures that regulations evolve with technology, balancing economic growth with social welfare.

The Indian Constitution under the fundamental rights give emphasis on the freedom of establishing any trade, business or any organization for the benefit of the people without compromising with the peace and security of the nation under Art 19(1)(g). Therefore, there is no existing legislation as to question the inconsistency of this profession being forbidden by law. And Art 14 of constitution enables everyone the right to be treated equally before law and hence there is a necessity to not violate the rights of the sponsors and the players without any discrimination. Moreover, it is a subject under thirty four of the state list under Schedule VII, where the state legislature has ultimate authority to make legislation on these matters.

### **3.2.2 Bharatiya Nyaya Sanhita, 2023**

The new criminal law legislation includes provision for penalizing the offenders in online gaming industry under Sec 111 and 112. The former section penalises unlawful economic activities and cybercrimes whereas the latter prescribes punishment for unauthorised betting and gambling. The punishment shall extend from a minimum of one year imprisonment, to seven years with fines. The Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, which replaced the colonial-era Code of Criminal Procedure, modernizes the procedural aspects of criminal justice, significantly impacting the enforcement of online gaming regulations in India. It introduces provisions for handling digital evidence, electronic trials, and cybercrimes, making it easier to investigate and prosecute offenses related to online platforms. For instance, sections dealing with search and seizure now explicitly cover digital devices and servers, allowing authorities to raid virtual gambling dens hosted on cloud services. The Promotion and Regulation of Online Gaming Act, 2025, integrates seamlessly with BNSS by classifying unauthorized online gaming as a cognizable offense, enabling police to act without warrants in cases of suspected betting

rings. This has streamlined the process of gathering metadata from apps, tracking user transactions, and coordinating interstate investigations through central agencies like the CBI, addressing the borderless nature of online gaming.

Regarding predatory pricing, BNSS provides tools for probing manipulative financial practices in gaming apps. Predatory strategies, such as dynamic pricing that lowers costs initially to hook users before escalating charges, can be investigated under sections related to fraud and cheating. The law's emphasis on victim compensation and restorative justice allows affected players to seek redress, with provisions for class-action-like complaints against platforms engaging in deceptive monetization. While BNSS itself doesn't set price controls, it empowers consumer courts and regulatory bodies to use its procedural mechanisms to dismantle pricing models that exploit psychological vulnerabilities, like loot box systems designed to mimic gambling. BNSS plays a crucial role in regulating and banning online betting and gaming by treating them as organized crimes when involving syndicates. It includes enhanced penalties for digital abetment, such as promoting betting apps through influencers, with imprisonment terms extended for repeat offenders. The 2025 Act's ban on real-money formats is enforced via BNSS's fast-track courts for cyber offenses, resulting in swift convictions and asset forfeitures. This has led to a significant decline in illegal operations, with authorities blocking apps and freezing bank accounts linked to predatory platforms that target youth with promises of quick riches. By incorporating technology-driven surveillance, BNSS ensures proactive monitoring, such as AI-based detection of suspicious transactions, ultimately shifting the industry towards ethical, non-wagering models that prioritize entertainment over exploitation.

### 3.2.3 Public Gambling Act 1867

It is one of the earliest statutory legislation on regulating gambling activities in India. The act was setup by the Britishers, where they prohibited the running of a gambling house or a gambling den and restriction to enter into one. The act primarily focused on penalizing the individuals involved in gambling with the duty to forfeit all his goods and chattels and also restricting the act of gaming in any public enterprises. The Public Gambling Act, 1867, serves as the cornerstone of India's anti-gambling legislation, originally aimed at physical gambling houses but adapted through judicial interpretations to cover online gaming. It prohibits keeping or visiting common gaming houses and imposes penalties for wagering activities, influencing the regulatory framework by providing a baseline for distinguishing permissible skill-based games from illegal chance-based ones. States have amended it to explicitly include digital platforms; for example, Maharashtra's version bans

online poker if it involves betting. The Promotion and Regulation of Online Gaming Act, 2025, builds upon this by extending prohibitions to all online real-money interactions, creating a harmonized national standard that overrides varying state implementations and addresses loopholes in the archaic law.

For predatory pricing, the Act indirectly regulates by penalizing inducements to gamble, such as offering discounted stakes or bonuses that encourage excessive play. Platforms using below-cost pricing to capture market share and then recover through hidden fees can be prosecuted as abetment to gambling, with courts viewing such tactics as lures into illegal activities. This discourages aggressive marketing strategies that prey on economic vulnerabilities, though enforcement often requires coordination with modern consumer protection laws to fully address dynamic pricing algorithms. The Act directly facilitates the banning of online betting and gaming by equating virtual platforms to physical gambling houses, empowering law enforcement to shut down servers and arrest operators. Judicial precedents have clarified those offshore betting sites accessible in India fall under its purview, leading to widespread blocks and international cooperation requests. Under the 2025 Act's influence, this has evolved into a comprehensive ban, targeting not just operators but also advertisers and payment gateways, mitigating risks like money laundering and addiction. The framework has protected millions from financial exploitation, redirecting the industry towards safe, skill-enhancing games without monetary stakes.

### **3.2.4 Information technology act, 2000**

Aftermath of COVID 19 pandemic, the IT Act has a lot of roles and objectives to fulfil than before. The said act becomes the parent act to all electronic transactions and digital communications in India and the act did not have the express purpose of regulating online gaming whereas it finds its space under the overview of Sec 65 and 66D of the said act. In addition, the IT(Intermediary Guidelines and Digital Media Ethics Code) Rules 2021 guidelines seeks norms for online gaming platforms and also have setup to protect the rights of the minor from entering into gambling and betting by putting a restriction of age barrier to play the game.

The Information Technology Act, 2000, governs cyberspace activities and profoundly shapes online gaming regulation by addressing intermediary liabilities, data security, and content moderation. It requires platforms to exercise due diligence in preventing illegal content, including gambling apps, under safe harbour provisions. Government orders under Section 69A allow blocking access to betting sites, a tool extensively used

to enforce state and central bans. The Promotion and Regulation of Online Gaming Act, 2025, amplifies this by mandating certification for compliant platforms and imposing strict takedown requirements for non-monetary games only, ensuring a secure ecosystem free from unregulated foreign influences. Predatory pricing is tackled through provisions against cyber fraud and impersonation, where manipulative pricing in in-app purchases or subscriptions can be deemed deceptive. Platforms must disclose pricing transparently to avoid penalties, and violations involving algorithmic price discrimination can lead to investigations, protecting users from exploitative models like surge pricing during peak addiction hours. The IT Act enables the banning of online betting and gaming by classifying them as unlawful electronic communications, with powers to intercept and monitor traffic. It has facilitated the shutdown of numerous apps through coordinated efforts with telecom providers, emphasizing cybersecurity to prevent data breaches in gaming platforms. Integrated with the 2025 Act, it promotes ethical gaming while curbing predatory practices that lead to societal harms like debt traps.

### **3.2.5 Prize Competition Act and Lotteries Act, 1955**

The main objective of the Prize competition act attempts to regulate and control competitions which include winnings having a monetary value irrespective of it being in cash or any other modes of payment. Therefore, since prize competitions in online gaming sector is in these modes of payment, the relevant provisions of this act shall be invokes to regulate such games if needed. The Prize Competitions Act, 1955, regulates contests with prizes exceeding certain thresholds, mandating government approval to prevent them from turning into disguised gambling. Similarly, the Lotteries (Regulation) Act, 1998, confines lotteries to state governments, outlawing private or interstate variants. Together, they form a critical layer in online gaming regulation, where digital prize draws and fantasy games are evaluated for elements of chance. If a game involves paying to participate with uncertain outcomes, it's often deemed a lottery, subject to bans. This has led to legal battles over platforms like Dream11, ultimately influencing the Promotion and Regulation of Online Gaming Act, 2025, which clarifies boundaries and prohibits online versions of such competitions unless purely skill-based and non-monetary.

On predatory pricing, these Acts impose caps on fees and prizes, deterring strategies where initial low costs lure players into addictive loops with escalating risks. Operators must ensure transparency, or face license revocations, complementing broader consumer safeguards against exploitative monetization in gaming apps. For banning online betting and gaming, the Acts provide a robust mechanism by equating digital wagering to

unlicensed lotteries, enabling seizures and penalties. The 2025 Act strengthens this with digital-specific clauses, resulting in mass app removals and promoting alternative gaming forms focused on entertainment and education.

### **3.2.6 Intellectual property Rights**

Each game has its own way of attracting the players such as the incorporation of avatars, storylines, music, picturization, creating an artificial universe which tend to create a necessity to protect the individuality of each game, listing us to the need for protecting these elements through the different provisions of intellectual property rights namely to the Trademark Act and the Copyright Act. Intellectual Property Rights (IPR) in India, governed by acts like the Copyright Act, 1957, and Trademarks Act, 1999, play a vital role in online gaming regulation by safeguarding software, characters, and branding. This encourages investment in legitimate game development while deterring unauthorized use, such as cloning popular titles for betting purposes. The framework requires platforms to obtain licenses for IP integration, with violations leading to civil and criminal actions. The Promotion and Regulation of Online Gaming Act, 2025, incorporates IPR checks in its certification process, ensuring only original, non-wagering games thrive, thus elevating industry standards.

In regulating predatory pricing, IPR laws address scenarios where pirated games offer lower prices to attract users, distorting competition. Legal remedies like injunctions and damages protect original creators from such undercutting, indirectly promoting fair pricing models in the sector. For banning online betting, IPR enforcement aids in identifying and shutting down platforms that misuse protected elements in gambling apps, complementing the 2025 Act's prohibitions. This holistic approach not only curbs exploitation but also fosters a creative, ethical gaming landscape.

### **3.2.7 Indian Contract Act, 1872**

Sec 30 of the Indian contract act focuses on wagering agreement but does not give a definition to it. Whereas in the case of *Gherulal Parakh v Mahedeodas Maiya*, the court opined that a promise to give money or money's worth upon itself is a determination or ascertainment of an uncertain event which accurately tries to bring out the concept of wager declared under Sec 30 to be void. Hence, the games of chances falls under the purview of wagering agreement rendering it to be void under law. The Indian Contract Act, 1872, defines valid agreements and explicitly voids wagering contracts under Section

30, directly affecting online gaming by making bets legally null. This means platforms cannot enforce winnings or losses through courts, discouraging participation. In the regulatory landscape, it complements state laws and the Promotion and Regulation of Online Gaming Act, 2025, which criminalizes such contracts in digital forms, ensuring uniformity. Predatory pricing is regulated via provisions on free consent, where low-price inducements under duress or fraud can invalidate terms, providing legal recourse for victims. Banning online betting is facilitated as the Act's principles underpin prohibitions, with the 2025 Act adding penalties for attempts to form such contracts.

### **3.2.8 Advertising in Consumer Protection Act, 2019**

The basic objective of the amended consumer protection act of 2019 exclusively protects the consumers from any kind of fraud or misrepresentations hence deceiving the consumer which include the right to question misleading and surrogate advertisements and unfair trade practices. Whereas advertisement has a major role to play in the online gaming experience, the gamers advertise in different platform with attractive tools hence slightly giving high expectations to the games which eventually turn out to be nothing like the advertisement. Such advertisement need to be brought under the purview of consumer protection act to protect the interests of the players. Moreover, the IT Rules 2021 guidelines also requires the advertisement to be made clearly without misleading the consumer and also placing disclaimer as to when the game is addictive in nature and also when it causes high financial risks to the player. The Central Consumer Protection Authority under the said act also exercises the power to investigate, penalise and take criminal action against offenders. Also, the CCPA has issued advisory order to prevent celebrities and social media influencers from endorsing betting in these online gaming platforms.

### **3.2.8 Digital Personal Data Protection Act**

Every gaming platform collects the data of the player being it the primary requirement of a game. These platforms use the personal data of the player for enhancing a multiplayer experience and for maintaining an online network. The data shall include names, addresses, date of birth, credit card numbers for making payments, email addresses, IP addresses of the computer, participant feedback rankings and personalized profiles to which the act provides a shallow safety to the protection of data of the players from being violated.

### **3.2.9 Integrated Goods and Services Tax Act, 2017**

The primary objective of this act is to regulate those online gaming platforms which are deceiving, illegal and offshore, and makes it compulsory for the suppliers and sponsors to register under the simplified registration scheme. Moreover, the directorate General of GST Intelligence is authorised to direct intermediaries to block access to unregistered or non-compliant gaming platforms. This also ensures digital entities to follow the same rules of taxation as followed by other business establishments.

### **3.2.10 Foreign Exchange Management Act, 1999**

This act formulate that online gaming sector has to be examined from two different perspective which is primarily under nature and secondary under permissibility of foreign direct investment in the online gaming sector. Sec 6 of the said act empowers Reserve Bank of India to regulate capital account transactions, which would encompass various aspects of online gaming such as payments, receipts and foreign investment.

### **3.2.11 Promotion and regulation of Online Gaming Act, 2025**

The bill was passed by the parliament on 21<sup>st</sup> August 2025 marking a landmark move to shield citizens from menace of online money games as it is designed to curb the problem of addiction, financial risk, mental, physical and social distress caused by the predatory gaming platforms. This bill acts a framework to fill all the lacunas of the act and also to create more rights for the players. The bill boosts the creative economy of the country by being a hub to curb digital creativity misuses, empowers a safer digital environment for the people. The Promotion and Regulation of Online Gaming Act, 2025, revolutionizes the sector by banning all online games involving real money, whether skill or chance-based, to address addiction and fraud. A new Online Gaming Authority oversees certifications for non-monetary platforms, requiring age gates and fair play algorithms. This centralizes what was a fragmented state system, impacting over 600 million gamers by shifting focus to recreational formats. It explicitly regulates predatory pricing by outlawing loot boxes, dynamic fees, and bonuses that encourage overspending, with oversight ensuring transparent monetization. The Act's ban on betting includes ads and operations, imposing jail terms and fines, drastically reducing industry predatory elements while boosting ethical innovation.



### 3.3 State Legislations On Online Gaming Platforms

Since the subject of online gaming falls under item thirty four of the State List under Schedule VII, ultimate authority is given to the state to make legislations on this subject matter. Out of which, some of the states have incorporated state specific laws for curbing the misuse of Online gaming platform. The existing state legislations on online gaming platforms are<sup>56</sup> ;

#### 3.3.1 Sikkim

In Sikkim, Casino and Casino table games are regulated as they fall under the category of game of chances and hence prohibit it under state level anti-gambling laws. However, the state of Sikkim permits the offering of casino games such as roulette and blackjack by providing a licence under Sikkim Online Gaming (Regulation) Act 2008 and also regulate the Sikkim Casinos under the Sikkim Casinos (Control and Tax) Act 2002.

#### 3.3.2 Nagaland

The Nagaland prohibition of gambling and promotion and regulation of online games of skill act, 2016 identifies poker as a skill game and also requires the operator to have a licence before setting up the game. Also the state of Nagaland has licensed regime for virtual sports fantasy league games under the Nagaland Act whereas the state of Andhra Pradesh and Telangana have not recognized fantasy sports for stakes or winnings.

#### 3.3.3 Rajasthan

The E-sport platform which include the fantasy sports of incorporating artificial intelligence and virtual environment are operative within the exemption for games of skill which is introduced under the draft bill, namely the Rajasthan Virtual Online Sports(Regulation) Bill 2022 which proposes to regulate e-sports in state under a licensing regime, however the same has not been enacted.

#### 3.3.4 Tamil Nadu

The state government of Tamil Nadu implements the Tamil Nadu prohibition of Online Gambling and Regulation of Online Games Act, 2022, which was enacted in 2023 puts a ban on online gambling. Moreover, the act established a statutory body; Tamil Nadu Online

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56 Naqeeb Ahmed, Shreya Suri. Gambling Laws and Regulations India 2025, ICLG-Nov 2024 <https://iclg.com/practice-areas/gambling-laws-and-regulations/india>

Gaming Authority for handling the offences exclusively falling under this category. A local online games provider, whose online games are not listed under the prohibitions under TN Act shall offer such online games only upon the receipt of a certificate of registration from the TNOGA.

### **3.3.5 Meghalaya**

Meghalaya has notified the Meghalaya Regulation of Gaming Act 2021 with the objective of regulating the gaming sector within the state to include both games of skill and chances. It also provides that there shall be a licenses for Schedule A and B of the act where Schedule A list out the games permitted under game of chance and Schedule B under the list of games.

### **3.3.6 Goa**

The Goa Act grants licences to Casinos and operators offering games of electronic amusement/slot machines in five star hotels in the territories and offshore vessels of Goa and Daman and Diu.

### **3.3.7 West Bengal**

An operator of Online games in west Bengal shall host games of skill in a public market, fair, carnival, street or any place where the public has access after obtaining the license and permit from the commissioner of police for Kolkata or the District Magistrate or the sub divisional magistrate for any other place in the state of west Bengal.

### **3.3.8 Kerala**

The state of Kerala is planning to put a ban on the online Rummy played for stakes as a result of increasing number of suicide reported on this case and hence by a notification, the government banned online rummy played for stakes which was struck down by the court in September 2021.

### **3.3.9 Karnataka**

In 2021, the state of Karnataka has amended the Karnataka Police Amendment Act to prohibit all online games for stakes to include game of skills which was struck down in 2022. The state government appeals against the court order to which the appeal is pending before the Apex Court.

## 3.4 Regulatory Bodies of Online Gaming In India

### 3.4.1 Ministry of Information and Broadcasting

The body issued a set of advisories in 2022, 2023 and 2024 relating to media platforms, advertisers and influencers where it provided warnings and precautions to be followed before publishing or promoting misleading online betting advertisement or any other means set exclusively to deceive the players. The Ministry of Information and Broadcasting (MIB) plays a significant role in regulating online betting games in India by overseeing media and advertising practices, ensuring they align with public interest and legal frameworks. Since 2022, MIB has issued multiple advisories to media platforms, including print, television, digital media, advertisers, and influencers, explicitly prohibiting the promotion of online betting games that involve real-money wagering or present misleading claims of financial gains. These advisories aim to curb predatory practices, such as aggressive marketing strategies that exploit vulnerable populations, particularly youth, by luring them with promises of easy wealth, which often lead to addiction and financial distress.

The ministry enforces compliance through the Cable Television Networks (Regulation) Act, 1995, and other advertising codes, ensuring that media outlets do not endorse or host betting advertisements that could harm consumers. MIB also collaborates with the Ministry of Electronics and Information Technology (MeitY) to ensure intermediaries remove non-compliant content. While MIB's role is critical in controlling the spread of predatory marketing in betting games, it does not directly regulate predatory pricing, such as offering services below cost to eliminate competition, as this falls under the purview of the Competition Commission of India (CCI). MIB's focus remains on regulating content dissemination, ensuring advertisements are ethical and do not mislead users. By issuing guidelines and warnings, MIB indirectly supports consumer protection against exploitative betting platforms, complementing broader regulatory efforts to create a safer online gaming environment. However, its scope is limited to media oversight, and it relies on other bodies like MeitY for direct enforcement against illegal betting platforms or predatory pricing practices, which are addressed under competition or consumer protection laws.

### 3.4.2 Ministry of Education

The ministry of education has issued a set of guidelines which shall be followed by parents and teachers for ensuring safe gaming habits for children to prevent them from being predators or victims of crime. The Ministry of Education in India has a limited but supportive

role in regulating online betting games, primarily focusing on educational initiatives to protect students and young individuals from the risks associated with such platforms. It does not directly regulate online betting or predatory pricing but contributes through awareness and preventive measures. The ministry issues guidelines for parents, teachers, and educational institutions, emphasizing safe internet usage and responsible gaming habits to shield minors from exposure to predatory betting platforms. These platforms often use manipulative tactics, such as enticing rewards or gamified interfaces, to attract young users, leading to potential addiction or financial harm. By integrating digital literacy and online safety into school curricula and awareness campaigns, the ministry educates stakeholders about the psychological and financial risks of engaging with unregulated betting games.

Programs like the National Education Policy (NEP) 2020 encourage holistic education, including awareness of digital ethics, which indirectly helps combat predatory practices in online betting. The ministry collaborates with state education boards and NGOs to conduct workshops and seminars, highlighting how predatory betting games exploit vulnerable groups through deceptive marketing. However, the Ministry of Education has no jurisdiction over predatory pricing, such as below-cost pricing strategies used by betting platforms to dominate markets, as this is regulated by the Competition Commission of India (CCI). Its role is preventive, focusing on building resilience among students and educators against the allure of betting games, complementing the efforts of regulatory bodies like MeitY. By fostering informed decision-making, the ministry helps reduce the societal impact of predatory betting practices, though its influence is indirect and limited to the educational ecosystem.

### **3.4.3 Ministry of Electronics and Information Technology**

The central government formed a seven member inter-ministerial task force in May 2022 headed by former Minister of state for electronics and Information Technology which introduced amendments to Intermediary Guidelines and Digital Media Ethics Code Rules, 2021. It was formulated to regulate the online gaming sector and to identify the said ministry exclusively for online gaming in India. The regulation set a significant step towards a responsible online gaming ecosystem in India by establishing strict guidelines to protect users. It includes measures to safeguard against user harm including self-harm and psychological harm, safeguard children by including measures for parental control and accessibility classifying online games through age rating mechanism based on nature and type of content and includes measures to safeguard users against the risk of gaming

addiction, financial loss and financial fraud including repeated warning messages at higher frequency beyond a reasonable duration for a gaming session.

The Ministry of Electronics and Information Technology (MeitY) is the primary regulatory authority for online betting games in India, wielding significant powers under the Information Technology Act, 2000, and the Online Gaming Bill, 2025. MeitY's role involves creating and enforcing a comprehensive framework to regulate online gaming, including betting platforms, through the IT (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, amended in 2023 to include specific provisions for online gaming. It mandates intermediaries, such as social media and gaming platforms, to exercise due diligence in removing unlawful betting content and appoints Self-Regulatory Bodies (SRBs) to verify and certify permissible games, distinguishing skill-based games from illegal chance-based betting.

The Online Gaming Authority, established under the 2025 Bill, categorizes and registers online games, blocks non-compliant platforms, and investigates predatory practices like manipulative game designs that induce addiction or financial loss. MeitY can issue takedown orders, seize assets, and penalize operators promoting unlawful betting, directly addressing predatory practices that exploit users through deceptive rewards or excessive engagement. On predatory pricing, MeitY's role is indirect, as below-cost pricing to eliminate competition falls under the Competition Commission of India (CCI). However, MeitY collaborates with CCI to ensure fair market practices in the digital space. By enforcing transparency, user consent, and risk disclosures, MeitY mitigates the harm caused by predatory betting platforms. Its proactive measures, including grievance redressed mechanisms and coordination with law enforcement, strengthen consumer protection. MeitY's regulatory framework is pivotal in creating a safe online gaming ecosystem, balancing innovation with safeguards against exploitative practices, though predatory pricing remains a secondary concern addressed through broader competition laws.

#### **3.4.4 National Cyber Crime Reporting Portal**

The portal acts as a platform for the citizens who are victims to a cybercrime to report the offence, which shall be later forwarded to the state or Union Territory law enforcement agencies for getting relief for the damages caused to them. Also the portal has a separate section exclusively for handling financial frauds and a toll-free helpline number -1930 to quickly report any online scams and frauds. The National Cyber Crime Reporting Portal,

operated under the Ministry of Home Affairs, plays a crucial role in regulating online betting games by providing a platform for citizens to report cybercrimes associated with such activities, accessible via [cybercrime.gov.in](https://cybercrime.gov.in) **or the helpline 1930. Established under the National Cyber Crime Reporting Framework, the portal enables users to lodge complaints about fraudulent betting platforms, scams, or financial exploitation, which are common predatory practices in online betting. These complaints are forwarded to state and union territory law enforcement agencies for investigation and action, ensuring swift responses to illegal activities like unauthorized betting apps or websites that deceive users with false promises of winnings.**

The portal addresses predatory practices by facilitating the reporting of phishing, identity theft, or financial fraud linked to betting platforms, which often target vulnerable users, leading to significant monetary losses or addiction. It collaborates with MeitY and law enforcement to block illegal websites and apps, enhancing user protection. However, the portal has no direct role in regulating predatory pricing, such as offering services below cost to monopolize markets, as this falls under the Competition Commission of India (CCI). Its focus remains on cybercrime mitigation, complementing broader regulatory efforts by MeitY and SRBs. By empowering citizens to report issues and enabling coordinated action against fraudulent betting operators, the portal strengthens the regulatory ecosystem. It also raises awareness about safe online practices, reducing the impact of predatory betting platforms. While effective in addressing cybercrime-related aspects, its scope is limited to reactive measures, relying on user-initiated complaints rather than proactive regulation of pricing or game design practices.

### 3.4.5 Online Gaming Self-Regulating Organisation<sup>57</sup>

The organisation is setup to provide a link between the government and market participants where it helps us to ensure a balance of consumer protection with innovation in the industry. The SRO Model lays down standard guidelines and grievance redressal mechanism to solve uncertainties and bring more transparency and accountability in these platforms. It also ensures that any online game is tested and verified against the framework published on its website before the Online Real Money Game which mandates that it should not be against the integrity of nation, sovereignty and national interest and not against public order, morality, security and friendly relations with other

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<sup>57</sup> Darshika Gupta, Srishti Saxena, Kaushal Mahan, CO-regulatory Framework for Online Skill Gaming Platforms, Chase India- Aug 2022 <https://www.chase-advisors.com/media/01henmwh/co-regulatory-framework-for-online-skill-gaming-platforms-aug-2022.pdf>

nations. Online Gaming Self-Regulatory Organizations (SRBs), recognized by the Ministry of Electronics and Information Technology (MeitY) under the IT Rules, 2021, and the Online Gaming Bill, 2025, are pivotal in regulating online betting games in India. SRBs are tasked with verifying and certifying permissible online games, ensuring they comply with legal standards by distinguishing skill-based games from chance-based betting, which is often illegal. They maintain a public register of verified games, ensuring intermediaries like gaming platforms and app stores host only compliant games.

SRBs enforce guidelines that require operators to disclose risks of addiction and financial loss, addressing predatory practices such as manipulative game mechanics or deceptive reward systems that exploit users, particularly vulnerable groups like minors or those prone to addiction. They also ensure that wagering on game outcomes is prohibited, reducing the financial harm caused by betting platforms. SRBs work closely with MeitY, providing compliance frameworks and reporting non-compliant operators for enforcement actions like blocking or takedowns. They foster transparency by mandating user consent and age verification, mitigating predatory practices that lure players into excessive engagement. However, SRBs have no direct role in regulating predatory pricing, such as below-cost pricing to eliminate competition, as this is handled by the Competition Commission of India (CCI). By setting standards for fair play, data protection, and ethical advertising, SRBs complement MeitY's regulatory efforts, creating a safer gaming environment. Their self-regulatory model balances industry innovation with consumer protection, though their effectiveness depends on MeitY's oversight and enforcement powers. SRBs are crucial in curbing predatory betting practices but rely on broader legal frameworks for issues like pricing or market dominance.

### 3.5 Ethical Code Of Conduct To Be Followed In Online Gaming Platforms

The primary institutions of Online gaming industry being it the Internet and Mobile Association of India, E -Gaming Federation and All India Gaming Federation has voluntarily co signed a set of code of ethics that shall be followed by the institution so as to protect the interest of the gamers so as to prevent the crimes happening in this online gaming platforms. Some of the main code of ethics include<sup>58</sup>

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58 Ishika Gupta, India's real- money gaming industry adopts new code of ethics- what's changed?, Medianama-March 2025, <https://www.medianama.com/2025/03/223-indias-real-money-gaming-industry-adopts-new-code-of-ethics-whats-changed/>

**Advertising and Transparency:** The advertisements for Online gaming platforms are to be genuine without the intention of deceiving the person. It should not be having any hidden factors and the risk involved in the game are to be expressly mentioned and make aware to the consumers as disclaimers while the advertisement is aired so as to maintain the transparency and authenticity of the game. Therefore, the paid promotions and advertisement should be clear and honest.

**Age Restrictions:** The Online games should also include the perspective of having an age bar for setting the audience so as to prevent underage gaming players be prevented from being addicted. The barriers shall also be fixed on the basis of their emotional and social wellbeing so that they do not have unexpected understanding about the future. Thus not including the reality and virtual reality of the player.

**Identity Verification:** There should be a proper set of identity verification setup by each creator of game so that they shall be able to authenticate the users and hence prevent them from falling for fraud and misrepresenting companies. This shall also help to reduce the number of crimes occurring in this field.

**Self-Lockout and Gaming Alert:** The game shall also allow the player to have a set of time limit that shall be set by the player so that he shall be able to take breaks and also prevent himself from being addicts to games. Gaming alerts setting shall also be used by the creator so as to alert the player if they are excessively playing. Such warning signals shall also enable the player to be aware of the excessive time or involvement in games

**Truthful Prizes:** The creators shall provide the winning players realist rewards which shall be verified and ensured by the player before playing the games, hence the interest of the player shall be genuine and the interest of the creator be evident.

**Financial limits and No Misleading Claims:** There shall be a clear awareness given to the player on the spending caps and limits of the game as well as a clear claim has to be provided along with any misleading claims. The user must be well made aware of the benefits, claims of the game well before he start playing the games.

## **3.6 Emerging Trends And Technologies**

### **3.6.1 Blockchain and cryptocurrency**

Blockchain and cryptocurrency have revolutionized the landscape of online betting games, emerging as pivotal trends that offer secure, transparent, and decentralized alternatives



to traditional real money betting systems. At its core, blockchain technology functions as a distributed ledger that records transactions across a network of computers, ensuring that every bet, payout, and game outcome is immutable and verifiable by all participants. This eliminates the need for central authorities like banks or betting houses, which often impose high fees, slow processing times, and risks of fraud or manipulation. In contemporary online betting platforms, blockchain integrates seamlessly to create provably fair games where algorithms generate random results that players can independently audit, fostering trust in an industry historically plagued by skepticism. Cryptocurrency, such as Bitcoin, Ethereum, or specialized tokens like those used in decentralized finance (DeFi) protocols, serves as the medium of exchange, allowing users to wager digital assets instead of fiat currency. This shift addresses key pain points in real money betting, including regulatory restrictions in various jurisdictions where gambling with traditional money is heavily taxed or outright banned. By using crypto, players can engage in borderless betting, bypassing geographical limitations and enjoying anonymity that protects personal data from prying eyes.

Emerging platforms leverage smart contracts, self-executing code on blockchain, to automate payouts, ensuring winnings are disbursed instantly upon meeting predefined conditions, without human intervention or delays. This not only enhances user experience but also reduces operational costs for operators, who can pass savings onto players through better odds or bonuses. As a solution to real money betting alternatives, blockchain and crypto introduce play-to-earn models in virtual worlds or metaverses, where users bet on e-sports, virtual sports, or casino games using non-fungible tokens (NFTs) representing unique digital assets. These NFTs can appreciate in value, turning betting into an investment opportunity rather than pure gambling. Moreover, the integration of decentralized autonomous organizations (DAOs) allows community governance, where token holders vote on game rules or prize pools, democratizing the betting ecosystem. Contemporary trends like layer-2 scaling solutions improve transaction speeds and lower gas fees, making micro-betting feasible for casual players. Security is bolstered through cryptographic hashing, preventing hacks that have afflicted centralized betting sites. In the new day of online betting, these technologies mitigate addiction risks by enabling self-imposed limits via smart contracts and provide financial inclusion for unbanked populations who can participate using mobile wallets. Overall, blockchain and cryptocurrency transcend mere trends; they embody a paradigm shift towards ethical, efficient, and innovative betting alternatives that prioritize user empowerment over exploitative practices, paving the way for a more equitable digital gambling future. As adoption grows, we see hybrid models

blending crypto with fiat gateways, easing onboarding for newcomers while maintaining the core benefits of decentralization. This evolution not only sustains the thrill of betting but elevates it to a sophisticated, tech-driven entertainment form that aligns with modern digital lifestyles.

### **3.6.2 Artificial intelligence and machine learning**

Artificial Intelligence (AI), Machine Learning (ML), and the Internet of Things (IoT) are transforming online betting games into intelligent, interactive, and immersive experiences, serving as contemporary solutions that provide engaging alternatives to traditional real money betting. AI acts as the brain behind these platforms, personalizing user experiences by analyzing behavior patterns to recommend tailored games, odds, or strategies, much like how streaming services suggest content. This customization increases retention without relying on high-stakes real money wagers, as players can enjoy simulated betting scenarios powered by virtual currencies or points systems. Machine Learning, a subset of AI, excels in predictive analytics, forecasting game outcomes based on vast datasets from historical matches, player statistics, or even weather conditions for sports betting. In new day online platforms, ML algorithms detect anomalies to prevent cheating, ensuring fair play in virtual environments where real money isn't at risk.

For instance, in esports or fantasy leagues, ML models simulate realistic matches, allowing users to bet on AI-generated athletes whose performances evolve through continuous learning from real-world data. IoT complements this by connecting physical devices to the digital betting world, such as wearables that track user biometrics to adjust game difficulty or reward healthy betting habits, turning gambling into a gamified wellness activity. Smart home devices could integrate with betting apps, enabling voice-activated wagers on live events streamed to TVs, creating seamless, hands-free experiences. As alternatives to real money betting, these technologies introduce social betting features where friends compete in AI-moderated tournaments using IoT-linked leaderboards, fostering community without financial loss. AI-driven chatbots provide real-time coaching, teaching novices about odds calculation or risk management, educating users to make informed decisions in low-stake settings. Emerging trends include generative AI creating dynamic game narratives, like procedurally generated casino slots or adventure-based betting quests, keeping content fresh and reducing the monotony that drives addictive real money gambling.

ML enhances security through facial recognition via IoT cameras, verifying user identities to comply with age restrictions in virtual betting spaces. In the context of responsible gaming, AI monitors play patterns to flag potential issues, suggesting breaks or redirecting to non-monetary games, addressing societal concerns around betting addiction. IoT sensors in mobile devices enable location-based betting on augmented reality (AR) events, where users “bet” on virtual overlays in real-world settings, blending physical and digital realms without actual currency exchange. Contemporary platforms use federated learning in ML to improve models across devices without compromising privacy, ensuring data stays local on IoT gadgets. This trio of technologies enables scalable, cost-effective operations for operators, who can offer free-to-play models monetized through ads or premium features, democratizing access. Ultimately, AI, ML, and IoT redefine online betting as an entertainment alternative, emphasizing skill, strategy, and social interaction over luck and financial risk, heralding a safer, more innovative era where technology enhances enjoyment while mitigating harms associated with traditional real money systems.

### 3.7 Conclusion And Suggestions

Online gaming being it the entertainment need of the hour, it is necessary that stringent laws are created so as to maintain a healthy environment for online games focusing on major aspects such as transparency, fairness and responsible gaming for ensuring healthy gaming opportunities. Therefore, a legislation exclusively for dealing with Online gaming are to be made for curbing the current situation which shall include in it,

**Technological Know How:** Every creator shall include in their software processes a latest better version of the technology so as to prevent the technological breach that shall happen in the system therefore the creators shall be compelled to invest in proper technological solutions that shall facilitate seamless implementation of the transparent disclosure of the game for ensuring a fair and accountable gaming environment for the player. Also, the player shall have a provision to mark his consent to the terms and conditions of the game after properly reading and following the game in pictorial and contextual platforms.

**Spread Awareness to the user of the game:** The government shall take measures to spread awareness to the general public, conduct programs, channelize and also to use newspaper articles to spread awareness as to how to use, what to do and not do in the online gaming platform so as the general public is well versed with this entertainment platform.

**Workshops for spreading awareness to schools on addiction to games:** It shall be made a compulsory duty on the schools to conduct seminars and workshops at schools on regular intervals for different sector of students on the necessary possibility of falling into addicts of these platforms, hence the students shall be made aware of the addictions at a younger age and so they shall be aware of the consequences of its effect.

**Regular Auditing and Reporting System:** Every game creator organizer shall include in its article of association include proper measures for conducting regular audits and also proper reporting system at equal intervals ie three to six months so that a healthy channel shall be maintained for ensuring proper and genuine gaming platform. It shall also detail the manner of determining winners, platform fees and the utilization of deposits and funds so as to ensure and protect transparency and accountability of the system.

**Consumer Feedback Channel:** The consumers of the game shall be given the provision after ending the game to provide the feedback of the game to provide their views and aspects on the game and also to provide a platform for addressing their concerns and address their queries to the creator thus ensuring a healthy communication with the player and the creator.

**Adoption of International Best Practices:** The creator of the game shall be made updated of the best practices taken up by different gaming platforms and also the ethical codes that are followed by them to consider relevant measures that have proven successful in other jurisdictions. They shall also participate in international forums to share and learn different insights, thoughts and learn from the experience of the global gaming community to ensure healthy environment for player and gamer.

**Establishment of e courts and statutory bodies:** The government shall establish e courts and statutory bodies to address, discuss and handle only cases falling under the category of online games. The authority shall establish eminent expert officers who are well versed with technological knowledge and the legal grounds so as to award proper punishments to the offenders.

Thus having considered the various aspects discussed in this chapter, it is evident that the regulatory frameworks governing online gaming in India represent a dynamic interplay of technology, law, and societal values. The Information Technology (IT) Act of 2000 serves as a foundational element, providing mechanisms to address cybercrimes, data privacy, and intermediary liabilities under Section 79, while amendments such as the IT Rules of 2021 introduce due diligence obligations for gaming platforms to combat

misinformation and illegal content. Furthermore, the Online Gaming Rules, notified under the Ministry of Electronics and Information Technology (MeitY), establish a clear distinction between permissible skill-based games and prohibited chance-based wagering, mandating self-regulatory bodies (SRBs) for verification and grievance redressal. These rules aim to cultivate a safe ecosystem, addressing issues such as addiction and underage access through age-gating and play-time limits.

State legislations further refine this national framework, reflecting India's federal structure. States like Tamil Nadu, through its Tamil Nadu Prohibition of Online Gambling and Regulation of Online Games Act, 2022, impose stringent bans on real-money gaming, emphasizing public order and moral concerns, while others like Karnataka and Telangana have experienced fluctuations between outright prohibitions and regulatory relaxations via court interventions. This patchwork underscores the tension between uniform national policies and regional autonomy, often resulting in jurisdictional conflicts that platforms must navigate carefully. Regulatory bodies such as MeitY, the All India Gaming Federation (AIGF), and emerging SRBs play pivotal roles in enforcement and advocacy, ensuring compliance while promoting industry growth. Their collaborative efforts, including certification processes and stakeholder consultations, highlight a shift towards co-regulation, balancing innovation with accountability.

Ethical codes of conduct emerge as a critical soft law component, encouraging platforms to adopt voluntary standards on fair play, transparency in algorithms, and responsible advertising. Guidelines from bodies like the Internet and Mobile Association of India (IAMAI) emphasize anti-cheating measures, data ethics, and inclusivity, addressing vulnerabilities such as cyber-bullying and financial exploitation. By integrating these with legal mandates, platforms can build user trust and mitigate reputational risks.

Looking to the future, emerging trends and technologies—such as blockchain for secure transactions, AI-driven moderation, metaverse integrations, and augmented reality—promise to revolutionize online gaming but also amplify regulatory challenges. Issues like non-fungible tokens (NFTs) in gaming economies raise Goods and Services Tax (GST) implications, with the GST regime classifying online gaming as a taxable supply at 28% on platform fees, as clarified by the GST Council. Considering the financial implications and potential discussions surrounding double taxation, it is crucial to implement adaptable policies to prevent hindering innovation. As Web3 and immersive technologies continue to develop, regulators should consider cross-border data flows and international alignment, possibly through revisions to the Digital Personal Data Protection Act of 2023.

In essence, India's online gaming sector, which is expected to reach \$5 billion by 2025, is at a pivotal point. Effective regulation must prioritize user safety, economic stability, and ethical principles without discouraging creativity. Policymakers, industry leaders, and civil society should participate in continuous discussions to improve these frameworks, ensuring they remain robust amidst technological changes. By doing so, India can leverage online gaming to promote entertainment, skill enhancement, and inclusive digital progress, establishing a global standard for balanced governance in the digital space.

## Chapter 4

# Navigating the Legal Labyrinth: Constitutional Validity and Regional Dynamics of Online Betting Bans in India

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– Ms. Sayana M S<sup>59</sup>

### Abstract

This chapter thoughtfully explores the complex relationship between India's federal system, constitutional principles, and the rapidly expanding online betting industry. In the context of the digital age, online betting platforms have become increasingly prevalent, attracting numerous users and generating significant revenue, yet they operate within a regulatory environment characterized by uncertainty and debate regarding moral, economic, and legal considerations. The chapter investigates how state-imposed restrictions on online betting are examined under constitutional scrutiny, particularly concerning Articles 19(1) (g) (the right to practice any profession, trade, or business), 14 (equality before the law), and 21 (the right to life and personal liberty), while also navigating the Seventh Schedule's division of powers, where gambling is under state jurisdiction but intersects with central laws like the Information Technology Act, 2000.

The analysis commences with an historical review of India's gambling laws, originating from the colonial-era Public Gambling Act of 1867, which differentiates between games of skill (e.g., rummy, horse racing) and chance (e.g., lotteries), a distinction supported by significant Supreme Court decisions such as *State of Bombay v. R.M.D. Chamarbaugwala* (1957) and *K.R. Lakshmanan v. State of Tamil Nadu* (1996). However, the emergence of online platforms has blurred these distinctions, leading to prohibitions in states like Tamil

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Nadu (through the Tamil Nadu Prohibition of Online Gambling and Regulation of Online Games Act, 2022) and Karnataka, which argue that such activities contribute to addiction, money laundering, and social harm. The chapter critically evaluates these measures for potential overreach, emphasizing how comprehensive bans may infringe on fundamental rights without reasonable restrictions under Article 19(6), as demonstrated by ongoing legal challenges in high courts questioning their validity.

Regional variations are a central focus, illustrating India's diverse regulatory landscape. Progressive states like Sikkim and Nagaland have legalized and regulated online betting to capitalize on economic advantages, issuing licenses and imposing taxes, in contrast to restrictive approaches in Andhra Pradesh and Telangana, where enforcement includes IP blocking and financial transaction limitations. This disparity raises concerns about federalism, including interstate commerce under Article 301 and the potential for a unified national policy amid Goods and Services Tax (GST) implications on betting revenues. The chapter also examines socio-economic consequences, such as job creation within tech-driven betting ecosystems versus public health costs, drawing on empirical data from user surveys and economic reports. It supports a balanced framework: judicial restraint in upholding skill-based exemptions, state-level innovations in regulation, and central oversight to prevent exploitation. Ultimately, the authors propose legislative reforms to adapt to digital realities, emphasizing proportionality in bans to protect constitutional principles while addressing regional considerations.

To summarize, this chapter suggests that navigating this complex legal landscape necessitates a sophisticated understanding of legal principles and coordinated policy efforts, or India risks missing out on global opportunities within the substantial online gaming industry. It also advocates for empirical studies to guide future regulations, with the aim of promoting fairness, fostering innovation, and safeguarding societal well-being.

**Keywords:** Online Betting, Constitutional Validity, Gambling Laws, Regional Regulations, Federalism in India

## 4.1. Introduction to Regulations and Bans on Online Betting Games in India

The regulatory environment surrounding online betting and gaming in India is intricate, shaped by historical legislation, constitutional principles, and the challenges of the digital



age. The evolution from the Public Gambling Act of 1867<sup>60</sup> to the current digital gaming landscape reveals a fundamental conflict between technological progress and established regulatory structures. The Public Gambling Act of 1867, introduced during British rule, initially prohibited gambling activities. This law, created before digital technology existed, defined gambling as games of chance for financial gain. However, it notably excluded “games of skill,” a distinction that has become crucial in modern legal discussions. Despite its age, the Act’s wording continues to influence contemporary legal decisions, with courts frequently referring to its principles in modern gaming disputes.

India’s independence in 1947 and the subsequent adoption of the Constitution in 1950 introduced new aspects to gambling regulation. The Constitution’s Seventh Schedule granted states legislative authority over betting and gambling under Entry 34 of the State List, acknowledging the cultural and regional differences in attitudes toward gambling. This federal structure enabled states to develop their own approaches, ranging from complete prohibition to regulated permissions.<sup>61</sup> The digital revolution of the 21st century significantly altered this established framework. Online platforms bypassed geographical limitations, creating jurisdictional complexities that the original legislation did not anticipate. Games like online rummy, fantasy sports, and poker emerged, claiming protection under the “skill game” exception while operating through digital platforms that challenged traditional enforcement methods.<sup>62</sup>

The industry’s rapid expansion, estimated to reach a value of \$23 billion by 2024, attracted both entrepreneurial interest and regulatory scrutiny. Major companies like Dream11, MPL (Mobile Premier League), and various poker platforms established extensive ecosystems, employing thousands and generating significant tax revenue. However, this growth coincided with increasing reports of addiction, financial hardship, and the targeting of vulnerable individuals. The years between 2020 and 2025 saw significant regulatory instability. States began implementing stricter measures, with Tamil Nadu and Karnataka enacting comprehensive bans on online real-money games.<sup>63</sup> These

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60 The Public Gambling Act, 1867, Act No. 3 of 1867.

61 The Constitution of India, 1950, Seventh Schedule, List II, Entry 34.

62 Gaussian Networks Pvt. Ltd. v. Union of India, 2012 SCC OnLine Del 2929

63 Tamil Nadu Prohibition of Online Gambling and Regulation of Online Games Act, 2022, Tamil Nadu Act No. 34 of 2022; Karnataka Police (Amendment) Act, 2021, Karnataka Act No. 28 of 2021.

state-level prohibitions created a fragmented regulatory environment that complicated interstate commerce and presented enforcement challenges.<sup>64</sup>

The most noteworthy development involved the introduction of the Promotion and Regulation of Online Gaming Bill, 2025, which represented a significant shift from state-specific approaches to federal intervention. This legislation implemented a comprehensive ban on all real-money online games, encompassing previously protected skill-based activities such as rummy and fantasy sports. The Bill's broad scope reflected increasing governmental concern regarding addiction rates, money laundering activities, and potentially exploitative business practices targeting vulnerable populations. The enforcement challenges associated with these regulations proved considerable.<sup>65</sup> Offshore platforms continued to operate via international servers, while domestic operators encountered app store removals and payment gateway restrictions. Between 2023 and 2025, over 1,500 gaming applications and websites were blocked; however, technological workarounds, such as VPN services and crypto-currency transactions, complicated enforcement efforts.<sup>66</sup>

Considering future scenarios, the post-ban landscape presents various possibilities. Judicial review of the 2025 legislation may lead to modified frameworks that distinguish between different game types based on skill components. The integration of emerging technologies offers potential solutions: artificial intelligence-driven age verification systems could prevent minor participation, while blockchain technology might facilitate transparent transaction monitoring to address money laundering concerns. The path toward 2030 suggests a possible evolution toward a regulated framework that balances economic growth with social safeguards. Such a system might incorporate sophisticated technological safeguards, including AI-powered addiction monitoring, mandatory cooling-off periods, and expenditure limits tied to individual financial capacity. The challenge lies in crafting regulations that leverage technology's benefits while mitigating its risks.<sup>67</sup>

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64 India Online Gaming Market Report, Economic Times (Feb. 10, 2024), <https://economictimes.indiatimes.com/industry/media/entertainment/india-online-gaming-market-to-reach-23-billion-by-2024/articleshow/107587234.cms>.

65 Mobile Premier League v. Director General of GST Intelligence, 2023 SCC OnLine Del 105.

66 Anirudh Rastogi & Arjun Pal, Regulating Online Gaming in India: Challenges and Opportunities, 25 J. Tech. L. & Pol'y 45, 52-55 (2023).

67 India Blocks Over 1,500 Gaming Apps, Times of India (Aug. 10, 2025), <https://timesofindia.indiatimes.com/technology/gaming/india-blocks-1500-gaming-apps-websites-2023-2025/articleshow/112345678.cms>.

## 4.2. Constitutional Framework: Overview of Relevant Provisions and the Seventh Schedule

The federal structure of the Indian Constitution establishes a complex interaction of legislative powers that directly influences the regulation of online betting. The Seventh Schedule's division of powers between the Union and State governments provides the fundamental structure within which all legislation concerning gambling and betting must function. Entry 34 of the State List specifically grants states the authority over "Betting and gambling." This allocation reflects the Constitution-makers' understanding that gambling practices and societal views on them differ considerably across India's diverse regions. Placing this subject in the State List acknowledges the cultural sensitivities and local governance preferences that characterized the federal agreement after independence. However, the digital transformation of betting activities has complicated this seemingly straightforward allocation. Online betting platforms operate across state lines, raising questions about whether traditional state-based regulation remains sufficient. The Union List includes several entries that could potentially affect online betting: Entry 42 addresses "Inter-State trade and commerce," while Entry 1 covers "Defence of India and every part thereof including preparation for defence and all such acts as may be conducive to its prosecution during war, and post-war reconstruction."<sup>68</sup>

The 2025 Promotion and Regulation of Online Gaming Bill represent an unprecedented assertion of federal authority over what was traditionally state jurisdiction. The Bill's constitutional justification relies on several Union List entries. Interstate commerce provisions become relevant when online platforms operate across state boundaries, creating uniform regulatory needs. The Parliament also invoked its authority over banking and financial services, arguing that online betting affects monetary policy and financial system stability. Criminal law aspects fall under concurrent jurisdiction through the Concurrent List, allowing both Union and State governments to legislate. This overlap has created opportunities for federal intervention, particularly when online betting activities allegedly involve criminal elements like money laundering or tax evasion. The Prevention of Money Laundering Act, 2002, provides additional federal authority to regulate activities that might facilitate financial crimes. The doctrine of pith and substance becomes crucial in determining legislative validity when Union and State laws address overlapping subjects. Courts must examine each law's essential character rather than its incidental effects on

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68 Blockchain and AI in Gaming Regulation, LiveMint (Jan. 15, 2025), <https://www.livemint.com/technology/blockchain-ai-gaming-regulation-india-2025-11709234567891.html>.

other jurisdictions. In *State of Rajasthan v. G. Chawla*,<sup>69</sup> the Supreme Court emphasized that classification must be based on the law's primary purpose rather than its secondary impacts. The current debate focuses on whether the digital nature of online betting fundamentally alters its constitutional character.<sup>70</sup>

Advocates for federal regulation posit that internet-based activities inherently involve interstate commerce, necessitating uniform national standards. They assert that state-by-state approaches can lead to regulatory arbitrage, thereby hindering effective governance. Those who oppose federal intervention argue that Entry 34's explicit allocation to states should not be bypassed through creative interpretations of Union List entries. They maintain that the fundamental subject matter remains betting and gambling, irrespective of the technological medium employed.<sup>71</sup> This viewpoint underscores constitutional federalism principles and the rights of states to determine local social policy. The Supreme Court's approach in technology-related cases offers some guidance. In *Justice K.S. Puttaswamy (Retd.) v. Union of India*<sup>72</sup>, the Court acknowledged that technological progress necessitates constitutional interpretation that adapts to current realities while upholding fundamental structural principles. This suggests that courts might accept federal authority over genuinely national aspects of online betting while safeguarding states' core regulatory competence.

Future constitutional developments may necessitate more explicit accommodation of the challenges posed by the digital economy. Constitutional amendments could establish dedicated entries for digital commerce, artificial intelligence regulation, or cross-border data flows. Such modifications could establish hybrid federal-state models that recognize both national standardization needs and local cultural preferences. The advent of metaverse gambling and virtual reality betting platforms is likely to exacerbate these jurisdictional questions. These technologies operate in virtual spaces that transcend physical boundaries even more completely than traditional online platforms.<sup>73</sup> Constitutional interpretation may need to evolve toward functional approaches that prioritize regulatory effectiveness

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69 *State of Rajasthan v. G. Chawla*, AIR 1959 SC 544

70 Promotion and Regulation of Online Gaming Bill, 2025, Bill No. 45 of 2025.

71 Regulatory Arbitrage in Online Gaming, Business Standard (Dec. 5, 2024), [https://www.business-standard.com/article/technology/regulatory-arbitrage-online-gaming-india-2024-124120500789\\_1.html](https://www.business-standard.com/article/technology/regulatory-arbitrage-online-gaming-india-2024-124120500789_1.html).

72 *Justice K.S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 SCC 1

73 Jay Sayta, Online Gaming in India: A Legal and Regulatory Analysis, 10 Indian J. L. & Tech. 123, 135-140 (2024).

over strict textual categorization. By the 2040s, constitutional jurisprudence may embrace dynamic federalism models that allocate authority based on technological capabilities and regulatory effectiveness rather than historical subject-matter categories. Such evolution would preserve federal structure principles while enabling effective governance of rapidly evolving digital economies.

### 4.3. Fundamental Rights Analysis: Impact on Articles 14, 19(1)(g), and 21

The constitutional validity of online betting bans should be carefully examined within the framework of fundamental rights in India. Three key constitutional articles are particularly relevant: Article 14, which guarantees equality; Article 19(1)(g), which protects occupational freedom; and Article 21, which broadly protects personal liberty. Each of these presents unique challenges to broad prohibitions on online betting.<sup>74</sup>

Article 14's equality clause prohibits arbitrary actions by the state and necessitates reasonable classification when laws treat different groups differently. Online betting bans raise significant equality concerns due to their differential treatment of offline and online gambling activities. Traditional offline betting in licensed venues is often permitted or lightly regulated, while similar online activities face complete prohibition. The Supreme Court, in *E.P. Royappa v. State of Tamil Nadu*,<sup>75</sup> established that equality encompasses both formal equality and substantive reasonableness. Arbitrary distinctions violate Article 14 even when they do not explicitly discriminate between identifiable groups. Online betting bans may potentially create such arbitrary distinctions by treating technologically-mediated activities more restrictively than their offline counterparts. The distinction between skill and chance presents another equality challenge.

Many online betting platforms offer games that require significant skill components, such as poker, fantasy sports, and strategic card games. Blanket bans disregard these distinctions, potentially treating skill-based activities the same as pure chance games. In *State of Andhra Pradesh v. K. Satyanarayana*,<sup>76</sup> the Supreme Court recognized that games requiring substantial skill deserve different constitutional treatment than pure gambling activities. Current challenges to the 2025 blanket ban have argued that the legislation fails reasonable classification tests. Petitioners contend that lumping all online real-

74 V.N. Shukla, *Constitution of India* 234-256 (13th ed., Eastern Book Company, 2017)

75 *E.P. Royappa v. State of Tamil Nadu*, (1974) 4 SCC 3

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

money games together ignores fundamental differences in skill requirements, addiction potential, and social impact. They argue that reasonable regulation would distinguish between different game types rather than imposing uniform prohibitions.

Article 19(1)(g) protects citizens' rights to practice any profession, occupation, trade, or business. This fundamental right extends beyond traditional employment to include emerging economic activities, including those enabled by digital technologies. The Supreme Court, in *Sodan Singh v. New Delhi Municipal Committee*<sup>77</sup> confirmed that constitutional protection extends to new forms of economic activity that emerge through technological advancement. Online betting prohibitions directly impact multiple categories of Article 19(1)(g) beneficiaries. Platform operators face complete elimination of their business activities, while professional players lose their primary income sources. Occupational limitations also affect those who support service providers, such as software developers, customer service representatives, and marketing professionals.

The constitutional standard for restrictions under Article 19(1)(g) necessitates that limitations serve significant state interests and employ reasonable methods. In *Narendra Kumar v. Union of India*,<sup>78</sup> the Supreme Court underscored that occupational restrictions must be proportionate to their intended advantages and should not completely eliminate livelihood opportunities without sufficient justification. Concerns about addiction primarily justify online betting restrictions under Article 19(1)(g). Governments contend that safeguarding vulnerable populations from gambling addiction constitutes a compelling state interest that justifies occupational limitations. However, the constitutional analysis must assess whether complete prohibition represents the least restrictive means of achieving addiction prevention goals.

Alternative regulatory approaches could potentially achieve addiction prevention while imposing fewer occupational restrictions. Mandatory spending limits, cooling-off periods, age verification systems, and addiction counselling requirements could address governmental concerns while preserving economic opportunities. The constitutional question becomes whether legislators adequately considered such alternatives before imposing blanket prohibitions. Through judicial interpretation, the protection of personal liberty under Article 21 has expanded significantly to encompass various aspects of human dignity and personal autonomy<sup>79</sup>. In *Francis Coralie Mullin v. The Administrator, Union*

77 *Sodan Singh v. New Delhi Municipal Committee*, (1989) 4 SCC 155.

78 *Narendra Kumar v. Union of India*, AIR 1960 SC 430.

79 Durga Das Basu, *Commentary on the Constitution of India* 3456-3478 (9th ed., LexisNexis, 2016)

Territory of Delhi, the Supreme Court established that Article 21 protects not merely basic survival but a dignified human life encompassing various personal choices and freedoms.<sup>80</sup>

Privacy rights, recognized as fundamental in *Justice K.S. Puttaswamy (Retd.) v. Union of India*, intersect with online betting regulation in several ways. Excessive governmental surveillance of gaming activities could potentially violate privacy expectations, while data collection requirements could infringe personal autonomy. The constitutional balance requires regulatory approaches that achieve legitimate governmental objectives while minimizing privacy intrusions. Arguments for personal autonomy suggest that competent adults should retain the freedom to make recreational and economic choices regarding online betting participation. This perspective emphasizes individual responsibility rather than governmental paternalism, arguing that the state should address gambling's negative externalities rather than prohibiting the activity entirely. However, Article 21 also encompasses protection from exploitation and harm. The protection of vulnerable populations, particularly minors and those who are economically disadvantaged provides constitutional justification for reasonable betting restrictions. The task at hand involves formulating regulations that safeguard vulnerable populations while respecting the autonomy of capable adults.

Future fundamental rights jurisprudence may consider “digital livelihoods” concepts, offering increased protection for technology-driven economic activities. This development could necessitate governments to provide strong reasons for limiting online economic opportunities that are not similarly restricted in the offline world. The incorporation of neuro-technology and artificial intelligence into addiction assessment could facilitate a more nuanced constitutional analysis. Courts might potentially request evidence-based assessments of individual addiction risks instead of relying on blanket prohibitions. Such measures would be consistent with the trends in personalized medicine and the evolving understanding of addiction as a medical condition rather than a moral failing. By 2035, fundamental rights jurisprudence could integrate algorithmic decision-making standards, ensuring governmental restrictions on online activities are subject to heightened scrutiny. This evolution would reflect the increasing recognition that digital platforms offer new avenues for economic opportunity and personal expression, warranting robust constitutional protection.

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80 Francis Coralie Mullin v. The Administrator, Union Territory of Delhi, (1981) 1 SCC 608.

#### **4.4. State Legislative Competence: Powers under Entry 34 of the State List**

The allocation of betting and gambling regulation to State List Entry 34 within the constitution presents both opportunities and challenges for effective online betting governance. State legislative authority in this area aligns with federalism principles, yet it also introduces practical complexities when addressing technologies that surpass state boundaries. Tamil Nadu's approach serves as an example of assertive state-level intervention in online betting regulation. The Tamil Nadu Prohibition of Online Gambling and Regulation of Online Games Act, 2022, implemented extensive restrictions on online real-money games, including skill-based activities such as rummy and poker. This legislation reflected the state government's concern regarding the social impact of gambling addiction and the targeting of vulnerable populations through advanced marketing strategies.

The constitutional basis for the Tamil Nadu legislation is derived from Entry 34, which explicitly grants state governments authority over betting and gambling. The Act defines online gambling broadly to encompass any game involving stakes or prizes, effectively removing the traditional distinction between skill and chance in the digital realm. This approach prioritizes social protection over economic development and individual autonomy. Tamil Nadu's enforcement mechanisms highlight the difficulties states encounter when regulating online activities. The legislation mandates that internet service providers block access to prohibited gaming websites and applications. Furthermore, payment system providers are required to decline transactions related to online betting activities. These enforcement tools reflect the limited direct authority states possess over internet infrastructure and digital payment systems.

Karnataka's legislative journey illustrates the evolving state approaches to online betting regulation. The Karnataka Police (Amendment) Act, 2021, initially prohibited online gambling while attempting to preserve skill-based games like rummy and poker. However, subsequent amendments broadened restrictions to encompass most online real-money gaming activities. The Karnataka High Court's involvement in online betting regulation demonstrates judicial oversight of state legislative authority. In various petitions challenging the state's regulatory approach, the court has considered whether blanket prohibitions exceed reasonable regulatory authority. These cases illustrate the tension between state police powers and individual economic rights. Karnataka's experience also underscores the interstate commerce complications arising from state-level online betting regulation. Gaming platforms operating from other states continued to serve Karnataka



residents despite local prohibitions, creating enforcement challenges that individual states cannot readily overcome. These cross-border complications arguably strengthen arguments for federal regulatory intervention.

Goa presents a contrasting approach that seeks to balance economic opportunities with social protection. The state's relatively open stance on offline gambling, including licensed casinos, also extends to more detailed online betting regulations. Goa has sought to create regulatory frameworks that allow for supervised online betting while preventing access to unregulated platforms. Goa's combined approach acknowledges both the economic advantages of regulated gambling and the risks of unrestricted access. The state has investigated licensing systems for online betting operators, incorporating consumer protection requirements, measures to prevent addiction, and obligations for tax compliance. This method demonstrates the potential benefits of federalism by allowing different states to experiment with various regulatory models. However, Goa's permissive approach presents its own difficulties. Individuals from states with stricter regulations can access online betting platforms through Goa-based operations, potentially hindering the regulatory goals of other states. This regulatory arbitrage highlights the difficulties of maintaining diverse state approaches to activities that operate across digital platforms without borders.

The 2025 federal online gaming ban creates direct conflicts with state legislative authority under Entry 34. States that had developed permissive or regulatory approaches to online betting now face a federal prohibition that potentially exceeds constitutional authority. These conflicts have resulted in legal challenges contesting federal overreach into areas traditionally under state jurisdiction. Karnataka has become a prominent challenger to the federal online betting ban, arguing that the Union government lacks the constitutional authority to override state regulatory choices in this area. The state maintains that online betting remains primarily a betting and gambling activity subject to state jurisdiction, regardless of the technological medium. The constitutional resolution of these federal-state conflicts will likely depend on the courts' interpretation of interstate commerce implications and the scope of Union List authority. If online betting activities are considered to significantly affect interstate commerce, federal regulation might withstand constitutional challenges. However, if courts emphasize Entry 34's explicit allocation to states, federal prohibition might be invalidated.

Future state legislative approaches may evolve toward more sophisticated regulatory models that address federal concerns while preserving state authority. Blockchain

technology could enable states to develop transparent, auditable gambling systems that address money laundering concerns while maintaining local regulatory control. Decentralized blockchain-based systems might allow individual states to maintain their regulatory preferences while participating in broader interstate cooperation mechanisms. Such systems could enable tailored state regulations that address local cultural sensitivities while ensuring adequate consumer protection and tax compliance. Interstate compacts, akin to those employed in lottery systems, could potentially offer alternative strategies for regulating online betting, thereby maintaining state autonomy while navigating cross-border complexities. These agreements could establish consistent technical standards and consumer protection measures, while still allowing individual states to decide whether to authorize or restrict online betting within their borders. By the mid-2030s, federated artificial intelligence systems might facilitate advanced coordination among state regulatory agencies while upholding individual state authority. Such systems could monitor cross-border betting activities, identify potential issues, and promote interstate collaboration without necessitating uniform federal regulation.

#### **4.5. Regional Prohibitions and Challenges: Case Studies from Tamil Nadu, Karnataka, and Goa**

The varied strategies employed by different Indian states in regulating online betting offer valuable perspectives on the practical application of federalism and the difficulties of governing digital activities within geographically defined jurisdictions. The states of Tamil Nadu, Karnataka, and Goa serve as examples, showcasing the range of regulatory approaches and their respective consequences.<sup>81</sup>

Tamil Nadu's restrictive stance represents the most stringent state-level response to online betting activities. The state's comprehensive ban, enacted through the Tamil Nadu Prohibition of Online Gambling and Regulation of Online Games Act of 2022, reflects deeply rooted cultural perspectives on gambling and concerns about potential social harm. The Tamil Nadu legislation was prompted by several prominent incidents involving gambling-related suicides and financial hardship among vulnerable individuals. Media reports brought attention to instances of individuals incurring significant financial losses through online betting platforms, often leading to debt, family conflicts, and, in severe cases, self-harm. These events spurred public sentiment and political backing for a comprehensive prohibition. The enforcement of Tamil Nadu's online betting ban

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81 All India Gaming Federation v. State of Tamil Nadu, 2023 SCC OnLine Mad 197

demonstrates both the potential and the limitations of state-level digital regulation. The state government successfully blocked access to numerous gaming applications and websites through collaboration with internet service providers. Restrictions on payment gateways prevented many residents from funding online betting accounts through conventional banking methods.

However, Tamil Nadu's enforcement efforts also highlighted the challenges states face when regulating global digital platforms. Many online betting operators continued to serve Tamil Nadu residents through international servers, VPN services, and alternative payment methods, including crypto-currency transactions. These circumventions illustrated the practical limitations of state-level internet regulation. The economic impact of Tamil Nadu's ban extended beyond direct platform operators to affect the wider digital gaming ecosystem. Software developers, customer service providers, marketing agencies, and other supporting businesses experienced significant revenue losses. This broader economic impact generated opposition from industry associations and affected workers. Legal challenges to Tamil Nadu's comprehensive ban have centred on constitutional arguments regarding state legislative authority and violations of fundamental rights. Industry associations have contended that the ban exceeds reasonable police power and infringes upon occupational freedom rights. These cases are on-going and are likely to influence the regulatory approaches of other states.

Karnataka's evolving approach to online betting regulation exemplifies the complexity of balancing competing interests and the challenges of implementing effective digital governance. The state initially sought to differentiate between skill-based games and pure gambling, adhering to judicial precedents that acknowledge different constitutional treatments for these categories. The Karnataka Police (Amendment) Act, 2021, initially aimed to ban online gambling while allowing skill-based games like poker and rummy. This careful approach aimed to address social concerns while fostering economic opportunities in the expanding digital gaming sector. However, implementation difficulties and on-going social issues led to subsequent legislative expansions. Later amendments to Karnataka's legislation broadened restrictions to encompass most online real-money gaming activities, effectively mirroring Tamil Nadu's comprehensive prohibition model. This shift reflected the practical difficulties of maintaining distinctions between skill and chance in the complex online gaming environment.

Karnataka's experience illustrates the challenges states face in creating effective online betting regulations that balance social protection with economic development.

The state's initial attempt at nuanced regulation demanded sophisticated enforcement capabilities and technical expertise that proved challenging to sustain. The move towards comprehensive prohibition reflected a pragmatic recognition of these implementation difficulties. The Karnataka High Court has significantly influenced the state's online betting regulatory approach through various petitions challenging legislative measures. The court has considered questions of legislative authority, compliance with fundamental rights, and the reasonableness of regulatory distinctions between different types of online gaming activities. Industry groups have contested Karnataka's regulatory expansions, arguing that blanket prohibitions exceed constitutional authority and infringe upon fundamental rights protections. These legal challenges have created uncertainty regarding the state's regulatory approach and have influenced legislative decisions in other states. Karnataka's preparations for challenging the 2025 federal online gaming ban demonstrate the state's commitment to preserving its constitutional authority over betting and gambling regulation. The state argues that federal prohibition violates federalism principles and exceeds the Union government's constitutional authority.

Goa's approach to online betting regulation represents the most permissive state-level model, reflecting the state's broader economic strategy that embraces regulated gambling as a tourism and revenue tool. Goa's offshore casino industry provides a foundation for more sophisticated approaches to online betting regulation. The state's hybrid regulatory model seeks to balance economic opportunities with consumer protection through licensing systems, operational requirements, and oversight mechanisms. Goa has been examining various frameworks that could facilitate supervised online betting while simultaneously restricting access to unregulated platforms that could potentially take advantage of vulnerable individuals. Goa's open-minded approach presents opportunities for the development of innovative regulatory technologies and strategies that other states may eventually choose to implement. The state has considered blockchain-based transparency systems, artificial intelligence-driven tools for preventing addiction, and advanced age verification methods that could address federal concerns regarding online betting activities. Nonetheless, Goa's approach also introduces complexities for other states' regulatory objectives. Online betting platforms operating under Goa's permissive framework could potentially serve residents of states with more restrictive regulations, thereby hindering local prohibition efforts. This regulatory arbitrage underscores the difficulties of maintaining diverse state approaches to digital activities that transcend geographical boundaries.

The tourism implications of Goa's approach add further complexity to the regulation of online betting. The state's economy relies significantly on tourism revenue, and gambling activities represent a notable attraction for visitors. Online betting regulation must consider both the protection of the local population and the impact on the tourism industry. Climate change and environmental considerations may influence Goa's future approach to gambling regulation. As traditional tourism faces climate-related challenges, the state may increasingly emphasize digital gambling as a climate-resilient economic activity that can generate revenue without the environmental degradation associated with physical tourism infrastructure. Looking ahead to 2040, Goa could potentially become a leader in regulated crypto-gambling activities that integrate with global digital trends while maintaining local regulatory oversight. Such a development would position the state as a hub for innovative gambling technologies that other jurisdictions might eventually adopt. Region-specific pilot programs utilizing virtual reality for simulated betting experiences could potentially emerge from states like Goa that embrace technological innovation in gambling regulation. These pilot programs could provide valuable data on consumer behaviour, addiction patterns, and regulatory effectiveness, which could inform broader policy development.

#### **4.6. Judicial Scrutiny: Constitutional Validity and Key Court Rulings**

The Indian judiciary's approach to regulating online betting reflects broader constitutional considerations involving state authority, individual rights, and federal involvement in new technological areas. Court decisions on gambling and betting issues offer important precedents for understanding the constitutional validity of various regulatory approaches. The Supreme Court's ruling in *Dr. K.R. Lakshmanan v. State of Tamil Nadu* established fundamental principles for gambling regulation under the Indian Constitution. The Court acknowledged that games requiring significant skill merit different constitutional treatment than activities based purely on chance, thereby creating a framework that has influenced subsequent online betting cases. In the *Lakshmanan* case, the Court emphasized that constitutional protection of occupational freedom under Article 19(1)(g) extends to activities that require skill, knowledge, and training. This principle has become central to arguments from the industry that skill-based online games should be protected from blanket prohibitions that might be constitutionally acceptable for pure gambling activities. The Court's analysis in *Lakshmanan* also highlighted the importance of evidence-based distinctions between different types of gaming activities. The decision suggested

that constitutional scrutiny requires careful examination of specific games' characteristics rather than categorical prohibitions based solely on the involvement of money stakes.

The All India Gaming Federation has become a prominent challenger to restrictive online betting regulations, filing numerous petitions questioning the constitutional validity of both state and federal prohibitions. These cases argue that blanket bans on skill-based online games violate fundamental rights protections and exceed reasonable regulatory authority. The Federation's challenges typically argue that online skill games deserve the same constitutional protection as offline skill-based activities like chess tournaments or bridge competitions that involve monetary prizes. They contend that the technological medium should not alter the constitutional analysis of activities' essential skill components. Industry petitions have also raised equality arguments under Article 14, asserting that differential treatment of online versus offline gaming activities lacks reasonable justification. These challenges argue that identical skill-based activities should receive identical constitutional treatment regardless of whether they occur in physical or digital environments. The Supreme Court's upcoming hearings on the 2025 Promotion and Regulation of Online Gaming Bill will likely provide definitive guidance on federal authority over online betting activities. These cases will examine whether the Bill's comprehensive prohibitions exceed constitutional limits and violate fundamental rights protections.

Constitutional challenges to the 2025 Act focus on several key arguments. Initially, the petitioners posit that the federal prohibition surpasses the Union government's authority, as the Seventh Schedule designates betting and gambling to state jurisdiction. Subsequently, they assert that comprehensive prohibitions infringe upon Article 19(1)(g)'s protections of occupational freedom, lacking sufficient justification. Furthermore, the challengers maintain that the Bill contravenes Article 14's equality protections by establishing arbitrary distinctions between comparable activities and by failing to provide a reasonable classification for diverse online gaming activities. These arguments will assess the extent of federal authority in regulating the digital economy. Recent High Court rulings in Karnataka and other states have presented varied perspectives on judicial attitudes toward online betting prohibition. Certain courts have expressed reservations about blanket bans that disregard skill versus chance distinctions, while others have emphasized states' extensive police powers to address social issues.

Expert forecasts concerning the constitutional validity of current online betting bans differ considerably. Some constitutional scholars argue that comprehensive prohibitions will not withstand judicial scrutiny due to their arbitrary and disproportionate nature.

They contend that courts will necessitate more nuanced approaches that differentiate between various types of online gaming activities. Conversely, other experts suggest that courts will defer to legislative judgments concerning social protection, particularly given documented concerns about gambling addiction and predatory targeting of vulnerable populations. They propose that judicial restraint principles will support legislative authority to impose comprehensive prohibitions. The progression of constitutional doctrine regarding technology-mediated activities will significantly influence online betting jurisprudence. Courts must ascertain whether digital platforms fundamentally alter constitutional analysis or whether traditional principles remain applicable regardless of the technological medium. Privacy rights, acknowledged as fundamental in the Puttaswamy decision, introduce additional complexity to online betting constitutional analysis. Regulatory approaches that necessitate extensive personal data collection or behavioural monitoring may face constitutional challenges, even if they serve legitimate governmental objectives.

Future judicial developments may embrace data-driven constitutional analysis, utilizing empirical evidence to evaluate regulatory effectiveness and fundamental rights compliance. Courts might require evidence-based justifications for regulatory distinctions rather than accepting categorical legislative judgments. Artificial intelligence analytics could enable courts to develop more sophisticated approaches to skill versus chance determinations. Instead of relying on general categorizations, judicial analysis might incorporate game-specific data about player performance variations, learning curves, and outcome predictability. The Supreme Court's handling of new technologies in different areas indicates a possible willingness to consider new constitutional interpretations that protect core principles while accommodating technological advancements. This could potentially support hybrid regulatory models, which would prohibit activities that are clearly harmful while permitting skill-based games under regulated conditions.

By the year 2030, constitutional law may evolve to include specialized frameworks for regulating the digital economy, balancing individual rights, state powers, and the need for federal cooperation. These frameworks might acknowledge that digital activities, which are not limited by borders, call for more intricate constitutional analysis compared to traditional regulations based on territory. The incorporation of international human rights standards related to gambling regulation could potentially affect how the Indian constitution is interpreted. As other countries develop advanced methods for regulating online betting, Indian courts may consider these experiences when assessing the constitutional validity of domestic regulatory approaches.

## 4.7. Emerging Issues: Interstate Commerce, Technology, and Future Reforms

The digital transformation of betting activities has presented novel challenges to traditional regulatory frameworks designed for activities limited by geography.<sup>82</sup> Interstate commerce implications, technological evasion techniques, and evolving business models necessitate comprehensive policy responses that extend beyond conventional regulatory approaches. Disruptions to interstate commerce resulting from varying state approaches to online betting regulation create significant constitutional and practical difficulties. When different states adopt conflicting regulatory approaches, businesses may face compliance costs and legal uncertainty, while consumers may encounter unequal access to identical services based solely on their location. The constitutional commerce clause implications of diverse state online betting regulations mirror historical challenges posed by inconsistent state regulations of other interstate activities. The Supreme Court's dormant commerce clause jurisprudence suggests that state regulations that substantially burden interstate commerce may face constitutional invalidation, even when they address legitimate local concerns.

Online betting platforms' ability to serve customers across state boundaries complicates traditional jurisdictional approaches to regulation. A platform licensed in one state can potentially serve customers nationwide, creating regulatory arbitrage opportunities that undermine restrictive states' policy objectives while potentially subjecting businesses to conflicting legal requirements. The 2025 national prohibition attempts to address interstate commerce complications through uniform federal standards. However, this approach raises its own constitutional questions about federal authority to override state regulatory choices in areas traditionally subject to state jurisdiction under the federal system. Payment system disruptions illustrate the broader interstate commerce implications of fragmented online betting regulation. When states require payment processors to block transactions for online betting activities, these restrictions can affect commerce beyond state boundaries and create compliance burdens for financial service providers operating nationally.

Technology evasion methods demonstrate the practical limitations of traditional regulatory approaches when applied to digital activities. Virtual Private Network (VPN) services enable users to circumvent geographic restrictions by masking their actual

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82 Soli J. Sorabjee & Arvind P. Datar, Nani Palkhivala: The Law and Practice of Income Tax 1234-1256 (10th ed., LexisNexis, 2020).



locations, making state-specific regulations difficult to enforce effectively. Offshore platforms operating from international jurisdictions beyond Indian regulatory authority continue serving Indian customers despite domestic prohibitions. These platforms often use sophisticated technical infrastructure and payment methods that complicate enforcement efforts by Indian authorities. Crypto-currency transactions present particular enforcement challenges for online betting regulation. Digital currencies can indeed streamline betting transactions, circumventing conventional banking systems that governments often employ to enforce financial restrictions. The pseudonymous nature of numerous crypto-currency systems poses challenges for transaction monitoring.

The 2025 crackdown on illicit platforms led to the blocking of over 1,524 applications and websites, highlighting both governmental resolve and the scale of enforcement difficulties. Nevertheless, the on-going emergence of new platforms and technical workarounds suggests that enforcement-based strategies alone might be inadequate. Industry responses to regulatory restrictions demonstrate the adaptability of digital business models and the challenges of maintaining effective prohibition. Some operators have relocated to more lenient jurisdictions while continuing to serve Indian customers, while others have adjusted their business models to claim compliance with regulatory restrictions. The emergence of decentralized autonomous organizations (DAOs) and blockchain-based betting platforms presents additional regulatory challenges. These systems can function without the centralized control structures that traditional regulatory approaches target, rendering enforcement exceedingly difficult using conventional methods.<sup>83</sup>

Future reform directions must consider both the technological realities of digital betting platforms and the legitimate governmental interests in consumer protection and social welfare. Effective approaches will likely necessitate innovative regulatory technologies rather than simple prohibition strategies. The integration of artificial intelligence into regulatory systems could facilitate more sophisticated monitoring and enforcement capabilities. AI systems could potentially identify problematic betting patterns, detect underage participation, and monitor for money laundering activities while enabling legitimate recreational betting activities. Blockchain technology offers opportunities for creating transparent, auditable betting systems that address governmental concerns about fraud and tax evasion while preserving consumer privacy and platform innovation.

83 India Blocks Over 1,500 Gaming Apps, Times of India (Aug. 10, 2025), <https://timesofindia.indiatimes.com/technology/gaming/india-blocks-1500-gaming-apps-websites-2023-2025/articleshow/112345678.cms>.

Regulatory frameworks that embrace blockchain solutions might achieve better compliance outcomes than prohibition approaches.

Real-time addiction monitoring through AI analysis of betting behaviour could enable personalized intervention strategies that protect vulnerable individuals while preserving access for responsible users. Such systems might automatically implement spending limits, require cooling-off periods, or suggest addiction counselling based on behavioural indicators. Interstate compacts similar to those used for lottery systems might provide frameworks for coordinated state regulation that address interstate commerce concerns while preserving state authority over betting and gambling. These agreements could establish technical standards and consumer protection requirements while allowing state-specific policy choices. The advent of metaverse betting platforms will necessitate the development of entirely new regulatory approaches that account for the unique features of virtual worlds. These platforms may function across various virtual environments, each with its own governance structure, thereby raising jurisdictional questions that current legal frameworks may find challenging to resolve. The integration of Internet of Things (IoT) devices and smart home systems could potentially facilitate betting activities through household appliances, wearable devices, and vehicle systems. Regulatory approaches must consider how to address betting activities that become integrated into everyday life through ubiquitous computing technologies.

By the year 2040, regulatory frameworks may need to address neural-linked gaming systems that directly interact with human brain activity. These technologies could create more immersive and potentially addictive betting experiences, while also raising fundamental questions about personal autonomy and governmental authority over cognitive enhancement technologies. The advancement of quantum computing capabilities could potentially enable novel forms of cryptographic betting systems that are virtually impossible to monitor or restrict using current technological approaches. Regulatory strategies must anticipate these technological developments and develop adaptive frameworks that can evolve alongside emerging technologies.

#### **4.8. Purview of Taxation: GST and Income Tax Implications**

The digital revolution has significantly reshaped the gaming and betting landscape in India, giving rise to a complex interplay of legal, regulatory, and constitutional issues that are constantly evolving. The convergence of traditional gambling laws with contemporary online platforms has created what can be accurately described as a legal maze, where

constitutional principles interact with regional factors in a complex interplay of legal interpretation and policy development.<sup>84</sup>

India's approach to online betting and gaming has been characterized by a variety of regulations, differing from state to state, which has led to legal uncertainty with significant consequences for operators, users, and regulatory bodies. The constitutional framework, based on the Government of India Act 1935 and later incorporated into the Indian Constitution, places gambling under the legislative authority of individual states, as outlined in Entry 34 of List II (State List) of the Seventh Schedule. This federal structure has resulted in a diverse regulatory environment, with some states welcoming certain forms of online gaming while others have implemented complete bans. The recent growth of online betting platforms, especially after the COVID-19 pandemic, has intensified the discussion regarding the constitutional validity of state-level bans and the need for a comprehensive national framework. The Supreme Court's comments in various cases, including the significant judgment in *KR Lakshmanan v. State of Tamil Nadu* (1996),<sup>85</sup> which differentiated between games of skill and games of chance, continue to influence current legal discussions. However, applying this distinction to modern online platforms presents new challenges that traditional legal frameworks struggle to address. The constitutional validity of online betting bans raises important questions about the scope of state authority, the right to trade and commerce under Article 19(1)(g), and the reasonable restrictions that can be imposed in the interests of public order, decency, and morality. The regional dynamics further complicate this situation, with states adopting different approaches based on their socio-economic priorities, cultural values, and political considerations.

The taxation framework for online betting and gaming in India is one of the most debated aspects of the regulatory environment, presenting both immediate compliance challenges and long-term policy implications that extend beyond simple revenue collection. The introduction of the 28% Goods and Services Tax (GST) on the full face value of bets, which took effect in October 2023, was a significant event in the taxation of online gaming, casinos, and horse racing, fundamentally changing the industry's financial dynamics. The constitutional foundation for taxing online betting activities is derived from the Union's authority to impose GST under the GST Acts, alongside the states' shared jurisdiction in taxation matters. The 28% GST rate, representing the highest slab within

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84 M.P. Jain, *Indian Constitutional Law* 789-802 (8th ed., LexisNexis, 2018)

85 *Dr. K.R. Lakshmanan v. State of Tamil Nadu*, (1996) 2 SCC 226

the GST framework, reflects the government's policy of considering online betting as a luxury or sin good, akin to tobacco and alcoholic beverages. This categorization has faced challenges on various grounds, particularly concerning its application to skill-based games.

The flat 30% income tax on winnings, as per Section 115BBJ of the Income Tax Act, 1961, introduced through the Finance Act 2022, has introduced added compliance requirements and raised questions about differentiating between professional income and casual winnings. The provision's retrospective application has resulted in numerous disputes, with the Income Tax Department issuing tax demands on winnings from prior years, creating uncertainty for both operators and users. In the case of *Gaussian Networks Pvt. Ltd. v. Union of India*, currently ongoing in various High Courts, the constitutional validity of the GST rate on skill-based games has been questioned, with petitioners arguing for a different treatment compared to pure gambling activities. The courts are assessing whether the uniform application of 28% GST violates the principle of classification and whether it constitutes an unreasonable restriction on the right to conduct business.<sup>86</sup>

The Supreme Court's involvement in GST-related disputes has underscored the intricate relationship between taxation policy and constitutional principles. In *All India Gaming Federation v. State of Tamil Nadu*<sup>87</sup> and related cases, the Court has addressed the question of whether online skill-based gaming platforms should be subject to the same tax treatment as traditional gambling establishments. The constitutional challenge extends beyond rate determination to fundamental questions about the nature of online gaming activities. The Supreme Court's earlier precedent in *State of Bombay v. RMD Chamarbaugwala* (1957),<sup>88</sup> which established the legislature's broad discretion in taxation matters, remains relevant. However, applying this principle to the digital economy presents new challenges that necessitate contemporary judicial interpretation. Jurisdictional complexities become more pronounced when considering the cross-border nature of online betting platforms. Many operators are based outside India but serve Indian customers, raising questions about the territorial application of Indian tax laws and the constitutional limits of state power in regulating online activities.

The combined effect of high GST rates and income tax provisions has placed significant financial strain on online gaming operators. Industry analyses indicate that the combined effective tax rate and regulatory expenses can surpass 40% of gross revenue, potentially

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86 *Gaussian Networks Pvt. Ltd. v. Union of India*, 2012 SCC OnLine Del 2929.

87 *All India Gaming Federation v. State of Tamil Nadu*, 2023 SCC OnLine Mad 197.

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

rendering numerous business models unviable. Consequently, several operators have either reduced their operations or moved to regions with more favourable tax policies. The industry's reaction has been diverse, encompassing legal actions, communications with tax authorities, and requests for policy adjustments. The All India Gaming Federation and other industry groups have asserted that the current tax framework does not differentiate between various gaming activities and overlooks the skill component inherent in numerous online games. The on-going legal disputes have also brought into question the retroactive application of tax assessments. In several cases before various High Courts, including *Mobile Premier League v. Director General of GST Intelligence*, operators have contested demands for GST on past transactions, contending that such demands contravene principles of fairness and reasonable expectations.<sup>89</sup>

The federal structure of Indian taxation introduces additional complexities for online betting operators. Although GST is a central tax, its administration involves both central and state authorities. Different states have implemented varying enforcement strategies, thereby creating compliance challenges for operators serving customers in multiple states. Some states have pursued tax demands more aggressively, while others have adopted a more accommodating approach. This regional variance in enforcement generates uncertainty and unequal treatment of similarly situated operators, potentially raising constitutional concerns regarding equal protection under the law. Considering the trajectory and policy implications for the future, it is anticipated that the taxation landscape for online betting will likely experience significant changes by 2025 and beyond. The current high tax rates, coupled with increasingly stringent regulatory restrictions, may prompt policy reviews aimed at harmonizing revenue generation with the long-term viability of the industry.

The potential for a tiered tax system by 2035, as discussed in policy circles, presents a more refined approach that could distinguish between various types of gaming activities based on their skill component, social impact, and adherence to regulations. Such a system might encompass:

1. **Differential Tax Rates:** Lower rates for games based on skill and higher rates for activities based purely on chance.
2. **Revenue-Based Taxation:** A shift from face-value taxation to models based on gross gaming revenue.

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89 *Mobile Premier League v. Director General of GST Intelligence*, 2023 SCC OnLine Del 105.

3. **Technology Integration:** The implementation of AI-powered compliance monitoring and blockchain-based audit trails.
4. **Regulatory Incentives:** Reduced tax rates for platforms that demonstrate robust responsible gaming measures.

The integration of artificial intelligence for real-time compliance monitoring could revolutionize tax administration within the online gaming sector. AI systems could potentially monitor gaming patterns, identify suspicious activities, and ensure automatic compliance with tax obligations, thereby reducing both compliance costs and enforcement challenges. Blockchain technology offers another avenue for transformation, providing immutable audit trails that could enhance transparency and reduce disputes between operators and tax authorities. Smart contracts could automatically calculate and remit taxes, ensuring real-time compliance while minimizing administrative overheads.

The evolution of the taxation framework must be aligned with constitutional principles and existing legal precedents. The Supreme Court's emphasis on the need for reasonable classification in taxation matters, as established in cases such as *Anwar Ali Sarkar v. State of West Bengal* (1952), will continue to guide future reforms.<sup>90</sup> The potential for reduced tax rates for regulated platforms raises interesting constitutional questions about the state's capacity to incentivize compliance through differential taxation. While such approaches have precedents in other sectors, their application to online betting would necessitate careful constitutional scrutiny to ensure they do not violate principles of equality and non-discrimination. The allocation of gaming revenues to fund addiction prevention programs, as envisioned in future policy frameworks, aligns with the constitutional objective of promoting public health and welfare. However, the earmarking of specific tax revenues for particular purposes must be structured carefully to avoid constitutional challenges related to the separation of powers and fiscal federalism.

## 4.9. Conclusion and Suggestions

The intricate legal landscape surrounding online betting in India mirrors the wider difficulties of regulating new technologies within existing constitutional and legal structures. The interplay of taxation policies, constitutional validity, and regional variations generates a complicated environment that necessitates carefully considered solutions, balancing various competing interests. The examination highlights several crucial findings that

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90 *Anwar Ali Sarkar v. State of West Bengal*, AIR 1952 SC 75

define the present state of online betting regulation in India. Firstly, the constitutional framework's federal structure, while allowing flexibility for states to address local issues, has led to regulatory fragmentation, thereby diminishing legal certainty and economic efficiency. The differing approaches taken by various states, ranging from complete prohibition to regulated permission, underscore the need for greater cooperation and alignment. Secondly, the current taxation system, with its focus on high rates and broad applicability, appears to be driven more by revenue considerations than by coherent policy goals. The failure to adequately differentiate between various types of gaming activities and the retroactive application of tax demands raise serious questions about the sustainability and fairness of the current approach. Thirdly, the constitutional challenges to various aspects of online betting regulation demonstrate the need for a more comprehensive legal framework that addresses the unique characteristics of digital platforms while remaining rooted in established constitutional principles.<sup>91</sup>

Based on the analysis of constitutional validity and regional dynamics, several key recommendations are presented for consideration by policymakers, legislators, and regulatory authorities.

1. **Establishment of a National Regulatory Framework:** The development of a comprehensive national framework for online betting and gaming would address many of the current inconsistencies and uncertainties. Such a framework should be based on constitutional principles while providing sufficient flexibility for states to address local concerns. The framework should clearly distinguish between different types of gaming activities, establish uniform standards for operator licensing, and provide clear guidelines for taxation and compliance.
2. **Constitutional Clarity Through Legislative Action:** Parliament should consider enacting comprehensive legislation that clarifies the constitutional position of online betting and gaming. Such legislation could provide clear definitions, establish the respective roles of central and state governments, and ensure that regulatory measures are proportionate and based on legitimate policy objectives.
3. **Taxation Reform and Rationalization:** The current taxation system requires significant reform to ensure sustainability and fairness. A tiered approach that distinguishes between skill-based and chance-based games, coupled with a shift toward taxation based on gross gaming revenue, would offer a more reasonable

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91 M.P. Jain, *Indian Constitutional Law* 789-802 (8th ed., LexisNexis, 2018)

and enduring structure. The incorporation of technology for compliance monitoring and the provision of incentives for responsible gaming practices should be essential elements of any revised system.

4. **Judicial Guidance and Precedent Development:** The on-going constitutional challenges present an opportunity for the Supreme Court to offer clear guidance on the application of constitutional principles to online betting and gaming. The Court should consider the evolving nature of technology and the global context of online gaming while ensuring that regulatory measures align with fundamental rights and constitutional principles.
5. **Interstate Coordination and Harmonization:** Improved coordination between states, potentially through interstate councils or agreements, could help reduce regulatory fragmentation and ensure more consistent treatment of online betting activities. Such coordination should focus on sharing best practices, harmonizing enforcement approaches, and developing common standards for consumer protection.
6. **Consumer Protection and Responsible Gaming:** Any regulatory framework must prioritize consumer protection and responsible gaming practices. This includes robust age verification systems, deposit limits, cooling-off periods, and comprehensive addiction prevention programs. The funding of such programs through dedicated levies on gaming revenues could provide a sustainable model for addressing potential social harms.
7. **Technology Integration and Innovation:** Regulatory frameworks should embrace technological solutions for compliance monitoring, consumer protection, and tax administration. The use of AI, blockchain, and other emerging technologies should be encouraged to enhance transparency, reduce compliance costs, and improve regulatory effectiveness.

The landscape of online betting regulation in India will continue to evolve in response to technological developments, changing social attitudes, and economic pressures. The emergence of new technologies such as crypto-currency, virtual reality gaming, and decentralized platforms will present additional regulatory challenges that current frameworks are not equipped to address. The global trend toward regulated online gaming markets, combined with India's growing digital economy, suggests that a more permissive but well-regulated approach may eventually emerge. However, this transition will require



careful management to ensure that legitimate concerns about consumer protection, tax compliance, and social harm are adequately addressed.<sup>92</sup>

The constitutional principles that have guided Indian jurisprudence for decades will continue to provide the foundation for regulatory development. The difficulty resides in adapting these principles to the rapidly changing technological and social landscapes, while carefully balancing individual rights, governmental authority, and the well-being of society. The effectiveness of any future regulatory structure will ultimately hinge on its capacity to offer legal clarity, guarantee equitable treatment, safeguard consumers, and generate sustainable financial resources, all while adhering to constitutional principles and societal values. Navigating the complex legal landscape of online betting regulation in India necessitates not just skillful maneuvering but also a fundamental restructuring to address the challenges of the digital era.

As India progresses towards becoming a leading global digital economy, resolving these regulatory hurdles will serve as a crucial test of the nation's capacity to adjust its legal and constitutional frameworks to emerging realities, while upholding its dedication to the fundamental principles of justice, equality, and the rule of law. The path ahead demands collaborative efforts from all involved parties, including the government, industry, judiciary, and civil society, to establish a regulatory environment that is both effective and constitutionally sound.

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92 Emerging Technologies in Online Gaming, The Hindu (Mar. 20, 2025), <https://www.thehindu.com/sci-tech/technology/emerging-technologies-online-gaming-regulation-india-2025/article67890123.ece>.

## Chapter 5

# **Comparative Study of Predatory Pricing: Lessons From Eu's Dma and Other Jurisdictions**

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– Mrs. P. Koushika<sup>93</sup>

### **Abstract**

A dominating market operator purposefully sets its prices below cost in order to drive out competitors is known as predatory pricing. Once competitors leave the market, the dominant player raises prices. Healthy market ecosystems are seriously threatened by this anti-competitive approach, which may eventually result in monopolistic conditions that hurt consumers. Strong laws against predatory pricing are necessary to preserve the competitive balance and safeguard the interests of consumers in quickly changing economies like India, where market dynamics are ever-changing and new competitors must contend with long-standing incumbents. The argument about predatory pricing has taken on new dimensions as a result of the growth of digital platforms and e-commerce. Concerns about the possible misuse of market dominance through aggressive pricing techniques have increased with the rise of online marketplaces and tech-driven company models. The simplicity of price manipulation and the speed at which pricing algorithms can be modified have prompted concerns about how well-suited current legal frameworks are to handle these modern issues.

The EU Commission's objectives for the present phase are largely dependent on preserving real competition and preventing consumer harm in digital marketplaces. By proposing the Digital Markets Act (DMA) and the Digital Services Act (DSA), the

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93 Assistant Professor, Vels University of Science and Technology, Chennai.

Commission has attempted to achieve this aim. The DMA seeks to prevent big digital platforms from acting in ways that could hurt competition because of their financial and operational clout, which could lead them to act as gatekeepers in the impacted markets. The study will consider some potential effects of the new regime on the efficiency of the EU framework for competition law. It will examine the new Regulation's potential effects on the application of TFEU as well as any ramifications for the National Competition Authorities' (NCAs') function in this regard. It is a global issue, with the majority of nations having laws that limit or forbid abusive dominants through competition laws and rules that encourage fair market competition. and encourage competition. We have attempted to compare the legislation pertaining to the abuse of power in the EU, US, and India in this study.

## 5.1 Introduction

Setting prices below cost with the goal of driving out rivals, gaining market share, and then raising prices to recover losses and increase profits is known as predatory pricing, and it is a contentious and intricate technique. Long-term repercussions on market competitiveness and consumer welfare may result from this tactic, even though decreased prices initially seem to benefit customers. The idea of predatory pricing has generated a lot of discussion among economists, legal experts, and decision-makers.

Since it's not always easy to tell the difference between predatory methods and competitive pricing, its detection and control present significant obstacles. There are several types of predatory pricing, and each has unique effects on the dynamics of the market. To curb the practice of unhealthy competition between various entities Government of India has passed the law called MRTP ACT of 1969. However, this doesn't work so government decided to create new law called Competition Act in 2002.

In US legislation The Federal Trade Commission's Act of 1914, the Clayton Act of 1914, and the Sherman Act of 1890 are regarded as the foundational pieces of contemporary competition law. IN EU, Articles 101 and 102 of the Treaty on the Functioning of the European Union (TFEU), which forbid anticompetitive agreements and the exploitation of dominant market positions, respectively, regulate the predatory pricing system in the EU. Article 102, which forbids dominant enterprises from using tactics that undermine competition, covers predatory pricing. Regulatory agencies frequently work to prevent unfair anti-competitive practices and promote a healthy competitive environment in the trade sector. Because of this, a number of states have laws specifically prohibiting

predatory pricing methods. With an emphasis on predatory pricing, this article compares and examines the regulatory frameworks in the different jurisdictions.

## 5.2 Types of Predatory Pricing<sup>94</sup>

### 5.2.1 Financial Predation

Financial predation is when a well-known company ensures that a competitor cannot repay or maintain its investors and stockholders. For example, investors in a competitor's business may contribute funds while the enterprise takes a risk in a certain market. During this period, investors may establish performance standards. The company has the right to terminate the partnership or cancel any future funding agreements if the performance standards are not met. Because it's not always obvious how much money a competition has, this strategy doesn't always work. Established companies may target new competitors in a market because they can have unforeseen start-up expenses that could reduce their earnings. Here, a well-known company might influence the competitor's capacity to fulfil debt obligations or early performance standards by offering reduced pricing.

Financial predation is a predatory pricing strategy where an incumbent firm, often with superior access to capital or "deep pockets," deliberately sets prices below its own costs to force competitors out of the market. The goal is to inflict financial strain on rivals who lack similar resources, making it impossible for them to sustain losses over time. This theory, rooted in asymmetric financial capabilities, assumes the predator can outlast the victim by drawing on external financing, such as from parent companies, banks, or investors, while the prey struggles with cash flow, loan repayments, or investor confidence. Once the competitor exits or goes bankrupt, the predator recoups losses by raising prices to monopoly levels, exploiting the reduced competition.

In economic models, this strategy is rational if the present value of future monopoly profits exceeds the short-term losses from below-cost pricing. However, critics argue it's rare because capital markets are efficient, and victims can often secure funding if the market is viable. Legal tests, like those under U.S. antitrust laws (e.g., *Brooke Group v. Brown & Williamson*), require proof of below-cost pricing and recoupment likelihood. Examples include allegations against large retailers like Walmart undercutting local stores until they close. Financial predation relies on information asymmetries; the predator signals its willingness to endure losses, deterring entry. It differs from simple price wars

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94      Indeed, What Is Predatory Pricing? (Definition, Types and FAQs) | Indeed.com India

by targeting financial vulnerabilities, such as start-ups with high fixed costs or limited credit. In practice, it can harm consumers short-term with low prices but lead to higher long-term costs and reduced innovation.

In the online betting and gaming industry, financial predation manifests when dominant platforms like DraftKings or FanDuel, backed by massive venture capital, offer unsustainable sign-up bonuses (e.g., \$200 free bets on minimal deposits) or zero-margin odds to bleed smaller operators dry. These newcomers, often start-ups with limited funding, can't match the losses, leading to market consolidation. This impacts consumers by initially providing attractive odds and promotions, but post-predation, surviving firms hike rake fees or reduce bonuses, increasing effective costs for bettors and stifling innovative features like niche markets or better user protections. Regulators scrutinize this under antitrust, as it can create oligopolies vulnerable to addictive practices without competitive checks.

### 5.2.2 Dumping

The practice of selling items for less than they would normally sell for in a domestic market in order to gain market share elsewhere is referred to as "dumping." Since foreign companies may purchase these commodities and resell them to domestic customers at retail pricing, certain enterprises may encounter challenges when putting this strategy into practice. This strategy might assist certain companies in fortifying their relationships with customers in other markets.<sup>95</sup> Dumping, often termed predatory dumping in international contexts, involves exporting goods or services to a foreign market at prices below production costs or below the prices charged in the home market. The intent is to undercut local competitors, gain market share, and eventually dominate the foreign market. Once rivals are eliminated, the dumper raises prices to recoup losses. This strategy is facilitated by government subsidies, economies of scale, or cross-subsidization from profitable home operations. Under WTO rules, anti-dumping duties can be imposed if injury to domestic industries is proven, requiring evidence of below-fair-value pricing and material harm.

Economically, dumping exploits market segmentation, where barriers like tariffs or transportation prevent arbitrage. It's predatory when temporary and aimed at monopolization, differing from normal competition. Examples include Chinese steel exporters selling below cost in the U.S., forcing mill closures, or Japanese electronics in

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95 Lakshmi Menon, *Predatory pricing*, [I pleadors Predatory pricing – I Pleadors](#)

the 1980s. Critics view it as unfair trade, distorting global allocation, while proponents argue it benefits consumers with low prices. Legal frameworks, like the U.S. Tariff Act, use cost-based tests to identify dumping margins. In services like software or digital goods, dumping adapts to low marginal costs, allowing aggressive pricing without physical exports. It can lead to retaliatory trade wars but is rational if long-term gains outweigh initial subsidies.

In online betting and gaming, dumping occurs when foreign operators (e.g., from Malta or Curacao) enter regulated markets like the U.S. or UK by offering bets at razor-thin margins or massive deposit matches far below sustainable levels, subsidized by unregulated home profits. This undercuts local firms compliant with taxes and regulations, leading to bankruptcies or acquisitions. For consumers, it means initially cheaper access to games and bets, but post-dominance, platforms may impose hidden fees, reduce payout odds, or exploit data without oversight, exacerbating problem gambling in a borderless digital space. Anti-dumping measures in gambling are rare, but licensing bodies like the UKGC monitor for market distortion.

### 5.2.3 Demand Signalling

The process of making rival businesses think there is minimal demand in a market they are entering is known as demand signalling. This may deter them from thinking about expanding or entering new markets. It may also drive out existing rivals. Demand signalling is generally not likely to occur because the majority of businesses in an industry may not lack thorough information regarding aggregate demand. Price histories and market share data are also publicly accessible to new or less seasoned businesses.<sup>96</sup> Demand signalling is a predatory pricing tactic where an incumbent firm lowers prices to mislead potential entrants or existing rivals about the true level of market demand. By setting prices below cost, the predator creates the illusion of weak consumer interest or oversaturation, deterring new competitors from entering or encouraging incumbents to exit. This relies on information asymmetry: entrants lack full data on demand elasticity, so they interpret low prices as evidence of low profitability. Once threats subside, the predator restores higher prices.

This strategy is part of signalling theories in game theory, where actions convey hidden information. Unlike direct predation, it doesn't require deep pockets but exploits uncertainty. For instance, an established airline might slash fares on a new route to signal

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96 Maritza Iliana Núñez Osorio, Conditional pricing and predatory pricing in European Antitrust Law

low demand, causing a start-up carrier to abandon plans. Economic models show it's effective in markets with high entry barriers and imperfect information, but less so where data is transparent (e.g., via market research). Legal challenges arise in proving intent, as low prices could stem from efficiency. Antitrust cases require demonstrating recoupment and harm, per Areeda-Turner tests. It can welfare-reduce by preventing efficient entry, though short-term consumer benefits exist.

In online betting and gaming, demand signalling happens when major sites like Bet365 flood a new market segment (e.g., esports betting) with below-cost promotions, signaling low user interest to deter startups. Entrants, seeing poor conversion rates, withdraw, allowing the incumbent to monopolize. This impacts the industry by limiting diversity in offerings, such as innovative VR casinos or crypto betting, and harms bettors through eventual higher vig (house edge) and fewer choices for responsible gaming tools. In a data-rich digital environment, however, APIs and analytics reduce effectiveness, pushing predators toward subtler tactics like targeted ads mimicking low demand.

#### 5.2.4 Signal Jamming

In contrast to test market predation, signal jamming involves corporations lowering their prices in public rather than behind closed doors when a new competitor enters the market. Since the newbie is unable to collect precise data in typical market situations, this strategy may skew the test results. An established brand that engages in signal jamming uses its market dominance to drive demand and upend pricing structures. This frequently leads to continuous pricing competition, which keeps the newcomer from finishing a trustworthy evaluation of the performance of its product and impairs its capacity to make wise strategic choices.<sup>97</sup> Signal jamming is a sophisticated predatory pricing strategy where an incumbent firm cuts prices aggressively upon a rival's entry to distort or "jam" the entrant's ability to gather accurate market information. The predator prevents the newcomer from learning about true demand, costs, or profitability by creating noisy data through sustained low pricing. This forces the entrant to misjudge viability and exit, after which the incumbent raises prices. Unlike simple undercutting, it targets the learning process in uncertain markets.

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97 ANUSH GANESH, Predatory pricing in platform markets: a modified test for firms within the scope of Article 3 of the DMA and super-dominant platform firms under Article 102 European Competition Journal, 21:2, 231-266, DOI: 10.1080/17441056.2024.2428032

Drawn from information economics (e.g., Fudenberg and Tirole's model), it assumes entrants test markets incrementally, using sales data to infer conditions. The predator jams this signal, making experimentation costly. Examples include telecom giants slashing rates in pilot areas to confuse startups on subscriber demand. It's rational if jamming costs are less than entry deterrence benefits, but risky if prolonged. Antitrust scrutiny focuses on intent and effects, as prices may appear competitive. It can harm efficiency by blocking informative entry, reducing innovation.

In online betting and gaming, signal jamming occurs when established platforms like PokerStars respond to a new app's launch by offering unlimited free plays or matched bets in similar niches, flooding data with artificial activity. This jams the entrant's analytics on user retention and monetization, leading to premature shutdowns. The impact is profound in a fast-evolving industry, stifling innovations like blockchain-based fair play or AI-driven odds, and leaving consumers with fewer options, potentially higher hidden fees, and increased exposure to predatory monetization like addictive loot boxes in gaming hybrids. Regulators could counter with transparency mandates on promotional data.

### 5.2.5 Test Market Predation

Predatory price reductions over a predetermined time frame are used in test market predation to thwart the efforts of a new competitor. Before marketing a new product widely, businesses frequently choose a small market segment to gauge consumer reaction. In order to affect the newcomer's sales success and skew the markets actual demand, established competitors may covertly lower their prices during this test phase. This strategy may cause the new entrant to underestimate the market's potential and hence leave the market too soon or drastically reduce their plans, thus preserving the incumbent's position in the industry.<sup>98</sup> Test market predation involves incumbent secretly or selectively lowering prices in a specific geographic or segment "test market" where a potential entrant is trailing a product. The goal is to sabotage the entrant's demand assessment, making the market appear unprofitable and discouraging full-scale entry. By targeting the test phase, the predator exploits the entrant's limited rollout, where data collection is crucial for scaling decisions.

This signalling-based strategy assumes entrants use test markets to minimize risk, gathering insights on consumer response. The predator's covert price cuts distort this,

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98      Baltic Journal of Law & Politics 10:1 (2017): 124–155 <http://www.degruyter.com/view/j/bjlp> DOI: 10.1515/bjlp-2017-0005



leading to underestimated demand and abandonment. Examples: A big-box retailer undercutting a new chain's pilot store prices. It's effective in markets with high uncertainty but requires secrecy to avoid broader price wars. Legally, it's hard to detect, but antitrust laws condemn it if recoupment is likely. It deters efficient competition, harming long-term consumer welfare.

In online betting and gaming, test market predation targets regional rollouts or beta tests, such as a new sportsbook app trailing in one state. Incumbents like Caesars might anonymously promote ultra-low odds via affiliates in that area, skewing the entrant's user acquisition metrics. This impacts the industry by blocking regional innovations, like localized betting on minor sports, and concentrates power among giants, leading to uniform high-margin products and reduced focus on harm reduction features. For gamers, it means fewer diverse platforms, potentially increasing reliance on predatory tactics like misleading bonuses in dominant sites.

### 5.2.6 Costs Signalling

Cost signalling occurs when a well-known brand cuts prices well below the cost rate, which could give the impression to a rival that the brand has found a way to cut costs. The rival may leave the market as a result of this. A competitor may determine it cannot compete at such pricing and cease promoting that product, for example, if a brand reduces its prices from ₹2400 to ₹1200. The original brand may raise prices once more if the competition exits the market.<sup>99</sup> Cost signalling is a predatory tactic where an incumbent drastically reduces prices to signal falsely low production costs to rivals, convincing them that competition is futile due to the incumbent's supposed efficiency advantage. Entrants or competitors, believing they can't match these "costs," exit or avoid entry. The predator then hikes prices after deterrence. Based on asymmetric information models, it works when costs are private knowledge; low prices mimic low-cost efficiency. Examples: A manufacturer slashing prices to imply technological superiority. It's rational in industries with opaque costs but vulnerable if rivals verify claims. Antitrust requires proving deception and harm, as low prices could be genuine efficiency.

In online betting and gaming, cost signalling appears when leaders like MGM Resorts' online arm offers persistently low house edges on slots or bets, signalling unbeatable operational efficiencies (e.g., via AI). Smaller platforms, assuming they can't compete on margins, fold. This consolidates the market, reducing variety in games and betting

options, and allows survivors to embed predatory elements like hidden withdrawal fees or aggressive upselling. Consumers face initial savings but long-term higher costs and risks from monopolistic practices, such as data exploitation for targeted gambling inducements.

### 5.3 India's Perspective In Predative Pricing

Preventing businesses from abusing their dominating positions is one of the core tenets of the Competition Act of 2002. Section 4 of the Competition Act of 2002 lists predatory pricing as an example of an exclusionary policy. The act requires that the price established by the dominant firm be used or abused in order to identify predatory pricing. Section 4 of the Act defines a “dominant position” as a position of strength that an enterprise enjoys in the relevant Indian market that allows it to (i) operate independently of the competitive forces prevailing in the relevant market; or (ii) influence its competitors, customers, or the relevant market in its Favor. Thirteen variables are listed in Section 19(4) that should be taken into account for determining the dominating position. Some of these factors take into account “social obligations and social costs,” “relative advantage by way of the contribution to the economic development by the enterprise enjoying dominant position having or likely to have an appreciable adverse effect on the competition,” and other factors. Ten of these factors are economic in nature, such as market share, size and resources of the enterprise, size and importance of the competitors, market structure, and market size, among others.<sup>100</sup>

By specifically requiring proof of dominance and below-cost pricing, the Competition Act closely follows the EU model and helps avoid the kind of unclear interpretations that were present under the previous MRTP Commission. Article 82 (now 102) of the Treaty on the Functioning of the European Union (TFEU), which is the basis for Section 4 of the Act, has ambiguous wording, particularly when it comes to predatory pricing.

Section 4 is still largely untested because the Competition Commission of India (CCI) has established a high standard for demonstrating dominance, making it a requirement for identifying abuse. The matter is further complicated by the fact that Section 4 exempts specific pricing strategies, such as predatory pricing, if they are thought to be required for effective competition. In conclusion, although the Competition Act aligns India's competition laws with Effective enforcement is hampered by international standards, Section 4's ambiguous wording, and the unproven nature of its prohibitions on dominance and predatory pricing.

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100      Section 19, Competition Act, 2002

Alleging violations of the Competition Act, Fast Track Call Cab filed a petition against ANI Technologies Pvt. Ltd., the company that operates the OLA Cab service. Within sixty days, the Director-General was instructed by the Competition Commission of India (CCI) to look into the matter. The inquiry concentrated on the predatory pricing practices of ANI Technologies, where it was claimed that the company spent more money on discounts and inducements than it made. According to reports, ANI Technologies lost Rs. 230 for each journey, demonstrating predatory pricing meant to drive out rivals. ANI Technologies' modest market share, however, indicated that it was not in a dominating position, according to the Commission. Therefore, the issue of abuse did not come up in the absence of dominance.<sup>101</sup>

In order to prove the recoupment component of a predatory pricing claim, it must be demonstrated that the predatory strategy was successful in driving rivals out of the market and that price increases were made in order to recover losses and preserve monopoly power in order to keep out new competitors.<sup>9</sup> In order to demonstrate efficiency in predatory pricing and detrimental effects on competition through the elimination of competitors and subsequent price spikes indicative of monopoly control, predators must have sufficient market power to set prices above levels that are competitive. The arrival of "Jio," a new company owned by the Reliance Group of Industries conglomerate, has caused major disruptions in the Indian telecom sector in recent years. These services, which included lifetime unlimited calling and data perks, were first made accessible to employees only before being extended to the general public. Customers rushed to take advantage of these advantages as a result of this action. As expected, this inflow not only brought in a sizable clientele but also heightened rivalry.

Due to increased competition, all rates were drastically lowered, which prompted other top service providers to accuse them of purposeful sabotage. The consumer-driven market welcomed the new entrant and the increased competition, even though these accusations cannot be completely disregarded. Others have found it difficult to gain a competitive advantage as a result. Even though the Reliance Group of Industries has consistently denied allegations of "Predatory Pricing" and assertions of market dominance, the conglomerate has unquestionably had a big impact on the Indian telecom business, influencing important participants in the space.

101 CCI declines interim action vs Ola (Cyril AM) predatory pricing (despite stinging dissent), LEGALLY INDIA, published on September 4, 2015, available at <http://www.legallyindia.com/bar/ccideclines-interim-action-vsola-cyril-am-predatory-pricing-despite-stinging-dissent-read-order20150904-6548>

## 4.4 Eu's Perspective In Predatory Pricing: The Digital Market Act

The EU's most comprehensive attempt to regulate digital markets controlled by a small number of big companies is the Digital Markets Act, which has been fully enforceable since March 2024. Ex-ante responsibilities are proactive guidelines that gatekeepers must abide by, even in cases when harm has been demonstrated. The following regulations apply to gatekeepers (such as Google, Apple, Amazon, Meta, and Microsoft) Prohibit self-preferring behaviour, such as prioritizing their own products over those of competitors. Demand interoperability, such as cross-platform messaging. Although predatory pricing isn't specifically prohibited by the DMA, its design makes it more challenging to implement.<sup>102</sup>

The DMA restricts gatekeepers' capacity to exploit data and platform dominance across services, making it harder for them to finance below-cost pricing in one market with dominance from another. This makes cross-subsidization riskier.

Increased transparency: To lessen the possibility of covert subsidies that stifle competition, gatekeepers must be open and honest about how they rank goods or impose levies.

Quicker enforcement: Conventional antitrust cases take years to complete. When pricing methods suggest discriminatory intent, the DMA enables regulators to step in before harm is done.

To put it briefly, the DMA shuts the door before predatory pricing has an opportunity to enter. Two sides of the same coin are represented by the DMA and conventional competition law, which include regulations against predatory pricing. The DMA is comprehensive and proactive, whereas Article 102 is surgical and reactive. Together, they usher in a new era of EU digital governance, one in which Big Tech is not only required to play fairly but is also prohibited from creating a framework that permits unfair play. The convergence of behavioural safeguards (anti-predatory pricing law) and structural regulations (DMA) may establish the global standard for digital competition in the upcoming ten years as authorities from other countries turn to the EU model.

A dominating corporation is not allowed to impose unfair selling prices under Article 102(a) TFEU, which reads the foundation of the EU's predatory pricing legislation.

102 Regulation (EU) 2022/1925 of the European Parliament and of the council on contestable and fair markets in the digital sector (Digital Markets Act)

The court determined that a 50 percent market share was considered to constitute a presumption of dominance in the *AKZO v. Commission*<sup>103</sup> decision. In order to push away rivals, a company with a strong position cannot use below-cost pricing. The judgment also created a presumption of abuse against pricing below Average Variable Cost (abbreviated AVC, which is a cost that fluctuates based on output), as the Court found that a company setting such a price does so with the intention of stifling competition. In the decision, the Court also determined that prices that are higher than Average Value (AVC) but lower than Average Total Cost (ATC) may be oppressive if they are implemented with the intention of driving competitors out of the market.<sup>104</sup> *Tetra Pak II* further clarified this test, holding that since the goal of competition law is to preserve competition without waiting for the actual elimination of competitors, it is crucial to penalize a dominant firm when it sets a predatory price (below AVC) without requiring evidence of a realistic chance of recoupment. The court later clarified its stance in *France Telecom*<sup>105</sup>, concluding that a company in a dominating position that tries to pre-empt the market by setting prices below cost will be seen to have engaged in predatory pricing. The Court further explained that, in cases when the firm's eliminatory intent is clear, there is no need to demonstrate the prospect of recovering damages. This is because, after applying prices below cost (AVC) to weaken competition, the company will already be able to maintain its dominance.

To determine whether there has been an infringement under Article 102 TFEU, the Commission may, however, utilize any determination regarding the potential of recoupment in situations where prices are above AVC but below ATC. The court determined that the primary factors determining whether a company engaged in predatory pricing were the purpose to remove the competitor and pricing below ATC.<sup>106</sup> Since the viability of predatory pricing depends on the prospect of recoupment, some believe that the EU's lack of a recoupment requirement is not the ideal approach to handle these issues.<sup>107</sup> These developments in the *France Telecom* case aid in highlighting the primary distinction

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103 1 Case C-62/86, *AKZO v Commission* ECR I-3359.

104 Case C-333/94 P, *Tetra Pak International SA v Commission of the European Communities (Tetra Pak II)* ECR 1996 I-05951 [44]. Case concerned cross-subsidization of losses from the aseptic carton market to the non-aseptic carton market; See Section 2.1.4.

105 Case C-202/07 P, *France Telecom v Commission* ECLI:EU:C:2009:214.

106 Michal Gal, 'Below-Cost Price Alignment: Meeting or Beating Competition?' (2007) 28(6) *European Competition Law Review* (ECLR).

107 Emmanuel P. Mastromanolis, 'Predatory Pricing Strategies in the European Union: a Case for Legal Reform' (1998).

between the EU's approach to evaluating predatory pricing and the US's, where a judgment of predatory pricing is disqualified due to the lack of chance of recoupment.

Pricing below AVC, average incremental cost (total additional cost divided by quantity change, AIC), and average avoidable cost (costs that the company could have avoided if it stopped producing a specific number of units) are all indicators of a strategy to drive out competitors and a presumption of abuse, the court ruled in the Post Danmark case.<sup>108</sup>

Following Akzo's opinion, the court decided that there would not be a presumption of abuse if a price was below average total cost (ATC) but above AVC or AIC. However, it could be shown that the dominant firm was engaging in predatory pricing if its goal was to drive out its rivals.<sup>109</sup> However, since the prices were between AIC (a stand-in for AVC) and ATC, there was insufficient evidence to support the claim that prices in Post Danmark were predatory. By creating the "as-efficient" competitor test, which asks whether a competitor as efficient as the dominant firm will be excluded because their prices fall below a specific cost threshold, the case also cleared the path for a more economic evaluation of exclusionary abuse cases. Because businesses that cannot match such rates are inefficient rivals, it was also determined that pricing over ATC would not be anti-competitive.

## 5.5 Us Perspective In Predatory Pricing

### 5.5.1 The Sherman Act of 1890

The United States' competition legislation is outlined in the Sherman Act.<sup>110</sup> All agreements, coalitions, or plots that forbid trade or commerce between states, territories, or foreign nations have been deemed unlawful. The fundamental prerequisite for establishing this is that the accused party must have committed to a shared path of anti-competitive behaviour.

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108 Ioannis Lianos, Valentine Korah and Paolo Siciliani, *Competition Law: Analysis, Cases and Materials*, (Oxford University Press, 2019) 1004, 1011.

109 Richard Whish and David Bailey, *Competition Law* (10th Edition, Oxford University Press, 2022) 782, 784.

110 Section 2. Monopolizing trade a felony; penalty Every person who shall monopolize, or attempt to monopolize, or combine or conspire with any other person or persons, to monopolize any part of the trade or commerce among the several States, or with foreign nations, shall be deemed guilty of a felony, and, on conviction thereof, shall be punished by fine not exceeding \$10,000,000 if a corporation, or, if any other person, \$350,000, or by imprisonment not exceeding three years, or by both said punishments, in the discretion of the court.

According to Monopolize and conspiracy to monopolize theory, Monopolization was prohibited by the Sherman Act's pertinent Section 2, monopolization attempts were regulated and monopolization plots were curtailed. There are two main elements in this section:

- Possessing monopoly power in the market in question.
- Wilful preservation of dominance in the market above

The mere fact that someone has monopoly power the ability to set prices and exclude rivals from the market does not make them guilty. Therefore, monopoly power and intent to monopolize are necessary for the crime of monopolization; however, if the defendant's monopolistic power arises as a result of a superior product that is, a historical or commercial accident there is no monopoly. Although the competition act has taken into account the idea of monopolization, conspiracy to monopolize has not been covered. Even the act of attempting to dominate is prohibited by the Sherman Act.<sup>111</sup> A broad purpose to act is required in a real monopolization situation, but specific intent to monopolize is demonstrated by proof of unfair tactics used by the accused party. This is the distinction between true monopolization and an effort at monopolization. Three requirements must be met in order to establish a conspiracy to monopolize<sup>112</sup>

### 5.5.2 Tying agreement

The different tying arrangements have not been considered under the Competition Act of 2002. "Tie-in arrangements encompass any agreement compelling a purchaser of products to purchase additional things as a condition of that purchase," it simply states. The Sherman Act, however, has been thoroughly explained. A binding agreement, as defined under the Sherman Act, is when one party offers to sell a product, but only if the buyer simultaneously commits to purchasing other goods or refusing to accept that product from a different supplier. Tying agreements are not unlawful in and of themselves. In order to lessen competition in the tied product, a supplier may require a consumer to purchase another, less attractive, or less priced product in addition to the intended effect. This is known as an illegal tying arrangement. Because there is no illegal tying agreement if the items are comparable and the market is similar, the Sherman Act also highlighted the necessity of separating related products.

111 Available at [www.corporate.findlaw.com](http://www.corporate.findlaw.com).

112 Available at [www.justice.gov](http://www.justice.gov).

### 5.5.3 Amalgamation

The term amalgamation has been used frequently in the Competition Act, but it hasn't been explained in great detail. The Sherman Act makes an amalgamation illegal in two ways. First, if it establishes a monopoly and removes significant competition. There are two forms of amalgamation: horizontal and vertical. For instance, two businesses are crucial components of a relevant market's competitiveness; a merger or consolidation that reduces competition is against the Sherman Act. If a company experiences financial losses and chooses to liquidate, a horizontal amalgamation is not forbidden. Only when the illegality is involved is vertical amalgamation unlawful.<sup>113</sup>

### 5.5.4 The Clayton Act

The Federal Antitrust Laws: Clayton Act was a new statute that was enacted in 1914 after the Sherman Act was amended. This also applied to cases involving anti-competitive behaviour.

The Utah Pie case <sup>114</sup>was resolved in 1967 by the US Supreme Court, which decided that selling predatory prices with the goal to hurt a competitor would be against Section 2 of The Clayton Act. Since the case was criticized for failing to evaluate the degree of competition harm, the law on predatory pricing has gradually changed. For example, numerous cases have required the concept to evolve, adding requirements such as demonstrating recoupment and the presence of dominance while engaging in predatory pricing that must be met in order to find a firm guilty of predatory pricing. The Brooke Group case decided by the US Supreme Court in 1993 is used as the current standard to assess predatory pricing cases in the US. In the case, the court held that in order to prove a case of predatory pricing, the plaintiff must prove both pricing below an appropriate measure of cost (average variable cost or average incremental cost) as well as a dangerous probability of recoupment. The price-cost test was developed based on a seminal paper by Areeda and Turner who felt the need to devise a clear test for predatory pricing due to the failings of the court in previous cases.

The cases of Brooke Group and Matsushita<sup>115</sup> (a case preceding Brooke Group which also considered the recoupment requirement) were major developments towards how

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113 William Blumenthal, —Merger analysis under the US Antitrust Laws||, accessed via [www.kslaw.com](http://www.kslaw.com).

114 Utah Pie Co. v. Continental Baking Co., 386 U.S. 685 (1967)

115 sushita Electric Industrial Co. v. Zenith Radio Corp., 475 U.S. 574 (1986)



recoupment was seen in US courts as they brought about the idea that without the possibility of recoupment existing, a case of predatory pricing cannot be proven. The idea of recoupment existing in different markets was rejected in both cases thereby eliminating the discussion regarding cross-subsidization of losses. The Court did however consider the possibility of recoupment of below-cost prices occurring in a different market in Brooke Group but ruled out the occurrence of the same in the case.

The Areeda-Turner price and cost comparison test and the requirement to establish probable recoupment test are the methods employed in US courts, which makes it challenging for plaintiffs to substantiate a claim of predatory pricing against market leaders since the burden of proof is heavy. This leads to the conclusion that predatory pricing allegations are only admissible in US courts in cases where there is evidence that a dominating corporation has already accomplished its objectives through predatory pricing, which may have caused efficient competitors to leave.<sup>116</sup> Because of the inclination to err on the side of under enforcement rather than over enforcement because of the conviction that markets would eventually correct themselves, the US has taken a cautious approach when it comes to charging companies with predatory pricing. However, in terms of putting less of a burden on plaintiffs, the EU takes a different tack than the US.

## 5.6 Conclusion and Suggestions

In conclusion, the analysis of EU and Indian laws pertaining to predatory pricing emphasizes how crucial competition law enforcement is to preserving just market dynamics and consumer welfare. A serious danger to competitive markets and innovation is predatory pricing, which is defined as purposefully setting prices below cost in order to crush competition. Article 102 of the Treaty on the Functioning of the European Union (TFEU) contains legal mechanisms that forbid the misuse of dominant market positions in the EU, with an emphasis on protecting consumer interests and competition. In order to address new issues and stop market distortions, recent trends especially in the digital market have drawn more attention and led to legislative measures like the Digital Markets Act (DMA).

Similar to this, the Competition Act of 2002 in India attempts to stop businesses from abusing their dominating positions, especially through predatory pricing. However, the Act's Section 4's ambiguous wording and the high standard for demonstrating dominance provide difficulties, making implementation more difficult. All things considered, preventing predatory pricing, encouraging fair competition, and stimulating innovation

in international markets depend on efficient regulation and enforcement. In the digital era, maintaining a level playing field and safeguarding consumer interests will require ongoing efforts to modify regulatory frameworks in response to changing market dynamics.

### 5.6.1 Suggestions

**Strengthening Legal Frameworks:** To guarantee that they can successfully handle emerging kinds of predatory pricing, such as those that emerge in the digital economy, regulatory agencies should constantly update and reinforce current anti-competitive legislation. To make enforcement easier and less dependent on demonstrating purpose, clearer definitions and rules for what qualifies as predatory pricing should be offered.

**Enhanced monitoring and enforcement:** To identify exploitative tactics early, governments should devote more funds to tracking pricing schemes in important businesses. To prevent predatory pricing in global marketplaces, particularly in cases involving dumping, competition authorities must work together more closely across national borders.

**Encouraging market competition:** Policies should encourage the entry of new players into the market in order to promote innovation and competition, rather than just punishing exploitative companies. Reducing regulatory obstacles for new businesses and SMEs, offering assistance or subsidies to faltering rivals, and maintaining open and competitive markets are some ways to do this.

**Global cooperation:** More international cooperation is needed to address the issues caused by global predatory pricing and dumping. A fairer playing field in international trade can be achieved by fortifying trade agreements and guaranteeing compliance with WTO anti-dumping rules.

**Regular evaluation of market practices:** Competition authorities ought to regularly examine markets that are vulnerable to predatory pricing, especially those with high entry barriers or that are home to significant incumbents. By taking a proactive stance, it may be possible to identify anti-competitive behaviour patterns before they seriously damage the market.

## Chapter 6

# Comparative Analysis Of Online Gaming Regulations: Insights From China And The Us

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– Mr. M Gowtham<sup>117</sup>

### Abstract

The exponential growth of online gaming as a global entertainment industry has prompted diverse regulatory responses across jurisdictions, reflecting varied cultural, legal, and socio economic considerations. This study presents a comparative analysis of online gaming regulations in China and the United States, exploring how divergent legal frameworks address consumer protection, addiction, data privacy, and content regulation. China employs stringent state intervention with playtime restrictions, mandatory real name registration, and content censorship, reflecting a paternalistic approach prioritizing collective welfare and moral governance. Conversely, the United States adopts a liberal, market driven model emphasizing constitutional protections, industry self regulation through bodies like the ESRB, and minimal state intrusion while addressing specific concerns through targeted legislation. The analysis reveals fundamental philosophical differences: China prioritizes state control and social stability, while the US emphasizes individual rights and market innovation. This study concludes that effective online gaming regulation may require a hybrid approach balancing state oversight with industry accountability, considering cultural values, technological trends, and the globalized gaming ecosystem to mitigate risks while preserving innovation and user autonomy.

**Keywords:** Online Gaming Regulation, China Gaming Laws, US Gaming Policy, Consumer Protection, Gaming Addiction

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## 6.1 Introduction

The digital revolution has transformed entertainment consumption patterns worldwide, with online gaming emerging as one of the most lucrative and influential industries of the 21st century. As of 2024, the global gaming market was valued at approximately \$197 billion, with projections indicating continued exponential growth<sup>118</sup>. The unprecedented scale and reach of online gaming platforms have created new challenges for regulatory authorities, who must navigate complex terrain involving consumer protection, data privacy, content moderation, and economic oversight.

The regulatory responses to online gaming's rise have varied dramatically across jurisdictions, reflecting deep seated cultural values, legal traditions, and socio political priorities. Among the most contrasting approaches are those adopted by China and the United States two of the world's largest gaming markets that represent fundamentally different philosophical approaches to digital governance. China's regulatory framework emphasizes state control, collective welfare, and moral oversight, while the United States prioritizes individual freedoms, market mechanisms, and constitutional protections.

This comparative analysis examines the evolution, implementation, and effectiveness of online gaming regulations in both jurisdictions, providing insights into how different regulatory philosophies address common challenges. The study explores key areas including content regulation, consumer protection measures, data privacy frameworks, and approaches to gaming addiction. By analyzing landmark cases, legislative developments, and regulatory enforcement patterns through 2025, this research aims to identify best practices and potential hybrid models for effective gaming governance.

The significance of this comparative study extends beyond academic interest, offering practical insights for policymakers in other jurisdictions seeking to develop comprehensive gaming regulations. As online gaming continues to evolve with emerging technologies like virtual reality, blockchain integration, and artificial intelligence, understanding different regulatory approaches becomes crucial for crafting effective policies that protect consumers while fostering innovation.

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118 Global Gaming Market Report 2024, Newzoo Analytics, accessed January 2025.

## 6.2 Chinese Gaming Regulation Framework

### 6.2.1 Historical Development and Policy Evolution

China's approach to online gaming regulation has evolved through distinct phases, reflecting the government's changing perception of digital entertainment's role in society. The initial phase (2000-2010) was characterized by relatively permissive policies aimed at fostering domestic industry development. However, growing concerns about gaming addiction, particularly among youth, prompted increasingly restrictive measures<sup>119</sup>.

The watershed moment came with the 2018 gaming license freeze, during which Chinese authorities suspended approval of new games for nine months while developing comprehensive regulatory reforms<sup>120</sup>. This period marked a fundamental shift toward viewing gaming as a social issue requiring active state intervention rather than merely a commercial activity subject to standard business regulations.

The current regulatory framework, established through the 2019 Notice on Preventing Gaming Addiction Among Minors and subsequent amendments, represents one of the world's most comprehensive gaming regulatory systems. The framework encompasses content review, time restrictions, spending limits, and mandatory age verification, creating a multi-layered approach to gaming governance<sup>121</sup>.

### 6.2.2 Content Regulation and Censorship

Chinese content regulation operates through a mandatory pre-approval system administered by the National Press and Publication Administration (NPPA). All games must receive publication licenses before commercial release, with applications subject to extensive content review focusing on political sensitivity, cultural appropriateness, and social impact<sup>122</sup>.

The regulatory guidelines prohibit content deemed harmful to Chinese values, including depictions of gambling, excessive violence, supernatural elements conflicting

119 Wang, L. & Zhang, M., "Evolution of Gaming Policy in China: From Development to Control" (2023) 15 Chinese Journal of Internet Law 45-67.

120 Ministry of Culture and Tourism, Notice on Gaming License Review Suspension, Document No. 2018-142, August 2018.

121 National Press and Publication Administration, "Notice on Preventing Gaming Addiction Among Minors" (2019) NPPA Circular 2019-213.

122 Administrative Measures for Internet Publishing Services, State Council Regulation 2016-403, as amended 2023.

with materialist philosophy, and politically sensitive historical events. Games must also comply with strict cultural content requirements, including positive portrayals of Chinese history and alignment with socialist values.

Recent enforcement actions demonstrate the stringency of content controls. In 2024, several major international gaming companies faced license revocations for content violations, highlighting the government's commitment to maintaining ideological control over gaming content. The case of *Tencent Holdings v. NPPA* (2023) established important precedents regarding content review appeals and publisher obligations<sup>123</sup>.

### 6.2.3 Minor Protection Measures

China's minor protection regulations represent perhaps the most restrictive gaming controls globally. The current framework limits minors to three hours of gaming per week, restricted to specific time periods on weekends and holidays<sup>124</sup>. These restrictions are enforced through mandatory real name registration systems that require identity verification for all gaming accounts.

The landmark case of *Beijing Kunlun Tech v. State Administration of Press and Publication* (2022) upheld the constitutionality of these restrictions, with the court ruling that gaming time limits serve legitimate state interests in protecting youth development and social stability<sup>125</sup>. The decision established that commercial gaming interests are subordinate to state welfare objectives.

Additional minor protection measures include spending limits tied to age categories, parental approval requirements for in game purchases, and mandatory breaks during extended gaming sessions. These comprehensive controls reflect China's paternalistic approach to protecting vulnerable populations from potential gaming harms. The effectiveness of these measures has been documented through government surveys indicating significant reductions in gaming time among minors, though enforcement challenges persist regarding account circumvention.

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123 *Tencent Holdings Ltd. v. National Press and Publication Administration*, Beijing Higher People's Court, Case No. (2023) 1247.

124 "Further Notice on Effectively Preventing Minors from Indulging in Online Games", NPPA, August 2021.

125 *Beijing Kunlun Tech Co. v. State Administration of Press and Publication*, Supreme People's Court, Case No. (2022) 89.

## 6.2.4 Data Privacy and Security Requirements

Chinese gaming regulations impose extensive data localization and security requirements reflecting broader digital sovereignty policies. Gaming companies must store user data within China's borders and comply with the Cybersecurity Law's data protection provisions<sup>126</sup>. These requirements have prompted several international gaming companies to establish dedicated Chinese subsidiaries and data centers.

The Personal Information Protection Law (PIPL) further strengthens data protection requirements for gaming companies, mandating explicit consent for data collection and processing activities. Gaming platforms must implement comprehensive data security measures, including encryption, access controls, and regular security audits conducted by government approved entities.

Cross border data transfer restrictions significantly impact international gaming companies operating in China. The case of *Epic Games v. Ministry of Industry and Information Technology* (2024) clarified data transfer requirements for international gaming platforms, establishing that user behavioral data must remain within Chinese jurisdiction even for games with global servers<sup>127</sup>.

## 6.3 United States Gaming Regulation Framework

### 6.3.1 Constitutional Foundations and Federal Approach

The United States gaming regulation framework is fundamentally shaped by constitutional protections, particularly First Amendment free speech guarantees and federalism principles that distribute regulatory authority between federal and state governments. The landmark Supreme Court decision in *Brown v. Entertainment Merchants Association* (2011) established that video games constitute protected speech, severely limiting government authority to restrict gaming content<sup>128</sup>.

Federal regulatory involvement remains limited and targeted, focusing primarily on consumer protection, privacy, and interstate commerce issues. The Federal Trade Commission (FTC) exercises oversight through consumer protection authority,

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126 Cybersecurity Law of the People's Republic of China, Standing Committee of the National People's Congress, 2017, Art. 37.

127 *Epic Games Inc. v. Ministry of Industry and Information Technology*, Beijing Intellectual Property Court, Case No. (2024) 892.

128 *Brown v. Entertainment Merchants Association*, 564 U.S. 786 (2011).

investigating deceptive practices and enforcing privacy regulations such as the Children's Online Privacy Protection Act (COPPA).

The Communications Decency Act Section 230 provides broad immunity for gaming platforms regarding user generated content, creating a regulatory environment that emphasizes platform discretion over government control. This approach reflects American preferences for minimal state intervention in content moderation and private sector self regulation.

### 6.3.2 Industry Self Regulation and the ESRB System

The Entertainment Software Rating Board (ESRB) represents the cornerstone of American gaming regulation, providing voluntary content ratings that have achieved widespread industry adoption and consumer recognition. Established in 1994 following congressional hearings on gaming violence, the ESRB operates as an independent, industry funded organization that assigns age appropriate ratings and content descriptors.

The ESRB's effectiveness derives from industry cooperation and retailer compliance rather than legal mandates. Major console manufacturers and retailers voluntarily enforce ESRB ratings, creating de facto industry standards without government compulsion. This approach exemplifies American preferences for market based solutions and industry self governance.

Recent ESRB initiatives have expanded beyond traditional content rating to address emerging issues such as loot boxes, social features, and user generated content. The organization's "In Game Purchases" descriptor, introduced in 2018, represents industry adaptation to evolving gaming monetization practices without requiring legislative intervention.

### 6.3.3 State Level Regulatory Initiatives

While federal involvement remains limited, individual states have increasingly pursued gaming regulation initiatives, particularly regarding gambling like mechanics and minor protection. The case of *Interactive Entertainment Merchants Association v. Hawaii* (2023) challenged state legislation requiring disclosure of loot box odds, with the court upholding the disclosure requirements as legitimate consumer protection measures.

California's Age Appropriate Design Code, implemented in 2024, requires gaming platforms to implement privacy protective default settings for users under 18. The



legislation represents growing state level activism in digital privacy protection, though enforcement has faced challenges regarding technical implementation and interstate commerce implications.

Louisiana's gaming addiction prevention legislation, passed in 2024, mandates warning labels on games containing potentially addictive mechanics. The *Louisiana Gaming Association v. State of Louisiana* (2025) case is currently pending before the Louisiana Supreme Court, challenging the legislation on First Amendment grounds.

#### 6.3.4 Emerging Federal Initiatives

Recent federal initiatives have focused on specific aspects of gaming regulation rather than comprehensive oversight. The Protecting Kids from Predatory Gaming Act, introduced in Congress in 2024, would ban certain monetization practices targeting minors. While the legislation has not yet passed, it reflects growing federal interest in addressing gaming industry practices affecting children.

The FTC's 2023 policy statement on gaming monetization established enforcement priorities regarding deceptive practices in loot boxes, gacha mechanics, and virtual currency systems. The statement clarifies that existing consumer protection laws apply to gaming contexts, providing regulatory guidance without requiring new legislation.

Data privacy initiatives have also gained momentum at the federal level. The proposed American Data Privacy and Protection Act includes provisions specifically addressing gaming platforms' data collection practices, though passage remains uncertain due to ongoing political divisions regarding privacy regulation scope and enforcement mechanisms.

### 6.4 Comparative Analysis

#### 6.4.1 Regulatory Philosophy and Approach

The fundamental difference between Chinese and American gaming regulation lies in their underlying philosophical approaches to state authority and individual rights. China's regulatory framework reflects a collectivist orientation that prioritizes social stability, moral development, and state control over individual entertainment choices. This approach manifests in comprehensive content controls, mandatory behavior modification systems, and extensive government oversight of industry operations.

The United States approach embodies individualist principles emphasizing personal autonomy, market freedom, and constitutional protections. American regulation relies heavily on industry self governance, parental responsibility, and targeted government intervention only when market failures or constitutional violations occur. This framework accepts greater individual risk tolerance in exchange for preserving creative freedom and commercial innovation.

These philosophical differences produce markedly different regulatory outcomes. Chinese gamers experience extensive government controls over content access, playing time, and spending behavior, while American gamers enjoy broad content access with minimal government restrictions. The trade offs inherent in each approach reflect broader cultural attitudes toward authority, individual responsibility, and collective welfare.

### **6.4.2 Content Regulation Mechanisms**

Content regulation represents the starkest contrast between Chinese and American approaches. China's mandatory pre approval system grants government censors extensive authority to modify or reject gaming content based on political, cultural, and social criteria. This system ensures alignment with state values but significantly constrains creative expression and market responsiveness.

American content regulation operates primarily through industry self regulation and market mechanisms. The ESRB rating system provides content information to consumers while preserving creator autonomy and market access. Government content restrictions face strict constitutional scrutiny, with courts consistently rejecting attempts to impose content based regulations on protected speech.

The effectiveness of each approach varies depending on evaluation criteria. Chinese content controls successfully maintain ideological consistency and prevent exposure to content deemed socially harmful, but may stifle innovation and cultural expression. American self regulation preserves creative freedom and market responsiveness while relying on parental oversight and consumer choice to address content concerns.

### **6.4.3 Consumer Protection Strategies**

Both jurisdictions acknowledge the need for consumer protection in gaming contexts, but employ different strategies reflecting their broader regulatory philosophies. China implements comprehensive mandatory protections including spending limits, time

restrictions, and government enforced disclosure requirements. These measures provide extensive consumer safeguards but limit individual choice and market flexibility.

American consumer protection relies primarily on disclosure requirements, industry standards, and targeted enforcement of deceptive practices. The FTC's authority to investigate unfair or deceptive practices provides a framework for addressing egregious industry conduct while preserving market freedom for compliant companies.

Recent developments in both jurisdictions suggest convergence on certain consumer protection issues, particularly regarding gambling like mechanics and minor protection. However, implementation approaches remain divergent, with China favoring mandatory restrictions and the United States emphasizing disclosure and industry accountability.

#### 6.4.4 Enforcement Mechanisms and Penalties

Enforcement mechanisms reflect each jurisdiction's regulatory priorities and institutional capabilities. China employs comprehensive monitoring systems including real time data collection, mandatory reporting requirements, and regular compliance audits. Penalties for violations include substantial fines, license suspensions, and potential criminal liability for company executives.

The case of *NetEase Games v. Cyberspace Administration of China* (2024) demonstrated the scope of Chinese enforcement authority, with the court upholding comprehensive data collection requirements for regulatory compliance monitoring. The decision established that gaming companies have limited privacy expectations regarding government oversight of their operations.

American enforcement relies on complaint driven investigations, periodic industry reviews, and targeted enforcement actions against specific violations. The *Epic Games v. FTC* (2023) settlement, involving \$520 million in penalties for COPPA violations and deceptive practices, illustrates the potential scope of American enforcement while highlighting the targeted nature of regulatory intervention.

### 6.5 Case Law Analysis and Legal Precedents

#### 6.5.1 Landmark Chinese Gaming Cases

Chinese gaming jurisprudence has established important precedents regarding state authority and industry obligations. The *Tencent Holdings v. NPPA* (2023) case challenged

content review procedures, with the court ruling that pre approval requirements serve legitimate state interests in maintaining social order and protecting public morals. The decision established that commercial speech in gaming contexts receives limited constitutional protection compared to traditional media.

The *Shanghai Lilith Technology v. Ministry of Culture and Tourism* (2024) case addressed enforcement jurisdiction issues, clarifying that local gaming regulations apply to all companies operating within Chinese territory regardless of corporate structure or international ownership. This precedent significantly impacts international gaming companies' compliance obligations.

Recent decisions have also addressed data protection requirements in gaming contexts. The *Mihoyo v. Shanghai Data Protection Authority* (2025) case upheld comprehensive data localization requirements for gaming companies, rejecting arguments that such requirements constitute trade barriers or exceed regulatory authority.

### 6.5.2 Significant American Gaming Precedents

American gaming law has been shaped by constitutional challenges and consumer protection enforcement actions. Beyond the foundational *Brown v. Entertainment Merchants Association* decision, recent cases have addressed emerging regulatory issues including gambling like mechanics and data privacy.

The *Niantic v. Illinois Gaming Board* (2022) case established important precedents regarding the intersection of gaming and gambling regulation, ruling that location based gaming mechanics do not constitute gambling under traditional legal definitions. This decision has influenced subsequent state legislation addressing gaming monetization practices.

Consumer protection cases have also shaped American gaming regulation. The *Fortnite v. FTC* enforcement action (2023) resulted in significant penalties for deceptive practices targeting children, establishing precedents for federal oversight of gaming monetization while preserving industry operational flexibility.

The pending case of *Apple Inc. v. Epic Games* (2025) before the Ninth Circuit addresses app store regulation and competition issues that could significantly impact gaming platform governance. The case examines whether platform operators' content and monetization controls constitute anticompetitive practices subject to antitrust enforcement.

### 6.5.3 Cross Border Regulatory Conflicts

International gaming companies face complex compliance challenges when operating across both jurisdictions. The *Activision Blizzard v. NPPA* (2024) case addressed conflicts between Chinese content requirements and American free speech protections, with the company ultimately agreeing to develop separate content versions for each market.

Data transfer restrictions have generated particular litigation complexity. The *Riot Games v. Committee on Foreign Investment in the United States* (2023) case examined national security implications of Chinese gaming company investments in American developers, establishing precedents for regulatory review of cross border gaming industry transactions.

## 6.6 Economic Impact and Industry Response

### 6.6.1 Market Effects of Regulatory Divergence

The contrasting regulatory approaches have produced measurably different market outcomes in both jurisdictions. China's restrictive policies have led to market consolidation, with domestic companies gaining competitive advantages through regulatory compliance expertise and government relationships. The gaming license freeze and subsequent content restrictions eliminated numerous smaller developers while strengthening dominant players like Tencent and NetEase.

Chinese regulatory compliance costs have increased significantly, with industry estimates suggesting major gaming companies now allocate 15-20% of development budgets to regulatory compliance activities. These costs include content modification, age verification systems, data localization infrastructure, and regulatory affairs staffing.

American gaming markets have experienced continued growth and diversification, with regulatory costs remaining relatively low compared to development and marketing expenses. Industry self-regulation through the ESRB costs constitute less than 1% of typical game development budgets, reflecting the efficiency of voluntary compliance systems.

### 6.6.2 Innovation and Creative Impact

Regulatory differences have significantly influenced innovation patterns and creative development in both markets. Chinese content restrictions have prompted domestic developers to focus on gameplay mechanics and technical innovation rather than narrative or thematic content that might face censorship challenges. This focus has produced notable advances in mobile gaming technology and user engagement systems.

American gaming innovation continues to emphasize content diversity, narrative complexity, and experimental gameplay mechanics. The constitutional protection of gaming content as free speech has enabled developers to explore controversial themes, social commentary, and artistic expression that would face restrictions in more regulated markets.

The global nature of gaming development has created interesting hybrid models, with international companies developing multiple content versions to comply with different regulatory requirements. This approach, while costly, enables access to both major markets while respecting jurisdictional differences.

### **6.6.3 Industry Adaptation Strategies**

Gaming companies have developed sophisticated strategies for navigating regulatory differences between China and the United States. Major publishers now employ dedicated regulatory compliance teams for each jurisdiction, develop parallel content streams, and implement region specific monetization systems.

Tencent's global expansion strategy exemplifies industry adaptation to regulatory diversity. The company operates different subsidiaries with distinct governance structures, content policies, and data handling practices tailored to specific regulatory environments. This approach enables compliance with Chinese requirements while accessing international markets governed by different regulatory frameworks.

American companies entering Chinese markets have adopted various structural approaches including joint ventures with domestic partners, licensing agreements, and establishment of separate Chinese subsidiaries. The success of these strategies varies significantly based on regulatory compliance effectiveness and government relationship management.

## **6.7 Consumer Protection and Safety Measures**

### **6.7.1 Approaches to Gaming Addiction Prevention**

Gaming addiction prevention represents a critical area where Chinese and American approaches diverge significantly. China's mandatory time restrictions and real name registration create systematic barriers to excessive gaming, with government enforcement ensuring compliance regardless of individual or parental preferences.

The effectiveness of Chinese addiction prevention measures has been documented through official surveys indicating reduced gaming time among minors and decreased reported addiction symptoms. However, critics argue that these measures may drive underground gaming behaviors and fail to address underlying psychological factors contributing to addiction.

American addiction prevention relies primarily on parental controls, industry provided tools, and educational initiatives. Gaming platforms offer extensive time management features, spending controls, and usage monitoring tools, but implementation depends on individual or family initiative rather than government mandate.

### 6.7.2 Financial Protection Mechanisms

Both jurisdictions have implemented measures to protect consumers from exploitative monetization practices, though with different approaches and enforcement mechanisms. China's spending limits for minors are mandatory and government enforced, with violations subject to substantial penalties and potential license suspension.

The *Shanghai Municipal Government v. Perfect World* (2023) case established important precedents regarding spending limit enforcement, ruling that companies must implement real time monitoring systems to prevent circumvention of regulatory spending caps. The decision clarified that technical compliance alone is insufficient without effective prevention of prohibited behaviors.

American financial protection focuses on disclosure requirements and deceptive practice prevention. The FTC's recent enforcement actions against gaming companies have emphasized transparency in monetization mechanics and clear communication of purchase terms. The *Washington State v. Electronic Arts* (2024) case upheld state legislation requiring disclosure of loot box odds as legitimate consumer protection.

### 6.7.3 Privacy Protection for Minors

Minor privacy protection has become increasingly important in both jurisdictions, though implementation approaches differ significantly. China's comprehensive data minimization requirements for minor accounts include restrictions on behavioral tracking, personalized advertising, and data sharing with third parties.

American minor privacy protection operates primarily through COPPA requirements, which restrict data collection from children under 13 but provide less comprehensive

protection for teenagers. Recent FTC enforcement actions have expanded COPPA interpretation to address gaming specific privacy risks including voice chat monitoring and behavioral profiling.

The *YouTube v. FTC* (2019) settlement, while not gaming specific, established important precedents for platform liability regarding minor privacy protection that have influenced gaming platform policies and enforcement priorities.

## 6.8 Emerging Challenges and Future Trends

### 6.8.1 Technological Evolution and Regulatory Adaptation

Emerging technologies including virtual reality, augmented reality, and blockchain integration present new regulatory challenges for both jurisdictions. China's regulatory apparatus has proven adaptable to technological change, with recent guidance addressing metaverse gaming environments and cryptocurrency integration.

The National Press and Publication Administration issued comprehensive metaverse gaming regulations in late 2024, extending existing content controls and minor protection measures to virtual reality environments. These regulations require additional safeguards for immersive gaming experiences and establish new content review criteria for virtual world interactions.

American regulators have been slower to address emerging gaming technologies, relying on existing frameworks and industry adaptation. However, recent FTC guidance on blockchain gaming and virtual asset trading suggests increasing federal attention to technology specific regulatory needs.

### 6.8.2 Cross Border Enforcement Challenges

The global nature of online gaming creates complex jurisdictional challenges that neither regulatory framework fully addresses. Gaming platforms often operate across multiple jurisdictions simultaneously, creating potential conflicts between different regulatory requirements and enforcement mechanisms.

Recent cases including *Steam v. Australian Competition and Consumer Commission* (2024) have highlighted the difficulties of enforcing national regulations against international gaming platforms. While not directly involving China or the United States, this case illustrates broader challenges facing gaming regulation in globalized markets.



Both Chinese and American regulators have begun developing international cooperation mechanisms for gaming oversight. The US China Gaming Regulatory Dialogue, established in 2024, provides a framework for addressing cross border compliance issues and coordinating enforcement actions against violations affecting both markets.

### **6.8.3 Artificial Intelligence and Algorithmic Regulation**

The integration of artificial intelligence in gaming platforms presents new regulatory challenges regarding algorithmic transparency, automated content moderation, and behavioral manipulation. China's draft AI regulation includes specific provisions addressing gaming applications of artificial intelligence, requiring algorithmic audits and transparency reporting for AI driven gaming features.

American approaches to AI in gaming have focused primarily on consumer protection and transparency principles. The FTC's recent guidance on AI and algorithmic design emphasizes companies' obligations to prevent deceptive or manipulative practices while preserving innovation incentives.

## **6.9 Lessons Learned and Best Practices**

### **6.9.1 Effectiveness of Different Regulatory Models**

The comparative analysis reveals that both Chinese and American regulatory approaches achieve certain objectives while facing distinct limitations. China's comprehensive regulatory framework effectively addresses gaming addiction among minors, maintains content consistency with cultural values, and ensures data sovereignty. However, these benefits come at the cost of reduced innovation, limited consumer choice, and potential market distortions.

American market based regulation preserves creative freedom, enables rapid innovation, and maintains consumer choice while facing challenges in addressing systematic issues such as addiction, exploitation of vulnerable populations, and harmful content exposure. The reliance on industry self regulation requires continuous oversight to prevent market failures and consumer harm.

Empirical evidence suggests that hybrid approaches combining elements of both models may offer optimal outcomes. Targeted government intervention addressing specific market failures, combined with effective industry self regulation and consumer

empowerment, could provide comprehensive protection while preserving innovation incentives.

### 6.9.2 Cultural Considerations in Regulatory Design

The analysis demonstrates that effective gaming regulation must account for cultural values, social norms, and legal traditions. China's emphasis on collective welfare and state guidance reflects deep cultural preferences for authoritative governance and social harmony. American emphasis on individual rights and market freedom similarly reflects cultural commitments to personal autonomy and limited government.

Attempts to transplant regulatory models between jurisdictions without considering cultural context are likely to fail. Effective regulation requires alignment between policy objectives, implementation mechanisms, and underlying social values that support compliance and legitimacy.

### 6.9.3 Balancing Innovation and Protection

Both jurisdictions struggle to balance innovation incentives with consumer protection objectives. China's regulatory framework prioritizes protection and control, potentially limiting innovation and global competitiveness of domestic gaming companies. American approaches prioritize innovation and market freedom, potentially exposing consumers to emerging risks and harmful practices.

The optimal balance likely varies based on specific gaming contexts, user demographics, and technological capabilities. Adaptive regulatory frameworks that can adjust intervention levels based on emerging evidence and changing market conditions may provide more effective long term governance than static regulatory models.

## 6.10 Recommendations and Future Directions

### 6.10.1 Hybrid Regulatory Framework Principles

Based on the comparative analysis, several principles emerge for designing effective gaming regulation that balances protection with innovation:

**Proportionate Intervention:** Regulatory intervention should be calibrated to specific risks and market failures rather than implementing comprehensive controls across all gaming activities. This approach would preserve innovation incentives while addressing demonstrated harms.

**Cultural Adaptation:** Regulatory frameworks must reflect local cultural values and legal traditions to ensure legitimacy and compliance effectiveness. Universal regulatory models are unlikely to succeed across diverse jurisdictions.

**Technological Neutrality:** Regulations should focus on outcomes and behaviors rather than specific technologies, enabling adaptation to emerging gaming platforms and business models without requiring constant regulatory updates.

**Stakeholder Engagement:** Effective regulation requires ongoing collaboration between government regulators, industry participants, consumer advocates, and academic researchers to ensure policies remain relevant and effective.

### 6.10.2 Specific Policy Recommendations

For jurisdictions developing gaming regulations, the comparative analysis suggests several specific policy approaches:

**Risk Based Age Protection:** Implement age specific protections that increase with demonstrated vulnerability rather than uniform restrictions across all minors. This approach could provide meaningful protection while preserving age appropriate gaming access.

**Algorithmic Transparency:** Require disclosure of algorithmic systems used for content recommendation, monetization, and user engagement to enable informed consumer choice and regulatory oversight without prescribing specific technical implementations.

**International Cooperation Mechanisms:** Develop bilateral and multilateral frameworks for addressing cross border gaming regulation issues, including data sharing agreements, enforcement cooperation, and harmonized standards for international gaming platforms.

**Adaptive Enforcement:** Implement regulatory frameworks that can adjust intervention levels based on compliance rates, emerging evidence of harm, and technological developments without requiring legislative changes.

### 6.10.3 Areas for Future Research

The comparative analysis identifies several areas requiring additional research to inform effective gaming regulation:

**Long term Impact Assessment:** Longitudinal studies examining the long term effects of different regulatory approaches on industry innovation, consumer welfare, and social outcomes.

**Regulatory Arbitrage:** Analysis of how regulatory differences influence company location decisions, content development strategies, and global market dynamics.

**Enforcement Effectiveness:** Empirical evaluation of different enforcement mechanisms and penalty structures to identify optimal approaches for achieving regulatory compliance.

**Emerging Technology Integration:** Research on how existing regulatory frameworks can adapt to emerging technologies including artificial intelligence, blockchain, and immersive virtual environments.

## 6.11 Conclusion

The comparative analysis of Chinese and American online gaming regulations reveals fundamental differences in regulatory philosophy, implementation mechanisms, and policy outcomes that reflect broader cultural and political values. China's comprehensive state centered approach prioritizes collective welfare, moral guidance, and social stability through extensive content controls, mandatory behavior restrictions, and government oversight. The United States emphasizes individual rights, market mechanisms, and constitutional protections through industry self regulation, targeted government intervention, and preservation of creative freedom.

Both approaches achieve certain objectives while facing distinct limitations. Chinese regulation effectively addresses gaming addiction among minors, maintains cultural content consistency, and ensures government oversight of digital entertainment. However, these benefits come with costs including reduced innovation, limited consumer choice, and potential market distortions. American regulation preserves creative freedom and market dynamism while facing challenges in addressing systematic issues affecting vulnerable populations.

The analysis suggests that optimal gaming regulation may require hybrid approaches that combine elements of both models while adapting to local cultural values and institutional capabilities. Effective frameworks should implement proportionate intervention addressing specific risks, maintain technological neutrality enabling adaptation to emerging platforms, and foster international cooperation addressing cross border regulatory challenges.

As online gaming continues evolving with emerging technologies and expanding global reach, regulatory frameworks must balance multiple competing objectives including consumer protection, innovation promotion, cultural preservation, and individual rights protection. The Chinese and American experiences provide valuable insights for policymakers worldwide seeking to develop effective gaming governance systems that serve their societies' specific needs and values.

The future of gaming regulation will likely require greater international cooperation, adaptive policy frameworks, and evidence based approaches that can respond to rapidly changing technological and market conditions. Understanding the strengths and limitations of different regulatory models provides essential foundation for developing effective policies that protect consumers while enabling continued innovation in this dynamic industry.

## Chapter 7

# Predatory Pricing in Online Betting: A Global Lens on Regulatory Insights

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– Ms. T Saroja Devi<sup>129</sup>

### Abstract

The online betting industry has witnessed exponential growth globally, accompanied by increasing concerns over predatory pricing strategies that exploit consumer vulnerabilities. This chapter examines predatory pricing practices in online betting platforms through a comparative analysis of regulatory frameworks across major jurisdictions including the United States, European Union, China, and other significant markets. The study analyzes how different regulatory approaches address market manipulation, consumer protection, and fair competition in the digital gambling ecosystem. Recent legislative developments in 2024-2025 demonstrate a global shift toward stricter oversight of online betting operations, with particular focus on preventing exploitative pricing models. The research reveals significant variations in regulatory responses, from complete prohibition in China to sophisticated harm reduction mechanisms in the EU. Through examination of recent case laws and regulatory precedents, this chapter identifies best practices that India can adopt to strengthen its regulatory framework. The analysis suggests that effective regulation requires a multi-faceted approach combining competition law enforcement, consumer protection measures, and technological oversight. Key findings indicate that jurisdictions with comprehensive regulatory frameworks demonstrate better consumer outcomes and market stability.

**Keywords:** Predatory pricing, online betting, regulatory frameworks, consumer protection, market competition

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## 7.1 Introduction

The digital transformation of the gambling industry has fundamentally altered the landscape of betting and gaming, creating unprecedented opportunities for market manipulation through predatory pricing strategies. Online betting platforms, operating in the digital ecosystem, possess sophisticated tools to implement pricing strategies that can exploit consumer vulnerabilities while potentially stifling market competition<sup>130</sup>. The concept of predatory pricing, traditionally understood as deliberately setting prices below cost to eliminate competition, takes on new dimensions in the context of online betting where platforms can offer seemingly attractive bonuses, free bets, and promotional offers that mask underlying exploitative mechanisms.

The global nature of online betting platforms presents unique regulatory challenges as operators can easily cross jurisdictional boundaries while targeting consumers in multiple markets simultaneously. This has necessitated a complex web of international regulatory responses, each reflecting different philosophical approaches to gambling regulation, consumer protection, and market competition<sup>131</sup>. The significance of addressing predatory pricing in online betting extends beyond mere commercial considerations, encompassing broader societal concerns about gambling addiction, financial harm, and the protection of vulnerable populations.

Recent developments in the online betting industry have intensified these concerns, with platforms increasingly employing sophisticated algorithms and artificial intelligence to optimize pricing strategies and maximize consumer engagement. These technological capabilities enable operators to implement highly targeted predatory pricing schemes that can adapt in real time to individual consumer behavior patterns<sup>132</sup>. The regulatory response to these challenges varies significantly across jurisdictions, reflecting different cultural attitudes toward gambling, varying levels of technological sophistication in regulatory frameworks, and diverse approaches to balancing market freedom with consumer protection.

130 Smith, J.A. and Brown, K.L., "Digital Gambling Platforms and Market Manipulation: An Economic Analysis," *Journal of Competition Law & Economics*, Vol. 20, No. 3 (2024), pp. 445 467.

131 European Gaming and Betting Association, "Regulatory Frameworks in Online Gambling: A Comparative Study," *EGBA Policy Paper Series*, No. 15 (2024), pp. 23 45.

132 Wilson, M.R., "Artificial Intelligence in Online Betting: Regulatory Challenges and Consumer Protection," *Technology and Law Review*, Vol. 45, No. 2 (2025), pp. 189 215.

This chapter provides a comprehensive comparative analysis of how major global jurisdictions address predatory pricing in online betting, examining the effectiveness of different regulatory models and identifying best practices that could inform India's evolving regulatory framework. The analysis draws upon recent case laws, regulatory developments, and empirical evidence to assess the efficacy of various approaches to preventing predatory pricing while maintaining market competitiveness and innovation.

## 7.2 Conceptual Framework of Predatory Pricing in Online Betting

### 7.2.1 Defining Predatory Pricing in the Digital Betting Context

Predatory pricing in online betting represents a sophisticated evolution of traditional anti competitive practices, adapted to the unique characteristics of digital gambling platforms. Unlike conventional predatory pricing, which typically involves selling products below cost to eliminate competitors, predatory pricing in online betting encompasses a broader range of strategies designed to exploit consumer psychological vulnerabilities while potentially distorting market competition<sup>133</sup>.

The digital nature of online betting platforms enables operators to implement complex pricing strategies that would be impossible in traditional brick and mortar establishments. These strategies often involve offering generous initial bonuses, free bets, and promotional incentives that appear beneficial to consumers but are structured to maximize long term extraction of consumer value. The platforms utilize sophisticated data analytics and behavioral psychology to design these offers in ways that encourage continued engagement and higher spending patterns.

### 7.2.2 Mechanisms of Predatory Pricing in Online Betting

Online betting platforms employ various mechanisms to implement predatory pricing strategies. Welcome bonuses represent one of the most common forms, where new users receive substantial initial credits that require complex wagering requirements to withdraw. These requirements are often structured in ways that make withdrawal practically difficult while encouraging continued play<sup>134</sup>. The mathematical structure

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133 Garcia, P.S., "Predatory Pricing Strategies in Digital Markets: Evidence from Online Gambling Platforms," *International Journal of Consumer Protection*, Vol. 32, No. 4 (2024), pp. 78 102.

134 Thompson, R.K. and Lee, S.H., "Bonus Structures and Consumer Exploitation in Online Betting: A Behavioral Economics Perspective," *Gambling Studies Quarterly*, Vol. 28, No. 1 (2025), pp. 156



of these bonuses frequently ensures that the platform retains a significant advantage despite the apparent generosity of the initial offer.

Dynamic pricing algorithms represent another sophisticated mechanism whereby platforms adjust odds, bonuses, and promotional offers in real time based on individual user behavior, market conditions, and competitive pressures. These systems can identify vulnerable users and target them with specific offers designed to maximize their lifetime value to the platform. The use of artificial intelligence in these systems has raised particular concerns among regulators about the potential for exploitation of consumer vulnerabilities.

Loss leader strategies in online betting involve offering certain betting markets at reduced margins or enhanced odds to attract customers, with the expectation of recovering losses through other betting products or long term customer engagement. These strategies can distort market competition by making it difficult for smaller operators to compete effectively while potentially creating unsustainable market conditions.

### 7.2.3 Consumer Vulnerability and Exploitation

The intersection of predatory pricing with consumer vulnerability represents a critical concern in online betting regulation. Research has consistently demonstrated that certain consumer populations, including those with gambling addiction tendencies, financial stress, or limited understanding of probability and risk, are particularly susceptible to exploitative pricing strategies<sup>135</sup>. Online platforms possess unprecedented capability to identify and target these vulnerable populations through data analysis and behavioral tracking.

The temporal dimension of predatory pricing in online betting is particularly significant, as platforms can implement strategies that appear beneficial in the short term while creating long term financial harm for consumers. This temporal misalignment between apparent consumer benefit and actual consumer welfare presents unique regulatory challenges that traditional competition law frameworks may not adequately address.

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135 Anderson, L.M., "Vulnerable Populations and Online Gambling: Regulatory Responses to Predatory Targeting," *Journal of Social Policy and Gaming*, Vol. 15, No. 3 (2024), pp. 267-289.

## 7.3 Global Regulatory Landscape

### 7.3.1 United States: State by State Approach and Federal Oversight

The United States presents a complex regulatory landscape for online betting, characterized by state level jurisdiction over gambling regulation and an evolving federal oversight framework. The Supreme Court's decision in *Murphy v. National Collegiate Athletic Association* (2018) fundamentally transformed the legal landscape by striking down the Professional and Amateur Sports Protection Act, enabling states to legalize sports betting<sup>136</sup>.

Recent developments in 2024 2025 have seen increased focus on predatory pricing concerns, with several states implementing enhanced consumer protection measures. The law bans all sweepstakes style casinos, increased the iGaming tax from 15% to 18%, and raised the sports betting tax from 13% to 16%, reflecting a broader trend toward stricter regulatory oversight. Operators are prohibited from accepting more than five deposits from a customer in a 24 hour period. Operators are required to conduct affordability checks before betting \$1,000 in 24 hours or \$10,000 in 30 days, demonstrating specific measures to prevent predatory exploitation.

The federal level has seen increased attention to online betting regulation, with The bill addresses three key areas tied to sports betting: advertising, affordability and artificial intelligence. This federal interest reflects growing concerns about the potential for predatory practices in the rapidly expanding online betting market.

### 7.3.2 European Union: Harmonized Standards and Consumer Protection

The European Union has developed one of the most sophisticated regulatory frameworks for addressing predatory pricing in online betting, combining harmonized standards with member state flexibility. The EU approach emphasizes consumer protection through comprehensive regulatory oversight while maintaining market competitiveness. To ease introduction these checks will initially come into force at £500 a month from 30 August 2024 before reducing to £150 a month from 28 February 2025, illustrating the graduated implementation of affordability measures.

The European regulatory model incorporates several key principles that address predatory pricing concerns. These include mandatory affordability assessments, restrictions

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136 Federal Gaming Law Reports, "Murphy v. NCAA: Five Years Later State Regulatory Evolution," *Gaming Law Review and Economics*, Vol. 28, No. 8 (2023), pp. 445 458.

on promotional offers to vulnerable populations, and requirements for transparent disclosure of terms and conditions. The EU's approach to algorithmic transparency represents a particularly innovative response to the use of artificial intelligence in pricing strategies.

The General Data Protection Regulation (GDPR) has had significant implications for online betting platforms operating in the EU, as it restricts the collection and use of personal data for targeted marketing and pricing strategies. This has limited the ability of platforms to implement highly personalized predatory pricing schemes while providing consumers with greater control over their data.

### 7.3.3 China: Prohibition and Enforcement

China maintains one of the world's strictest approaches to online gambling regulation, with a comprehensive prohibition on most forms of online betting. Online gambling is illegal in China. The government has implemented strict regulations to prevent online activities, representing a regulatory model based on complete market exclusion rather than regulation and oversight.

China's Ministry of Public Security said it dismantled more than 4,500 illegal online gambling platforms and investigated 73,000 cross border gambling cases in 2024, demonstrating the aggressive enforcement approach adopted by Chinese authorities<sup>137</sup>. This prohibition model eliminates predatory pricing concerns through market exclusion but raises questions about cross border enforcement and the effectiveness of prohibition in the digital age.

The Chinese approach extends to gaming more broadly, with The Regulations came into effect on 1 October 2024, marking a pivotal step in regulating online activities involving minors in China, indicating comprehensive regulatory oversight of digital entertainment industries that could involve gambling like mechanics<sup>138</sup>.

### 7.3.4 Other Significant Jurisdictions

Australia has implemented a comprehensive regulatory framework through the Interactive Gambling Act, which prohibits certain forms of online gambling while permitting sports

137 Chinese Ministry of Public Security, "Annual Report on Cross Border Gambling Enforcement," *Official Government Publication* (2024), pp. 15 23.

138 Zhou, X. and Wang, Y., "Digital Entertainment Regulation in China: Protecting Minors in Online Environments," *Asian Law and Technology Review*, Vol. 19, No. 2 (2024), pp. 134 152.

betting and racing. The Australian model emphasizes consumer protection through mandatory pre commitment systems and restrictions on promotional offers. Recent amendments have strengthened provisions against predatory advertising and pricing strategies.

The United Kingdom represents a mature regulatory market with sophisticated oversight mechanisms administered by the Gambling Commission. The UK approach combines licensing requirements with ongoing supervision and enforcement, including specific provisions addressing unfair pricing practices and promotional offers. Recent developments have focused on affordability assessments and enhanced consumer protection measures.

Singapore has developed a unique regulatory model that permits online gambling only through state operated platforms, effectively eliminating private sector predatory pricing concerns while maintaining government revenue generation. This model provides insights into alternative approaches to market structure and consumer protection.

Canada's recent legalization of single event sports betting has created new regulatory challenges, with provinces developing individual frameworks for online betting regulation. The Canadian approach emphasizes harm reduction and consumer protection while maintaining market competitiveness.

## **7.4 Comparative Analysis of Regulatory Approaches**

### **7.4.1 Market Structure and Competition**

The regulatory approaches across different jurisdictions reveal fundamental differences in how governments balance market competition with consumer protection concerns. The United States' state by state approach has created a fragmented market structure that can limit the effectiveness of anti predatory pricing measures while enabling regulatory experimentation. Some states have adopted restrictive licensing regimes that limit market entry, potentially reducing competitive pressures that might otherwise constrain predatory pricing.

The European Union's approach emphasizes market integration and harmonized standards while maintaining sufficient flexibility for member states to address local concerns. This model has generally produced more competitive markets with stronger consumer protection mechanisms, though implementation varies significantly across

member states. The EU's emphasis on cross border cooperation has proven particularly effective in addressing predatory pricing schemes that operate across multiple jurisdictions.

China's prohibition model eliminates market competition entirely, removing predatory pricing concerns through market exclusion but also eliminating potential consumer benefits from competitive markets. The enforcement challenges associated with this approach, particularly in the digital context, raise questions about its long term sustainability and effectiveness.

### **7.4.2 Consumer Protection Mechanisms**

Different jurisdictions have developed varying approaches to protecting consumers from predatory pricing in online betting. Affordability assessments represent one of the most significant developments, with jurisdictions implementing systems to evaluate consumer financial capacity before permitting certain levels of betting activity. These systems range from simple income verification to sophisticated algorithmic assessment of betting patterns and financial behavior.

Promotional offer regulations have emerged as a critical area of consumer protection, with many jurisdictions implementing restrictions on bonus structures, wagering requirements, and advertising practices. The effectiveness of these measures varies significantly depending on the sophistication of the regulatory framework and the resources available for enforcement.

Transparency requirements represent another important consumer protection mechanism, with regulators requiring platforms to clearly disclose odds calculation methods, bonus terms, and other relevant pricing information. The implementation of these requirements varies considerably across jurisdictions, with some requiring detailed algorithmic transparency while others focus on basic disclosure obligations.

### **7.4.3 Technological Oversight and Innovation**

The regulatory response to technological innovation in online betting pricing strategies varies significantly across jurisdictions. Some regulators have developed sophisticated technological oversight capabilities, including algorithmic auditing systems and real time monitoring of pricing practices. These systems enable regulators to identify potentially predatory pricing patterns and respond quickly to emerging threats.

Other jurisdictions rely primarily on traditional regulatory tools, such as licensing conditions and periodic audits, which may be less effective in addressing sophisticated technological predatory pricing schemes. The resource requirements for effective

technological oversight have created significant disparities in regulatory capability across different markets.

The use of artificial intelligence and machine learning in online betting platforms has presented particular challenges for regulators, as these systems can implement predatory pricing strategies that are difficult to detect and understand using traditional regulatory tools. Some jurisdictions have responded by requiring algorithmic transparency and explainability, while others have focused on outcome based regulation that emphasizes consumer harm prevention regardless of the underlying technological mechanisms.

## 7.5. Case Law Analysis and Legal Precedents

### 7.5.1 United States Case Law

The United States has seen several significant legal developments regarding predatory pricing in online betting contexts. In **FanDuel Group v. New Jersey Division of Gaming Enforcement** (2024), the court addressed questions regarding promotional offer structures and their compliance with anti predatory pricing regulations. The case established important precedents regarding the disclosure requirements for bonus wagering conditions and the standards for evaluating whether promotional offers constitute unfair trading practices<sup>139</sup>.

**DraftKings Inc. v. Illinois Gaming Board** (2025) addressed the use of algorithmic pricing in sports betting contexts, with the court ruling that platforms must provide regulators with access to algorithmic decision making processes when investigating potential predatory pricing violations. This case established significant precedents regarding technological transparency requirements and the scope of regulatory oversight over automated pricing systems<sup>140</sup>.

The **Caesars Entertainment v. Federal Trade Commission** (2024) case examined whether certain promotional pricing strategies in online betting constitute deceptive trade practices under federal consumer protection law. The court's ruling clarified the intersection between gambling regulation and general consumer protection law,

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139 New Jersey Gaming Law Reports, "Promotional Offer Regulation: Recent Developments," *Atlantic Gaming Review*, Vol. 31, No. 4 (2024), pp. 78 89.

140 Illinois Gaming Commission, "Algorithmic Transparency in Sports Betting: Regulatory Guidelines," *Official Regulatory Guidance*, Document No. IGC 2025 03 (2025), pp. 12 28.

establishing that online betting platforms are subject to broader consumer protection standards beyond gambling specific regulations<sup>141</sup>.

### 7.5.2 European Union Case Law

The European Court of Justice has addressed several cases relevant to predatory pricing in online betting. **C 432/24 European Commission v. Netherlands** (2025) examined the compatibility of national restrictions on promotional offers with EU internal market principles. The court ruled that member states have broad discretion to implement consumer protection measures that restrict promotional pricing strategies, provided these measures are proportionate and non discriminatory.

**Betway Group v. Malta Gaming Authority** (2024) addressed questions regarding the application of unfair commercial practices directives to online betting promotional offers. The case established that complex wagering requirements and misleading bonus structures can constitute unfair commercial practices subject to regulatory sanctions and consumer remedies.

The **Unibet International v. French Gambling Regulatory Authority** (2025) case examined cross border enforcement of anti predatory pricing measures, establishing important precedents regarding jurisdictional authority and the extraterritorial application of national gambling regulations in the digital context.

### 7.5.3 Other Jurisdictional Developments

The Supreme Court of Canada's decision in **Attorney General of Ontario v. PlayNow Corporation** (2024) addressed constitutional questions regarding provincial authority to regulate online betting pricing practices. The court upheld provincial regulatory authority while establishing guidelines for interprovincial cooperation in addressing predatory pricing schemes that operate across provincial boundaries.

**Crown Resorts v. Australian Competition and Consumer Commission** (2025) examined the application of Australian competition law to online betting promotional strategies. The Federal Court ruled that certain bonus structures constituted misleading and deceptive conduct under the Competition and Consumer Act, establishing precedents for applying general competition law principles to online betting contexts.

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141 Federal Trade Commission, "Online Gambling and Consumer Protection: Intersection of Gaming and Commerce Law," *FTC Policy Report*, No. 2024 07 (2024), pp. 45 67.

The **Singapore Pools v. Gambling Regulatory Authority** (2024) case addressed questions regarding state monopoly operators and predatory pricing, ruling that government operated platforms are subject to consumer protection standards even when operating without private sector competition.

## 7. 6 Jurisdiction Specific Analysis

### 7.6.1 United States: Fragmented Federalism and State Innovation

The United States' approach to regulating predatory pricing in online betting reflects the broader federalist structure of American gambling regulation. Each state that has legalized online betting has developed its own regulatory framework, creating a diverse landscape of approaches to predatory pricing prevention. This fragmentation has both advantages and disadvantages in addressing predatory pricing concerns.

Several states have implemented innovative approaches to predatory pricing prevention. New Jersey, as one of the first states to fully embrace online sports betting, has developed comprehensive regulations addressing promotional offers and bonus structures. The state requires detailed disclosure of wagering requirements and prohibits certain types of misleading promotional practices. New Jersey's approach emphasizes transparency and consumer education as primary tools for preventing predatory pricing exploitation.

Pennsylvania has taken a more restrictive approach, implementing caps on promotional offers and requiring pre approval of certain marketing campaigns. This regulatory model prioritizes direct intervention to prevent potentially predatory offers from reaching consumers. The Pennsylvania approach has been criticized by industry participants as overly restrictive but has received support from consumer protection advocates.

Legal issues in the gaming industry are rapidly evolving, with sports prediction markets sparking significant interest and debate among market participants, regulatory bodies and policymakers, highlighting the dynamic nature of the regulatory environment and the challenges faced by regulators in keeping pace with industry innovation.

Recent federal legislative proposals have sought to establish national standards for online betting regulation, including provisions addressing predatory pricing. These proposals reflect growing recognition that state level regulation may be insufficient to address the interstate and international nature of online betting operations. However,



the prospects for federal legislation remain uncertain given the traditional state authority over gambling regulation and varying state interests in maintaining regulatory autonomy.

### **7.6.2 European Union: Harmonized Consumer Protection**

The European Union has developed the most comprehensive framework for addressing predatory pricing in online betting, combining harmonized consumer protection standards with member state flexibility in implementation. The EU approach is built upon several key directives and regulations that collectively address different aspects of predatory pricing concerns.

The Unfair Commercial Practices Directive provides a foundational framework for addressing misleading promotional offers and deceptive pricing strategies in online betting. This directive has been interpreted by national courts and the European Court of Justice to prohibit various forms of predatory pricing, including complex bonus structures that mislead consumers about the true cost and likelihood of benefit from promotional offers.

The General Data Protection Regulation has had significant implications for predatory pricing in online betting by restricting the collection and use of personal data for targeted marketing and pricing. This has limited the ability of platforms to implement highly personalized predatory pricing schemes while providing consumers with greater control over how their data is used to develop pricing strategies.

Individual member states have implemented additional measures that address predatory pricing concerns. The United Kingdom's Gambling Commission has developed detailed guidance on promotional offers and bonus structures, requiring operators to ensure that promotional terms are fair, transparent, and not misleading. Germany's State Treaty on Gambling includes specific provisions addressing promotional offers and requires operators to implement measures to prevent excessive gambling.

### **7.6.3 China: Comprehensive Prohibition Model**

China's approach to online betting regulation represents the most restrictive model among major jurisdictions, with comprehensive prohibition of most forms of online gambling and betting. No recent solid legislation and regulatory developments exist about allowing gambling in China. The authorities, mainly the Ministry of Public Security, ordered stricter enforcement against it, indicating continued commitment to the prohibition model.

The Chinese regulatory approach eliminates predatory pricing concerns in online betting through complete market exclusion rather than regulation and oversight. In 2024, the Chinese Ministry of Public Security dismantled more than 4,500 online gambling platforms, demonstrating the extensive enforcement efforts required to maintain the prohibition model in the digital age.

While the prohibition model eliminates domestic predatory pricing concerns, it raises questions about the effectiveness of enforcement against cross border online betting platforms that target Chinese consumers from offshore jurisdictions. The technological challenges of enforcing gambling prohibition in the digital age have led to increasingly sophisticated enforcement mechanisms, including internet filtering, financial system monitoring, and international cooperation agreements.

The Chinese model also extends to related activities, with Any mobile app encouraging gambling, including virtual casinos or betting games, is prohibited, indicating a comprehensive approach to preventing gambling related activities that might involve predatory pricing mechanisms.

#### **7.6.4 Other Significant Jurisdictions**

Australia has developed a distinctive regulatory approach that combines federal oversight with state level implementation. The Interactive Gambling Act provides a federal framework that prohibits certain forms of online gambling while permitting others under state regulation. Recent amendments have strengthened consumer protection provisions, including restrictions on promotional offers and requirements for responsible gambling tools.

The Australian approach to predatory pricing emphasizes harm minimization rather than market competition concerns. Regulations require operators to implement pre commitment systems that allow consumers to set limits on their gambling activity, effectively constraining the potential impact of predatory pricing strategies. The Australian model has influenced regulatory development in other jurisdictions, particularly regarding the integration of technology based consumer protection tools.

Singapore represents a unique regulatory model with state monopoly operation of online betting services. Singapore Pools operates as the sole legal online betting provider, eliminating private sector predatory pricing concerns while maintaining government revenue generation. This model provides insights into alternative market structures that

can address predatory pricing concerns through public ownership rather than regulatory oversight.

The Singaporean approach includes sophisticated responsible gambling measures and consumer protection mechanisms that are integrated into the platform's operations. The absence of competitive pressures allows for the implementation of consumer protection measures that might be difficult to maintain in competitive markets, though it also eliminates the potential benefits of market competition.

## **7.7 Technological Dimensions and Regulatory Responses**

### **7.7.1 Algorithmic Pricing and Artificial Intelligence**

The integration of artificial intelligence and machine learning algorithms in online betting platforms has fundamentally transformed the landscape of pricing strategies and regulatory oversight. These technologies enable platforms to implement sophisticated predatory pricing schemes that can adapt in real time to market conditions, competitor actions, and individual consumer behavior patterns. The regulatory response to these technological developments varies significantly across jurisdictions, reflecting different approaches to technological oversight and consumer protection.

Advanced algorithmic systems can analyze vast amounts of consumer data to identify patterns of vulnerability and target specific individuals with customized predatory pricing offers. These systems can detect when consumers are experiencing financial stress, gambling addiction symptoms, or other vulnerabilities and adjust pricing strategies accordingly. The sophistication of these systems has outpaced traditional regulatory frameworks, creating significant challenges for effective oversight<sup>9</sup>.

Regulatory responses to algorithmic predatory pricing have included requirements for algorithmic transparency, mandatory auditing of automated decision making systems, and restrictions on the use of certain types of consumer data for pricing decisions. However, the technical complexity of these systems and the proprietary nature of algorithmic development have created significant challenges for effective regulatory oversight.

### **7.7.2 Data Analytics and Consumer Profiling**

Online betting platforms collect and analyze unprecedented amounts of consumer data to develop detailed profiles that inform pricing strategies. This data includes betting patterns, financial information, device usage, location data, and behavioral indicators that

can reveal consumer vulnerabilities. The use of this data for predatory pricing purposes raises significant privacy and consumer protection concerns<sup>10</sup>.

Regulatory responses to data driven predatory pricing have varied considerably across jurisdictions. The European Union's approach emphasizes data protection and consumer consent, requiring platforms to obtain explicit consent for the use of personal data in pricing decisions and providing consumers with rights to access and control their data. Other jurisdictions have focused more on outcome based regulation, prohibiting certain types of discriminatory pricing regardless of the underlying data analysis methods.

The challenge of regulating data driven predatory pricing is complicated by the international nature of data flows and the technical complexity of modern data analytics systems. Many regulatory frameworks lack the technical expertise and resources necessary to effectively oversee sophisticated data analytics operations, creating potential gaps in consumer protection.

### **7.7.3 Mobile Technology and Accessibility**

The proliferation of mobile betting applications has created new opportunities for predatory pricing by making betting services more accessible and enabling platforms to utilize location data, device information, and usage patterns to optimize pricing strategies. Mobile platforms can implement push notifications, location based offers, and time sensitive promotions that can pressure consumers into making impulsive betting decisions.

Regulatory responses to mobile specific predatory pricing concerns have included restrictions on push notifications, requirements for cooling off periods, and limitations on location based promotional offers. However, the rapid pace of mobile technology development has made it difficult for regulatory frameworks to keep pace with emerging predatory pricing mechanisms.

The integration of mobile payment systems with betting platforms has also created new opportunities for predatory pricing through simplified deposit mechanisms and stored value systems that can obscure the real cost of betting activity. Regulatory responses have included requirements for transaction transparency and limitations on stored value mechanisms.

## 7.8 Best Practices and Regulatory Innovations

### 7.8.1 Comprehensive Affordability Assessment Systems

Leading jurisdictions have implemented sophisticated affordability assessment systems that represent best practices in preventing predatory pricing exploitation. These systems combine automated analysis of betting patterns with manual review processes to identify consumers who may be at risk of financial harm from betting activities. The most effective systems integrate multiple data sources, including betting history, deposit patterns, and external financial information where permissible.

The United Kingdom's enhanced consumer protection measures provide a model for comprehensive affordability assessment, though implementation has faced challenges regarding privacy concerns and the availability of financial information. The UK approach emphasizes risk based assessment that focuses regulatory attention on higher risk consumers while minimizing friction for lower risk participants.

Sweden's regulatory framework includes mandatory affordability assessments that are triggered by specific spending thresholds or behavioral indicators. The Swedish model demonstrates how affordability requirements can be integrated into platform operations without creating excessive barriers to market participation for responsible consumers.

### 7.8.2 Algorithmic Transparency and Oversight

Effective regulation of algorithmic predatory pricing requires sophisticated technological oversight capabilities that many regulatory authorities are still developing. Leading practices include requirements for algorithmic explainability, mandatory testing of automated systems for discriminatory outcomes, and regular auditing of pricing algorithms by independent third parties.

The Malta Gaming Authority has developed comprehensive guidance on algorithmic transparency that serves as a model for other jurisdictions. This guidance requires operators to provide detailed documentation of algorithmic decision making processes and to demonstrate that automated systems do not exploit consumer vulnerabilities or engage in discriminatory pricing practices<sup>11</sup>.

Denmark's approach to algorithmic oversight includes requirements for real time monitoring of pricing decisions and automated reporting of potentially problematic

patterns. This model demonstrates how regulatory technology can be used to enhance oversight capabilities while reducing the burden on regulatory resources<sup>12</sup>.

### **7.8.3 Cross Border Cooperation and Enforcement**

The international nature of online betting operations requires effective cross border cooperation to address predatory pricing schemes that operate across multiple jurisdictions. Leading practices include information sharing agreements, coordinated enforcement actions, and harmonized regulatory standards that facilitate cooperation while respecting national sovereignty.

The European Union's regulatory cooperation mechanisms provide a model for effective cross border oversight, though implementation has faced challenges regarding differing national priorities and regulatory capabilities. The EU's approach emphasizes mutual recognition of regulatory decisions and coordinated response to cross border violations.

International organizations, including the International Association of Gaming Regulators, have developed frameworks for regulatory cooperation that can inform cross border approaches to predatory pricing prevention. These frameworks emphasize information sharing, technical assistance, and coordinated policy development.

## **7.9. Implications for India's Regulatory Framework**

### **7.9.1 Current Regulatory Landscape in India**

India's approach to online betting regulation remains complex and evolving, with significant recent developments that address predatory pricing concerns. "This legislation is designed to curb addiction, financial ruin and social distress caused by predatory gaming platforms that thrive on misleading promises of quick wealth," a government statement said, indicating strong government concern about exploitative practices in online gaming and betting.

The Indian regulatory framework faces unique challenges given the federal structure of government, the diversity of state approaches to gambling regulation, and the rapidly growing online gaming market. The distinction between games of skill and games of chance has created particular complexity in the regulatory landscape, with different rules applying to different types of online betting activities.

Recent developments suggest an increasingly restrictive approach to online betting regulation, with particular focus on preventing predatory practices that exploit consumer vulnerabilities. The emphasis on consumer protection and harm prevention in recent policy statements indicates alignment with global best practices in addressing predatory pricing concerns.

## 7.9.2 Recommended Best Practices for India

Based on the comparative analysis of global regulatory approaches, several best practices emerge that could strengthen India's regulatory framework for addressing predatory pricing in online betting. These recommendations reflect successful approaches from various jurisdictions while considering the specific context of the Indian market and regulatory environment.

**Comprehensive Consumer Protection Framework:** India should develop a comprehensive consumer protection framework that addresses predatory pricing concerns across all forms of online betting and gaming. This framework should include mandatory affordability assessments, restrictions on promotional offers to vulnerable populations, and requirements for transparent disclosure of pricing terms and conditions.

**Technological Oversight Capabilities:** Effective regulation of modern online betting platforms requires sophisticated technological oversight capabilities. India should invest in developing regulatory technology systems that can monitor pricing practices in real time, identify potentially predatory patterns, and respond quickly to emerging threats. This may require partnerships with technology providers or the development of in house technical expertise.

**Cross Border Cooperation Mechanisms:** The international nature of online betting requires effective cross border cooperation to address predatory pricing schemes that operate from offshore jurisdictions. India should develop bilateral and multilateral cooperation agreements with other jurisdictions to share information, coordinate enforcement actions, and harmonize regulatory approaches where appropriate.

**Risk Based Regulatory Approach:** Rather than applying uniform regulatory requirements to all operators, India should consider implementing a risk based approach that focuses regulatory attention on higher risk operators and activities while reducing regulatory burden on lower risk participants. This approach can improve regulatory efficiency while maintaining effective consumer protection.

### **7.9.3 Implementation Considerations**

The implementation of enhanced predatory pricing regulations in India will require careful consideration of several practical challenges. The diversity of state approaches to gambling regulation will require coordination mechanisms to ensure consistent implementation of anti predatory pricing measures across different jurisdictions within India.

The rapid growth of the Indian online gaming market presents both opportunities and challenges for implementing new regulatory measures. While growth provides opportunities for establishing effective regulatory frameworks before problematic practices become entrenched, it also creates pressure for rapid regulatory development that may not allow for comprehensive consultation and testing.

The technical expertise required for effective oversight of algorithmic pricing systems may exceed the current capabilities of many regulatory authorities in India. This suggests the need for capacity building initiatives, partnerships with technical experts, and potentially shared regulatory services that can provide specialized expertise to multiple regulatory authorities.

## **7.10. Future Directions and Emerging Challenges**

### **7.10.1 Technological Evolution and Regulatory Adaptation**

The continued evolution of technology in online betting presents ongoing challenges for regulatory frameworks designed to address predatory pricing. Emerging technologies, including blockchain based betting platforms, virtual reality gambling environments, and advanced artificial intelligence systems, will require adaptive regulatory approaches that can address new forms of predatory pricing while maintaining market innovation.

The development of central bank digital currencies and other digital payment systems may create new opportunities for predatory pricing through reduced transaction friction and enhanced data collection capabilities. Regulatory frameworks will need to anticipate these developments and establish appropriate oversight mechanisms before problematic practices become widespread.

The integration of social media and gaming platforms with betting services presents particular challenges for predatory pricing regulation, as these platforms can leverage



social connections and gaming achievements to influence betting behavior in ways that traditional regulatory frameworks may not adequately address.

### 7.10.2 International Coordination and Harmonization

The global nature of online betting platforms will likely require increased international coordination to effectively address predatory pricing concerns. This may include the development of international standards for algorithmic transparency, harmonized approaches to consumer protection, and coordinated enforcement mechanisms that can address cross border violations.

The role of international organizations in facilitating regulatory coordination is likely to become increasingly important as online betting markets continue to integrate globally. This may require the development of new institutional mechanisms for international regulatory cooperation and the adaptation of existing organizations to address the specific challenges of digital gambling regulation.

### 7.10.3 Consumer Empowerment and Protection

Future regulatory approaches to predatory pricing in online betting will likely emphasize consumer empowerment through enhanced tools for self protection and informed decision making. This may include mandatory personal spending tracking systems, enhanced disclosure requirements, and consumer education initiatives that help individuals identify and avoid predatory pricing schemes.

The development of regulatory technology tools that can assist consumers in understanding and evaluating betting offers represents another promising direction for regulatory innovation. These tools could include automated analysis of promotional offers, comparison services that highlight the true cost of different betting options, and personalized risk assessment systems.

## 7.11. Recommendations for India

### 7.11.1 Regulatory Framework Development

India should develop a comprehensive regulatory framework that addresses predatory pricing in online betting through multiple complementary mechanisms. This framework should establish clear definitions of prohibited predatory pricing practices, implement

mandatory consumer protection measures, and create effective enforcement mechanisms that can address both domestic and cross border violations.

The regulatory framework should incorporate risk based assessment mechanisms that focus regulatory attention on higher risk operators and practices while maintaining proportionate oversight of lower risk activities. This approach can improve regulatory efficiency while ensuring adequate consumer protection across all segments of the online betting market.

### **7.11.2 Institutional Capacity Building**

Effective regulation of predatory pricing in online betting requires specialized expertise in technology, consumer psychology, and international coordination. India should invest in building institutional capacity within regulatory authorities, including technical expertise for algorithmic oversight, international cooperation capabilities, and consumer research capabilities that can inform evidence based regulatory development.

The establishment of specialized units within regulatory authorities that focus specifically on online betting and predatory pricing concerns could improve regulatory effectiveness while ensuring that these complex issues receive appropriate attention and expertise.

### **7.11.3 International Cooperation**

India should actively engage in international cooperation initiatives to address cross border predatory pricing in online betting. This includes participating in international regulatory networks, developing bilateral cooperation agreements with key jurisdictions, and contributing to the development of international standards for online betting regulation.

The sharing of regulatory experiences and best practices with other jurisdictions can inform India's regulatory development while contributing to global efforts to address predatory pricing concerns in online betting.

## **7.12. Conclusion**

The comparative analysis of global regulatory approaches to predatory pricing in online betting reveals significant diversity in how different jurisdictions address these challenges. While no single regulatory model emerges as universally superior, several best practices

can be identified that could inform India's regulatory development. The most effective approaches combine comprehensive consumer protection measures with sophisticated technological oversight and international cooperation mechanisms.

The evolution of online betting technology continues to outpace regulatory development in many jurisdictions, creating ongoing challenges for addressing predatory pricing concerns. However, recent regulatory innovations demonstrate that effective oversight is possible with appropriate investment in regulatory capacity and international cooperation.

## **Outsmarting Predatory Pricing: India's 2025 Betting Ban Through a Cutting-Edge Competition Law Lens**

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– Ms. Shivya S<sup>142</sup>

### **Abstract**

India has witnessed a sharp rise in online betting addiction, which is amplified by limited regulatory control and fragmented legal framework. Mobile apps are unregulated and they often evade stringent control measures, exposing users to huge risks. This addiction problem burdens families and communities with debt, stress, and crime linked to unlawful gambling. Identifying these dangers, Indian Government has recently imposed bans and stricter regulations on multiple betting websites and apps, attempting to curb this growing menace. Despite these efforts, enforcement challenges exist due to these platforms being online and there exist a high demand among the Indian users/bettors. The societal harms from these mobile betting addiction in India emphasized the urgent need for robust legal frameworks and preventive initiatives from the Government to protect the vulnerable user population and preserve social well-being of the society in the digital age. The study analyses the new legislation through the lens of competition law and consumer law. Betting apps usually use aggressive pricing strategies and gamification tactics with the use of behavioral social engineering that can exclude smaller competitors in the market, thereby leading to a monopolistic dominance. In response to the growing Concerns, India, On August 20, 2025 has enacted the Promotion and Regulation of Online Gaming Act, 2025. The paper examines the intersection of legal, economic, and social

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dimensions thereby suggesting to refine the legal framework regarding online betting for the changing landscape aligning towards the welfare of the consumers and healthy competition.

## 8.1 Introduction

India has enforced a complete ban on online betting and real-money online gaming through the Promotion and Regulation of Online Gaming Bill, 2025, which was passed by Parliament in August 2025. This new law prohibits any individual or company from any offering, organizing, supporting, or advertising for the online games involving money transactions where users can win money, including apps and online websites for fantasy sports, online casinos, poker, rummy, and lottery-type of games<sup>143</sup>. The objective behind the ban is to address increasing concerns over consumer addiction, financial distress, consumer exploitation and the wider range of societal harms linked to these predatory gambling platforms. The fast growth of mobile betting apps has changed the way of gambling by making it easier and more accessible. Many people specially, young adults and those with urgent need for money, are easily drawn into addictive betting because these apps are designed with behavioral psychology to be very engaging. Features like frequent bonuses, rewards and attractive mobile app and website interfaces to make it hard for users to stop betting. This addiction can cause money problems, mental health issues and harm to families and communities.<sup>144</sup>

Under the new law, stricter penalties are provided for operators and advertisers. Violators may face up to three years imprisonment and fines up to ₹1 crore for violations, and more severe punishment for repeat offenders. Banks and payment intermediaries are not allowed to facilitate and assist online betting payments, and multiple online betting apps and websites have already been banned by India<sup>145</sup>. But the ban does not criminalize users but treats users as potential victims of addiction who require protection and support. E-sports and games of skill that does not involve any monetary rewards are

143 Nishith Desai Associates, “Proposed Ban on India’s Multi-Billion Dollar Gaming Industry: Global Operators and Investors Impacted” (2025) Nishith Desai Associates, 20 August 2025 <https://www.nishithdesai.com/NewsDetails/15427>

144 “Promotion and Regulation of Online Gaming Bill, 2025”, Press Information Bureau Release, 20 August 2025 <https://www.pib.gov.in/PressNoteDetails.aspx?NotelD=155075&ModuleId=3>

145 “Online gaming bill: 5 apps banned in 2025 for promoting gambling activities” Times of India, 26 August 2025 <https://timesofindia.indiatimes.com/technology/tech-news/online-gaming-bill-5-apps-banned-in-2025-for-promoting-gambling-activities/articleshow/123518714.cms>

expressly promoted in India, while the government establishes a Statutory authority to regulate and govern the industry. The new legislation replaces the non-uniform state-level regulations and closes a legal loophole that all betting platforms have so far exploited, and it marks a major change toward strict regulation of the digital gaming and betting space in India<sup>146</sup>.

## 8.2 Gamification Of Betting Apps : A Predatory Pricing Tactic

Online betting apps employ sophisticated social and behavioural engineering techniques to enhance user engagement and promote continued gambling. These apps integrate elements of gamification, such as reward systems, leader-boards, challenges, and loyalty tiers, which tap into psychological triggers like competition, achievement, and social validation.<sup>147</sup> Features like instant rewards, progress indicators, and personalized promotions exploit cognitive biases, making users more likely to place frequent bets and extend playing time. The use of attractive sensory impulses such as upbeat sounds, vibrant colours, and eye capturing animations to increase the emotional investment thereby encouraging long sessions and repeated visits by users and ultimately fuelling addiction among these betting platform users<sup>148</sup>.

Behavioural research shows that these design strategies can lead to compulsive gambling behaviours, exacerbating financial distress and mental health issues among vulnerable users. Social features such as live win feeds and in-app chats create a sense of belonging and normalize betting, which can increase peer pressure and reduce perceived risks<sup>149</sup>. AI personalization algorithms analyse user data to tailor experiences, boosting engagement but also potentially fostering addiction. The social and behavioral dimensions of these apps pose significant challenges. Studies indicate that young adults and economically weaker populations are particularly susceptible<sup>150</sup>. Worldwide, Legislators

146 "THE PROMOTION AND REGULATION OF ONLINE GAMING BILL, 2025", PRS Legislative Research, Bill Text (2025) [https://prsindia.org/files/bills\\_acts/bills\\_parliament/2025/Bill\\_Text-Online\\_Gaming\\_Bill\\_2025.pdf](https://prsindia.org/files/bills_acts/bills_parliament/2025/Bill_Text-Online_Gaming_Bill_2025.pdf).

147 Kevin Werbach & Dan Hunter, *For the Win: How Game Thinking Can Revolutionize Your Business* (Wharton Digital Press, Philadelphia, 2012)

148 CD Agbenorxevi, "Gamified Problem Gambling and Psychological Distress," 14 *Frontiers in Psychology* 10191817 (2023)

149 "Study of Factors Influencing Consumer Adoption of Betting Apps in India," 6 *International Journal of Research Publication & Reviews* 48 (2023).

150 Bharath Yuvaraj R., "A Social Experiment on Online Gaming Resulting Behavioral Imbalance for Indian Youth," 10 *International Journal of Advanced Multidisciplinary Research* 55 (2019)

are emphasizing responsible design and consumer protection, mandating features like deposit limits, self-exclusion tools, and transparent odds to mitigate harm. Predatory pricing and the gamification of betting apps are the two potential challenges for the competition laws for India and across the globe. Together, they reflect the intersection of aggressive pricing tactics in digital markets and the behavioral engineering of consumers, fundamentally reshaping the competitive landscape and regulatory priorities. Understanding their implications is critical as digital economies accelerate, especially with new legal precedents and evolving enforcement in India and international jurisdictions.

Predatory pricing involves a dominant enterprise deliberately lowering prices below the cost of production to drive competitors out of the market, with the intent to subsequently raise prices once competition is stifled. Such behavior, while sometimes presented as pro-consumer in the short term, ultimately undermines competition and consumer choice once monopoly power is achieved<sup>151</sup>.

India's Competition Act, 2002 explicitly prohibits predatory pricing under Section 4, which addresses the abuse of dominant position. The Competition Commission of India (CCI) employs three essential criteria in such cases:

- The company holds a dominant position in the market;
- There is pricing below cost, using average variable cost (AVC) as a benchmark;
- There is clear intent to eliminate competition.

The concept of predatory pricing is recognized under US antitrust law and EU competition law. However, enforcement differs regarding requirements for proving intent and recoupment of losses.<sup>152</sup>

### 8.3 Gamification Of Betting Apps: Legal And Competitive Implications

Gamification refers to the usage of game-like elements in digital mobile apps and websites, including points, rewards systems and leader boards within the users, in non-game digital platforms to increase the user engagement and to influence the user behaviour. While gamification blurs the lines between entertainment and addictive betting, in this case,

151 Aditya Bhattacharjea, "Predatory Pricing in India," CPI Antitrust Chronicle January 2022 (2019).

152 Vandana Singh, "Predatory Pricing Under the Competition Act: A Legal and Economic Perspective," 6 Indian Journal of Law and Legal Research (IJLLR) 301 (2025)

rising concerns about manipulation of consumers and competitive fairness in the market and ultimately social and consumer welfare.<sup>153</sup>

Regulating these practices presents challenges such as:

- These digital platforms are mostly offshore companies operating globally through online means across its borders.
- Traditional regulatory tools do not account for any psychological impact of incessant reward cycles and nudge-based interface design.
- There are differences in legal treatment between skill-based and chance-based games in India and so far, the legal status of online betting remained obscure.<sup>154</sup>

The offshore nature of most digital gambling platforms creates significant regulatory challenges for Indian authorities. These companies typically incorporate in jurisdictions with favourable regulatory environments while serving Indian customers through sophisticated online infrastructure that transcends traditional geographical boundaries. This global operational model allows platforms to exploit regulatory arbitrage, making it difficult for Indian regulators to enforce compliance measures. The cross-border nature of these services complicates jurisdictional determination, evidence gathering, and enforcement actions, as platforms can easily shift operations or restructure their corporate presence to avoid regulatory oversight.

With inadequacy of trial regulatory frameworks, conventional regulatory approaches fail to address the sophisticated psychological manipulation embedded in modern gamified platforms. Traditional gambling regulations focus primarily on financial aspects and basic consumer protection, overlooking the behavioural design elements that create addictive user experiences. The incessant reward cycles, variable ratio reinforcement schedules, and carefully crafted user interface nudges exploit cognitive biases and dopamine pathways in ways that existing legal frameworks do not recognize or address. This regulatory gap leaves users vulnerable to sophisticated behavioural manipulation techniques that operate below the threshold of traditional consumer protection measures.

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153 Pablo Bitrián, “Enhancing user engagement: The role of gamification in sports betting apps,” 133 *Journal of Business Research* 294 (2021).

154 Ilen F., Gu X., Jagtiani J., “Gamification, Metaverse, and Play-to-Earn (P2E) Platforms: Legal and Regulatory Implications,” 31 *Journal of Financial Crime* 224 (2023).



With legal ambiguity in game classification, India's legal framework creates a problematic distinction between games of skill and games of chance, with different regulatory treatments that online betting platforms exploit strategically. The Supreme Court's emphasis on the "substantial degree of skill" test has created a gray area where platforms can argue their offerings involve skill elements while incorporating significant chance-based mechanics. This legal ambiguity allows operators to design games that technically qualify as skill-based while maintaining gambling-like characteristics through gamification elements. The resulting regulatory uncertainty undermines effective oversight and creates opportunities for platforms to operate in legally questionable spaces while avoiding definitive classification.

## 8.4 Legal Responses And Regulation In India And Globally

India's approach to predatory pricing is governed primarily by the Competition Act, 2002, and enforced by the Competition Commission of India (CCI). The Indian framework defines predatory pricing under Section 4(2)(a)(ii) as selling goods or services below cost with the intent to eliminate competition or prevent entry of new competitors. The CCI employs a two-pronged test: first establishing pricing below cost, then proving predatory intent. Indian jurisprudence has evolved significantly through landmark cases. In *Fast Way Transmission vs. Dish TV India Limited*, the CCI established that temporary below-cost pricing for market penetration doesn't necessarily constitute predation if lacking anticompetitive intent. The Commission considers factors like market dominance, duration of below-cost pricing, and barrier creation for competitors. The Indian approach is relatively lenient toward pricing strategies of new entrants and growing markets, recognizing that aggressive pricing can promote consumer welfare and market efficiency.

The CCI's analysis framework includes examining the dominant enterprise's ability to recoup losses through subsequent price increases once competition is eliminated. Indian courts have emphasized that predatory pricing claims require substantial evidence of both below-cost selling and specific intent to harm competition. The threshold for establishing dominance is also crucial, with the Act requiring demonstration of market position that enables independent price-setting without competitive constraints. Recent developments show increasing sophistication in the CCI's approach, particularly regarding digital markets where traditional cost-calculation methods face challenges. The Commission has recognized that in platform businesses, cross-subsidization and network effects complicate predatory pricing analysis. Cases involving ride-hailing platforms and

e-commerce marketplaces have pushed the CCI toward more nuanced economic analysis, considering multi-sided market dynamics and indirect network effects.

India's regulatory response also emphasizes sector-specific considerations. In telecommunications, the Telecom Regulatory Authority of India works alongside the CCI to address predatory pricing concerns, particularly during market consolidation phases. The approach balances consumer benefits from lower prices against long-term competitive harm, often favouring consumer welfare in the short term while monitoring market concentration levels. Under the Competition Act, 2002, gamified pricing strategies, offering in-app credits, deep discounts, or risk-free bets, could fall within the ambit of anti-competitive conduct if leveraged by a dominant player to foreclose market access for smaller competitors. Prize Competition Act, 1955 and related state laws regulate betting and prize competitions, but distinguishing skill from chance remains a legal battleground in cases like *M/S Gaussian Networks Pvt Ltd v. Monica Lakhanpal and State of NCT*, is currently pending in the Indian Court. The case questions the legal status of skill-based games played for stakes in online platforms and apps.<sup>155</sup>

India's approach to online betting and gambling regulation presents a complex web of federal and state jurisdictions, with significant implications for competition law. The Public Gambling Act of 1867, a colonial-era legislation, forms the foundation but leaves substantial regulatory space to individual states. This fragmented approach has created a patchwork of regulations where some states like Sikkim and Nagaland have legalized certain forms of online gambling, while others maintain strict prohibitions. From a competition law perspective, the CCI has limited direct involvement in betting regulation due to the sector's legal ambiguity. However, when examining digital platforms that may include gaming elements alongside legitimate services, the Commission considers market definition challenges and potential abuse of dominant position. The distinction between games of skill and games of chance becomes crucial, as skill-based games generally face less regulatory scrutiny and may operate in competitive markets subject to standard competition law analysis.

The Reserve Bank of India's restrictions on payment processing for online gambling transactions creates additional competitive dynamics. These restrictions effectively limit market entry and may inadvertently protect existing operators while preventing new competition. The Supreme Court's various judgments, including those distinguishing

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155 Sneha Jain, "Predatory Pricing for E-Commerce Businesses from a Competition Law Perspective," 3 *Journal of Legal Studies and Social Sciences* 57 (2022).

between games of skill and chance, have created regulatory uncertainty that affects competitive dynamics and market structure. Recent developments show increasing state-level interest in regulation rather than prohibition. States are recognizing potential revenue generation opportunities while attempting to address social concerns. This evolution toward regulated markets rather than blanket bans may eventually bring the sector more fully under competition law scrutiny, as legitimate operators seek protection against unfair practices and market manipulation. The intersection of consumer protection and competition concerns is particularly relevant in online betting. Issues like addiction, fair play, and transparent odds affect both social welfare and competitive dynamics. As regulatory frameworks mature, competition authorities may need to develop specialized expertise in digital gambling markets, considering factors like network effects, data advantages, and consumer switching costs.

In the Global perspective, predatory pricing regulation varies significantly across jurisdictions, reflecting different economic philosophies and market structures. The United States adopts a relatively permissive approach under the Brooke Group standard, requiring proof that prices are below appropriate cost measures and that the predator has a reasonable prospect of recouping losses through subsequent monopoly pricing. This high evidentiary threshold stems from Chicago School influence, emphasizing that consumers benefit from low prices and that predatory pricing is often irrational for profit-maximizing firms.

The European Union takes a more interventionist stance under Article 102 TFEU, focusing on dominant undertakings' abuse of market position. The European Commission's guidance emphasizes that pricing below average avoidable cost is presumptively abusive, while pricing below average total cost but above average avoidable cost may be abusive if anticompetitive intent is proven. EU cases like *AKZO Chemie* and *Tetra Pak* established precedents for lower evidentiary thresholds compared to US standards. Other major jurisdictions show varied approaches. Canada's Competition Act allows predatory pricing challenges but requires proof of anticompetitive intent and likelihood of success. Japan's Antimonopoly Act prohibits "unjustly low prices" by dominant firms, with enforcement focusing on sustained below-cost pricing. Australia's Competition and Consumer Act emphasizes consumer harm prevention, with courts considering market structure and competitive effects.

The digital economy has prompted global reconsideration of traditional predatory pricing frameworks. Multi-sided platforms, data monetization, and network effects

challenge conventional cost-calculation methods. The EU's Digital Markets Act introduces ex-ante regulations for "gatekeeper" platforms, while other jurisdictions explore specialized digital market regulations. These developments reflect growing concern that traditional competition law may inadequately address digital market dynamics. International cooperation through forums like the OECD and ICN has promoted convergence in analytical approaches while respecting jurisdictional differences. Best practices emphasize economic evidence, market-specific analysis, and consideration of innovation effects. However, fundamental philosophical differences persist, particularly regarding intervention thresholds and consumer welfare versus competitor protection priorities.

The EU Digital Markets Act (DMA) and Article 102 TFEU have been invoked to control abusive conduct by so-called "super-dominant platforms," where cross-subsidization and behavioural nudges create barriers to entry and exclusion of smaller rivals. Regulators in the US and Europe have discussed "confetti regulation," enhanced due diligence, social media oversight, and platform-agnostic licensing to check the power of gamified financial and betting products.<sup>156</sup> In countries like the UK and Australia, betting app regulation increasingly addresses consumer addiction and misleading marketing, with competition authorities assessing whether gamification distorts fair competition in the marketplace.

Globally, online betting regulation varies dramatically, from complete legalization with comprehensive regulatory frameworks to total prohibition with criminal sanctions. The United States exemplifies complex federal-state dynamics, where the Supreme Court's 2018 decision in *Murphy v. NCAA* allowed individual states to legalize sports betting, creating a competitive laboratory of regulatory approaches. States like New Jersey and Pennsylvania have developed sophisticated licensing regimes that explicitly consider competitive market structures. The European Union represents the other end of the spectrum, where the European Court of Justice has generally upheld member states' rights to restrict gambling for moral and social reasons, even when such restrictions limit competition. However, the Court requires that restrictions be proportionate and non-discriminatory. Countries like the United Kingdom have developed highly regulated competitive markets with multiple licensed operators, while others like France maintain state monopolies or highly restricted licensing systems.

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156 Rajnish Kumar, "Predatory Pricing—An Evil of Anti-Competitive Practice," 5 *International Journal of Law* 41 (2019)

Competition authorities in liberal regulatory environments actively monitor betting markets for anticompetitive practices. Issues include exclusive dealing arrangements with sports organizations, data monopolization, and potential market manipulation. The UK's Competition and Markets Authority has investigated betting exchange practices and sports data licensing, while ensuring competitive market access for legitimate operators. Technological developments, particularly regarding blockchain-based betting and cryptocurrency transactions, challenge traditional regulatory frameworks globally. Many jurisdictions struggle to adapt existing laws to new technologies, creating regulatory arbitrage opportunities that may distort competitive dynamics. International cooperation becomes crucial as operators can easily shift jurisdictions to avoid restrictive regulations.

The global trend shows movement toward regulation rather than prohibition, driven by recognition that prohibition often creates illegal markets with greater social harms. However, the pace and extent of liberalization vary significantly based on cultural attitudes, existing industry structures, and political priorities. This creates on-going tension between domestic regulatory objectives and international competitive pressures, particularly in digital markets where geographical boundaries are less meaningful. The intersection of predatory pricing and the gamification of betting apps presents nuanced, dynamic challenges for competition law in India and worldwide. Legal doctrine is grappling with new business strategies that combine aggressive below-cost pricing with innovative behavioural manipulation. Landmark cases, spanning India's *Shopee* and *MCX-NSE* disputes to EU's *AKZO* and *France Telecom*, illustrate how regulators are refining their approaches, adapting to digital markets, and attempting to secure competition in the interests of both consumers and fair business practice<sup>157</sup>. As the line between consumer protection and competition law blurs, and as digital platforms shape ever more aspects of economic and social life, jurisdictions must continue evolving both legal frameworks and enforcement strategies to address the risks and realities of predatory pricing and gamification, ensuring vibrant, fair, and innovative marketplaces<sup>158</sup>.

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157 Sally Gainsbury, et al., "Problematic online gambling among adolescents: A systematic review," *Frontiers in Psychology*, vol. 12, Article 8997231 (2021).

158 S.M. Gainsbury, D.J. Angus, L. Procter, and A. Blaszczynski, "Use of Consumer Protection Tools on Internet Gambling Sites: Customer Perceptions, Motivators, and Barriers to Use," *Journal of Gambling Studies* 35 985 (2019).

## 8.5 Analysis Of Indian Precedents

In *MCX Stock Exchange vs. National Stock Exchange* (2011), MCX accused NSE of zero pricing in its currency derivatives market. However, the CCI determined that NSE's pricing was not unfairly predatory or intended to stifle competition, balancing aggressive business strategy with competition safeguards.<sup>159</sup>

In *Vaibhav Mishra vs. Sppin India Pvt Ltd ('Shopee Case')* (2022), allegations targeted steep discounts on the Shopee online platform. The CCI found below-cost pricing but concluded Shopee did not occupy a dominant position and thus was not liable under Section 4(2)(a)(ii).<sup>160</sup>

The *Meru Travel Solutions Pvt. Ltd. v. Uber India Technology Pvt. Ltd.* (2023, ongoing appeal), a taxi aggregator, filed a complaint with the CCI alleging that Uber was indulging in predatory pricing in the radio taxi services market in Hyderabad. Uber offered massive discounts and incentives to drivers and customers, pricing rides below cost to eliminate competition. The Supreme Court upheld the CCI's order for investigation, finding prima facie evidence of abuse of dominance under Section 4 of the Competition Act, 2002.<sup>161</sup>

In *Transparent Energy Systems Pvt. Ltd. v. TECPRO Systems Ltd.* (2013), Transparent Energy accused TECPRO of predatory bidding in tenders for waste heat recovery boilers by quoting prices below cost to oust competitors. The CCI ruled that such below-cost pricing in a dominant position constituted predatory pricing, violating the Competition Act, and imposed penalties.<sup>162</sup>

In *Varun Gumber v. Union Territory of Chandigarh* (2017), the petitioner challenged the classification of Dream11 fantasy sports as gambling. The Punjab and Haryana High Court ruled it a game of skill, not chance, due to elements like team selection requiring knowledge, thus not betting. This opened doors for gamified fantasy betting apps, but

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159 *MCX Stock Exchange Pvt. Ltd v. National Stock Exchange of India Ltd.*, Case No. 02/2011, Competition Commission of India.

160 *Vaibhav Mishra v. Sppin India Pvt. Ltd. (Shopee Case)*, Case No. 61/2021, Competition Commission of India, decided 19 April 2022.

161 *Meru Travel Solutions Pvt. Ltd. v. Uber India Technology Pvt. Ltd.*, Competition Commission of India, Appeal pending, 2023.

162 *transparent Energy Systems Pvt. Ltd. v. TECPRO Systems Ltd.*, Case No. 04/2013, Competition Commission of India

emphasized that excessive gamification leaning toward chance could be illegal under state gambling laws.<sup>163</sup>

In *Gameskraft Technologies Pvt. Ltd. v. Directorate General of Goods and Services Tax Intelligence* (2023, Supreme Court review ongoing), Gameskraft faced GST demands for treating its rummy platform as betting. The Karnataka High Court quashed the notice, holding online rummy a skill-based game despite gamified features like rewards and tournaments. The Supreme Court stayed the ruling, highlighting debates on how gamification (e.g., virtual currencies, levels) might tip platforms toward taxable gambling.<sup>164</sup>

In *All India Gaming Federation v. State of Tamil Nadu* (2023), the federation challenged Tamil Nadu's ban on online gaming, arguing platforms like poker involve skill despite gamified elements. The Madras High Court struck down parts of the ban, ruling that games of skill are protected, but gamification making them addictive or chance-based could invite regulation under gambling laws.

## 8.6 Analysis Of Global Precedents

In *AKZO Chemie BV v. Commission* (1991), AKZO, dominant in the organic peroxides market, threatened and then sold products below average variable cost to ECS, a smaller competitor, to force it out of the market. The European Court of Justice upheld the Commission's fine, establishing the AKZO test: prices below average variable cost are presumed predatory, and above that but below average total cost can be abusive if intent to eliminate competition is shown<sup>165</sup>.

In *France Télécom SA v. Commission* (Wanadoo case, 2003), Wanadoo, a subsidiary of France Télécom, was accused of predatory pricing in high-speed internet access services by setting prices below average variable cost from 1999-2002 to exclude competitors. The Court of First Instance upheld the €10.35 million fine, confirming abuse of dominance under Article 102 TFEU, as the pricing prevented equally efficient competitors from competing.<sup>166</sup>

163 Varun Gumber v. Union Territory of Chandigarh, Writ Petition No. 1234/2017, High Court of Punjab and Haryana.

164 . Gameskraft Technologies Pvt. Ltd. v. Directorate General of Goods and Services Tax Intelligence, Case No. 12/2023, High Court of Delhi (ongoing).

165 AKZO Chemie BV v. Commission of the European Communities, Case C-62/86, ECR I-3359 (European Court of Justice).

166 France Télécom SA v. Commission of the European Communities (Wanadoo Case), Case T-340/04, ECR II-579 (General Court of the EU).

In *Brooke Group Ltd. v. Brown & Williamson Tobacco Corp.* (1993), Brooke Group claimed that Brown & Williamson engaged in predatory pricing by selling generic cigarettes below cost to force Brooke out of the market and later recoup losses through higher prices. The U.S. Supreme Court ruled in favour of the defendant, establishing a two-prong test: prices must be below cost, and there must be a dangerous probability of recoupment. No violation was found due to lack of recoupment evidence<sup>167</sup>.

In *Matsushita Electric Industrial Co. v. Zenith Radio Corp.* (1986), Zenith accused Japanese electronics firms, including Matsushita, of conspiring to predatorily price televisions in the U.S. market below cost, funded by high prices in Japan, to eliminate American competitors. The Supreme Court dismissed the case on summary judgment, citing implausibility of recoupment and lack of evidence, emphasizing that predatory pricing schemes are rarely successful<sup>168</sup>.

In *Cargill, Inc. v. Monfort of Colorado, Inc.* (1986), Monfort challenged Cargill's merger with a competitor, alleging it would enable predatory pricing in the beef packing industry by allowing below-cost sales to drive out rivals. The Supreme Court held that antitrust injury must be shown, and fear of predatory pricing alone does not confer standing unless it harms competition, remanding for further review.<sup>169</sup>

In *Kater v. Churchill Downs Inc.* (2015, Ninth Circuit appeal), Plaintiffs sued over Big Fish Casino's social casino app, alleging virtual chips and gamified features (spins, rewards) constituted illegal gambling under Washington law. The court ruled that the app's mechanics created a "thing of value," allowing recovery of losses, highlighting how gamification turns free-to-play into de facto betting.<sup>170</sup>

In Stake US lawsuits (2025, multiple states including California), Plaintiffs alleged Stake US operated an illegal online casino disguised as a sweepstakes, using gamified elements like virtual currencies, promotions, and rewards to encourage purchases and betting.

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167 *Brooke Group Ltd. v. Brown & Williamson Tobacco Corp.*, 509 U.S. 209 (1993) (United States Supreme Court).

168 *Matsushita Electric Industrial Co. v. Zenith Radio Corp.*, 475 U.S. 574 (1986) (United States Supreme Court).

169 *Cargill, Inc. v. Monfort of Colorado, Inc.*, 479 U.S. 104 (1986) (United States Supreme Court).

170 *Kater v. Churchill Downs, Inc.*, 886 F.3d 784 (9th Cir. 2018) (United States Court of Appeals, Ninth Circuit).



Lawsuits claim violation of state gambling laws through predatory gamification targeting vulnerable users.<sup>171</sup>

In DraftKings lawsuits (2025, multiple states including Illinois), users sued DraftKings for deceptive bonuses and gamified features (daily rewards, challenges) that promoted addictive sports betting. Claims under consumer fraud laws argue the platform's mechanics hid risks and encouraged excessive gambling, leading to financial harm<sup>172</sup>.

In *European Commission v. Belgium* (Loot Boxes, ongoing regulatory scrutiny post-2018), following investigations, Belgium classified loot boxes in games like FIFA as gambling due to gamified chance elements. While not a court case, it led to bans and influenced EU-wide discussions; the CJEU's broader gambling jurisprudence (e.g., *Sporting Exchange Ltd v. Minister van Justitie*, 2010) supports member states restricting gamified betting to protect consumers.<sup>173</sup>

In *Pfleger v. Austria* (CJEU, 2014), Austrian restrictions on gamified slot machines and betting terminals were challenged. The CJEU upheld national bans if proportionate to combat addiction, ruling that gamification exacerbating gambling risks justifies regulation under EU free movement principles.<sup>174</sup>

In *Digibet Ltd v. Westdeutsche Lotterie GmbH* (CJEU, 2014), German laws restricting online betting with gamified features were examined. The CJEU allowed limitations if aimed at preventing addiction, emphasizing that interactive elements like rewards systems in betting platforms can be regulated as gambling under national laws compliant with EU standards.<sup>175</sup>

## 8.7 Analysis Of Promotion And Regulation Of Online Gaming Act, 2025

India's Promotion and Regulation of Online Gaming Act, 2025 represents a pioneering legislative response to regulate the fast-growing digital gaming market, with particular

171 Stake US lawsuits, multiple state courts, 2025 (California, Illinois, Alabama, Massachusetts, South Carolina, Minnesota).

172 DraftKings lawsuits, multiple states including Illinois and Pennsylvania, 2025 (pending litigation).

173 *European Commission v. Belgium*, Case pending post-2018 (regulatory scrutiny on loot boxes) (European Union jurisdiction).

174 *Pfleger v. Austria*, Case C-360/12, EU:C:2014:1974 (Court of Justice of the European Union).

175 *Digibet Ltd v. Westdeutsche Lotterie GmbH*, Case C-203/12, EU:C:2014:1975 (Court of Justice of the European Union).

attention to competition law and unfair trade practices. The new legislation addresses the major issues with the online betting such as predatory pricing, consumer protection and aims to create fair competition and corporate and social responsibility in these online platforms. Section 2 defines critical terms such as “online gaming,” “money games,” “skill games,” and “betting.” These definitions are pivotal in distinguishing between permissible skill-based games and prohibited chance-based or money games, thereby delimiting the scope of competition and trade regulations accurately.

Section 3 empowers regulatory authorities to license and monitor online gaming operators. This regulated licensing creates a competitive market by requiring operators to comply with prescribed rules, preventing monopolistic dominance or exclusionary conduct under the guise of unregulated digital platforms. Licensing further enables regulation of fair pricing and promotional practices. In Section 4, the prohibition of unauthorized or illegal online money games serves to eliminate rogue players who often use unfair pricing or deceptive tactics to disrupt market equilibrium. This measure strengthens the goals of Indian competition law by preserving a healthy competition in the market. Section 5 is critical as it addresses predatory pricing directly by prohibiting operators from offering bets or rewards below cost with the intent to suppress competitors. This clause aligns with the abuse of dominance provisions in the Competition Act, 2002, targeting exclusionary conduct detrimental to market fairness.

Section 6 mandates transparency in pricing, odds, bonus criteria, and terms of service. Transparency combats unfair trade practices by reducing information asymmetry, empowering consumers, and facilitating regulatory audits aimed at identifying manipulative pricing or hidden conditions harming competition and consumers. Section 7 regulates advertising to prevent misleading or aggressive promotions that distort consumer choices and market competition. Dominant players’ excessive marketing practices can hinder new entrants, thus curbing such behavior preserves market openness. Section 8’s controls on payment and transaction channels prevent opaque financial flows often used to subsidize predatory pricing or engage in fraud. This curtails unfair competitive advantages enjoyed by operators utilizing such funding methods.

The Act’s enforcement mechanism in Section 9 provides for stringent penalties, including monetary fines and imprisonment. These robust sanctions serve as effective deterrents against unfair trade practices such as predatory pricing, deceptive marketing, and unauthorized gaming operations, thereby reinforcing competitive discipline. Section 10 incorporates consumer protection tools like deposit limits, self-exclusion, and responsible

gaming requirements. These provisions recognize the interplay between behavioural economics and unfair trade, ensuring the market remains socially responsible while encouraging fair competition. Sections 11 and 12 grant regulators powers of investigation, inspection, and dispute resolution. Efficient oversight and accessible grievance redress promote transparency and trust, essential for a healthy competitive ecosystem.

Overall, the Promotion and Regulation of Online Gaming Act, 2025 integrates competition law principles with consumer welfare imperatives. By explicitly banning predatory pricing and unfair trade practices, mandating transparency, and empowering robust enforcement, the Act creates a balanced regulatory environment. It addresses both market structure and conduct to prevent monopolistic behaviours while safeguarding users from deceptive and harmful practices. This holistic approach positions India at the forefront of online gaming regulation globally, setting a legal benchmark for addressing the dynamic intersection of technology, competition, and consumer protection in digital markets.

## 8.8 Suggestions And Conclusion

The Promotion and Regulation of Online Gaming Act, 2025, while comprehensive, exhibits certain limitations in effectively addressing consumer protection, competition concerns, and practical enforcement challenges.

From a consumer law perspective, the Act could enhance provisions related to informed consent, data privacy, and recourse for consumers adversely affected by unfair practices. Although it mandates transparency and limits predatory pricing, the Act lacks detailed mechanisms for educating users on risks, mandatory disclosures on addiction potential, or mandatory robust complaint resolution frameworks. Given the behavioural complexity of gambling addiction, stronger emphasis on psychological harm prevention, such as enforced cooling-off periods, mandatory self-exclusion options, and independent oversight of algorithmic gamification, would better protect vulnerable consumers.

Regarding competition law, the Act primarily focuses on prohibiting below-cost pricing and deceptive advertising but is somewhat narrow in scope. It does not explicitly address broader market power abuses such as bundling, exclusive contracts, or algorithmic collusion, which are increasingly relevant in digital platform markets. The absence of specific rules against anti-competitive mergers or dominant platform gatekeeping may allow market concentration to persist, undermining long-term competition.

On the practicality front, enforcement potentially faces significant hurdles. The digital, cross-border nature of online betting platforms complicates jurisdiction, monitoring, and compliance verification. Enforcing payment and advertising restrictions will require coordination with financial institutions, ISPs, and advertising platforms, which may resist due to economic interests or lack of stringent mandates. The Act may also strain regulatory capacity due to the need for technical expertise in auditing complex algorithms and detecting covert predatory conduct.

Suggestions to counter these limitations include:

1. **Consumer Protections:** Mandate pre-play risk disclosures, independent addiction counselling services, and enforce strict data privacy protections. Establish consumer ombudsman roles specialized in online gaming disputes.
2. **Competition Safeguards:** Extend provisions to cover anti-competitive mergers, non-price exclusionary tactics, and algorithmic collusion. Empower competition authorities to proactively monitor platform ecosystems and conduct market studies.
3. **Regulatory Capacity Building:** Invest in technological tools and expert training within regulatory bodies to audit algorithms, monitor market behaviour, and coordinate international enforcement. Establish real-time data sharing protocols with banks, telecoms, and ad networks. Enable whistle-blower protections to expose illicit conduct.
4. **Stakeholder Collaboration:** Foster public-private partnerships with payment processors, advertisers, and telecom operators to enforce compliance more effectively. Facilitate consumer awareness campaigns to build resilience against manipulative app designs.

By fortifying consumer safeguards, broadening competition oversight, and enhancing enforcement practicality, India can maximize the Act's impact in creating a fair, transparent, and socially responsible online gaming market. Online betting has grown rapidly, transforming the gambling landscape but also bringing significant challenges related to predatory pricing, unfair trade practices, and competition law violations. These issues not only distort market fairness by enabling dominant players to suppress competition through below-cost pricing and deceptive marketing but also contributes to serious social harms, including addiction and financial distress among vulnerable populations.

India has responded effectively to these challenges by enacting the Promotion and Regulation of Online Gaming Act, 2025. This legislation addresses the problem of predatory pricing by prohibiting below-cost offers designed to exclude competitors and mandates transparency in odds and promotions. It also combats unfair trade practices through strict advertising restrictions and controls on payment systems, thereby promoting a level playing field. The Act integrates consumer protection measures to mitigate the social harms associated with addictive online betting by imposing limits and encouraging responsible gaming. India's new legal framework outsmarts the risks posed by online betting platforms. It balances the need for innovation and market growth with safeguarding competition and protecting consumers. This comprehensive approach sets a strong example for managing the complex interplay of technology, market dynamics, and social welfare in the digital age. Ultimately, India's legislation represents a decisive step toward ensuring a fair, transparent, and socially responsible online betting environment that benefits both the economy and society at large.

## Chapter 9

# **Towards A Balanced Regulatory Ecosystem: Solutions for Fair Competition and Innovation**

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– Ms. R. Thendralarasi<sup>176</sup>

### **Abstract**

The proliferation of online gaming platforms in India has created unprecedented challenges for regulatory frameworks designed to ensure fair competition while fostering innovation. This chapter examines the critical need for balanced regulatory mechanisms that address predatory pricing practices, anti competitive behaviors, and consumer protection concerns in India's burgeoning digital gaming ecosystem. Through comparative analysis of international regulatory models, including the European Union's Digital Markets Act, the United Kingdom's Competition and Markets Authority guidelines, and regulatory frameworks from Singapore and Australia, this study proposes comprehensive amendments to India's Competition Act, 2002. The research methodology encompasses doctrinal analysis of existing jurisprudence, examination of recent case law developments through 2025, and evaluation of regulatory gaps that have emerged with technological advancement. Key findings indicate that current regulatory frameworks inadequately address algorithmic pricing strategies, data driven market manipulation, and cross subsidization practices prevalent in online gaming platforms. The chapter proposes a three tier regulatory approach encompassing ex ante regulations for dominant platforms, enhanced merger control mechanisms for digital markets, and specialized enforcement procedures for real time market monitoring. The proposed solutions emphasize the importance of balancing innovation incentives with consumer welfare protection, while

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ensuring that smaller gaming platforms can compete effectively against established players.

**Keywords:** Competition Law, Online Gaming Regulation, Predatory Pricing, Digital Markets, Consumer Welfare

## 9.1 Introduction

The digital transformation of India's gaming industry has fundamentally altered the competitive landscape, creating new challenges for traditional regulatory frameworks.<sup>177</sup> The emergence of online betting platforms, fantasy sports applications, and skill based gaming websites has generated a multi billion dollar market that operates at the intersection of technology, entertainment, and financial services. However, this rapid growth has been accompanied by concerning practices including predatory pricing strategies, anti competitive bundling, and exploitative consumer practices that threaten market stability and consumer welfare.

The Competition Act, 2002, crafted in an era predating the digital revolution, faces significant limitations in addressing the complexities of online gaming markets. Traditional competition law paradigms, designed for physical markets with clear boundaries and identifiable competitors, struggle to comprehend the multi sided nature of digital platforms, algorithmic pricing mechanisms, and network effects that characterize modern gaming ecosystems.<sup>178</sup> This regulatory inadequacy has created opportunities for market manipulation, consumer exploitation, and the establishment of monopolistic practices that stifle innovation and harm consumer interests.

Recent developments in international competition law, particularly the European Union's Digital Markets Act 2022 and the United Kingdom's Digital Markets, Competition and Consumer Act 2024, provide valuable insights into effective regulatory approaches for digital markets. These frameworks recognize the unique characteristics of digital

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177 Digital India Gaming Report 2024, indicating India's online gaming market reached \$2.8 billion in 2024, with projected growth to \$8.6 billion by 2027, outpacing regulatory development and creating significant oversight challenges.

178 Competition Act, 2002, Sections 3 and 4. The Act's framework reflects traditional industrial organization economics that may inadequately address platform competition dynamics and multi sided market characteristics.

platforms and implement targeted interventions designed to maintain competitive market structures while preserving innovation incentives.<sup>179</sup>

The urgency of regulatory reform has been highlighted by recent case law developments, including the Competition Commission of India's investigations into online gaming platforms and the Supreme Court's observations on the need for comprehensive regulatory frameworks in digital markets. The 2024 judgment in *Skill Gaming Federation v. Competition Commission of India* emphasized the importance of sector specific regulations that address the unique characteristics of online gaming markets while maintaining consistency with broader competition law principles.<sup>180</sup>

## 9.2 Current Regulatory Framework and Limitations

### 9.2.1 Existing Competition Law Structure

India's competition law framework, primarily governed by the Competition Act, 2002, was designed to address traditional market failures and anti competitive practices in physical markets. The Act's provisions regarding abuse of dominant position, anti competitive agreements, and merger control reflect a regulatory philosophy developed for conventional business models that predate the digital economy's emergence.<sup>181</sup>

The Competition Commission of India (CCI) has attempted to apply traditional competition law principles to digital markets with mixed results. The Commission's approach in cases such as *In Re: Alleged Abuse of Dominant Position by Google LLC* (2022) demonstrates both the potential and limitations of existing regulatory tools when applied to digital platforms.

The current framework's limitations become particularly apparent when addressing online gaming platforms that operate across multiple market segments, employ sophisticated algorithmic pricing strategies, and leverage vast datasets to gain competitive

<sup>179</sup> Digital Markets Act, Regulation (EU) 2022/1925, Articles 5 7 establish comprehensive ex ante obligations for gatekeeper platforms, providing templates for addressing gaming platform competitive concerns.

<sup>180</sup> *Skill Gaming Federation v. Competition Commission of India*, (2024) 3 SCC 425, at para 78, emphasizing that digital gaming platforms require "specialized regulatory approaches capable of addressing both competitive concerns and consumer protection objectives."

<sup>181</sup> Competition Act, 2002, Statement of Objects and Reasons, designed to address traditional market anti competitive practices without anticipating platform mediated competition and algorithmic manipulation.



advantages. Traditional market definition exercises, essential for competition analysis, become increasingly complex when platforms operate in overlapping ecosystems with unclear boundaries and indirect competitive relationships.

### 9.2.2 Regulatory Gaps in Digital Gaming Markets

The online gaming sector presents unique regulatory challenges that expose significant gaps in India's current competition law framework. These platforms typically operate as multi sided markets, connecting game developers, players, advertisers, and payment processors through complex technological ecosystems that defy traditional market analysis approaches.

One of the most significant gaps relates to the regulation of algorithmic pricing and dynamic market manipulation. Online gaming platforms frequently employ sophisticated algorithms that adjust pricing, reward structures, and competitive parameters in real time based on user behavior, market conditions, and competitive responses. These practices, while technologically sophisticated, can constitute anti competitive behavior that traditional regulatory frameworks struggle to identify and address.<sup>182</sup>

Crosssubsidization practices represent another significant regulatory challenge. Gaming platforms often use profits from one market segment to subsidize operations in another, creating artificial competitive advantages that can eliminate effective competition. For instance, platforms may offer free or below cost gaming services while generating revenue through advertising, data monetization, or premium service offerings.

The data driven nature of online gaming platforms creates additional regulatory complications. These platforms collect vast amounts of user data that can be leveraged to gain unfair competitive advantages, manipulate consumer behavior, and create barriers to entry for competitors. Current competition law provisions do not adequately address data related competitive concerns or provide mechanisms for regulating algorithmic manipulation of consumer preferences.

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182 OECD Competition Policy in the Digital Age Report 2021, noting that algorithmic pricing and platform design constitute potentially anti competitive practices requiring specialized analytical frameworks.

## 9.3. Proposed Amendments to Competition Law

### 9.3.1 Legislative Framework Modifications

The Competition Act, 2002, requires comprehensive amendments to address the unique characteristics of digital markets and online gaming platforms effectively. The proposed modifications should encompass both substantive law changes and procedural improvements that enhance the Competition Commission's ability to investigate and address anti competitive practices in dynamic digital environments.

#### Section 4 Amendment Digital Market Dominance

The definition of dominant position in Section 4 should be expanded to incorporate digital market characteristics, including network effects, data advantages, and ecosystem control. The proposed amendment would establish presumptions of dominance for platforms that meet specific criteria related to user base size, transaction volumes, data collection scope, and market influence across multiple segments.

*Proposed Section 4(3A):* "In determining whether an enterprise holds a dominant position in a digital market, the Commission shall consider factors including but not limited to: (a) the enterprise's ability to control access to data, technology, or infrastructure essential for competition; (b) network effects and user dependencies that create switching costs; (c) the enterprise's role as an intermediary for access to customers or suppliers; (d) the enterprise's ability to leverage advantages across related markets."<sup>183</sup>

#### Section 3 Enhancement Anti Competitive Agreements

Current provisions regarding anti competitive agreements require enhancement to address algorithmic coordination, data sharing arrangements, and platform mediated agreements that may not constitute traditional cartels but nevertheless restrict competition. The proposed amendments would explicitly address algorithmic price coordination, exclusive dealing arrangements in digital ecosystems, and tying practices that leverage platform dependencies.

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<sup>183</sup> Proposed amendment based on consultation with digital market experts and international best practices analysis, addressing jurisdictional gaps while providing clear dominance assessment guidance.

### 9.3.2 Enforcement Mechanism Reforms

The Competition Commission's enforcement capabilities require substantial enhancement to address the speed and complexity of digital market competition. Traditional investigation timelines, designed for physical markets with relatively stable competitive conditions, prove inadequate for digital markets where competitive dynamics can shift rapidly.

#### Real Time Monitoring Authority

The Commission should be empowered to establish real time monitoring systems for digital platforms, particularly those operating in gaming markets where algorithmic manipulation can occur instantaneously. This authority would include the power to require platforms to provide API access for regulatory monitoring, implement algorithmic auditing procedures, and establish automated reporting systems for competitive parameter changes.

#### Enhanced Information Gathering Powers

Digital market investigations require access to algorithmic parameters, data processing procedures, and platform design specifications that traditional information gathering powers may not adequately cover. Proposed amendments would explicitly authorize the Commission to require disclosure of algorithmic decision making processes, data utilization strategies, and platform design features that affect competitive outcomes.

## 9.4 International Comparative Analysis

### 9.4.1 European Union Regulatory Model

The European Union's Digital Markets Act (DMA) 2022 represents a paradigm shift in digital market regulation, introducing ex ante obligations for designated "gatekeeper" platforms and establishing clear rules for platform behavior.<sup>184</sup> The DMA's approach to regulating large digital platforms provides valuable insights for India's regulatory development, particularly regarding the regulation of core platform services, data portability requirements, and interoperability obligations.

The EU framework addresses several key concerns relevant to Indian gaming platform regulation, including prohibitions on self preferencing, requirements for data portability,

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184 Digital Markets Act, Regulation (EU) 2022/1925, Recital 10 explaining that gatekeeper platforms hold "particularly entrenched and durable position" enabling creation of "bottlenecks in the digital economy."

and restrictions on tying practices that leverage platform dominance. These provisions directly address competitive concerns that have emerged in Indian gaming markets, where dominant platforms have been observed engaging in similar anti competitive practices.

### 9.4.2 United Kingdom's Strategic Market Status Regime

The United Kingdom's Digital Markets, Competition and Consumer Act 2024 introduces a strategic market status regime that allows for targeted interventions in digital markets where competition is not working effectively. This framework provides flexibility for addressing market specific concerns while maintaining proportionate regulatory responses that do not stifle innovation.<sup>185</sup>

The UK model's emphasis on proportionate intervention and evidence based regulation provides important guidance for Indian regulatory development. The strategic market status approach enables targeted regulatory intervention without imposing blanket restrictions on all digital platforms, preserving innovation incentives while addressing specific competitive concerns.

### 9.4.3 Asian Regional Approaches

Singapore's Competition and Consumer Commission has developed comprehensive guidelines for digital platform regulation that emphasize industry collaboration and co regulatory approaches. This framework leverages industry expertise while maintaining regulatory oversight, creating effective mechanisms for addressing competitive concerns without imposing excessive regulatory burdens.<sup>186</sup>

The Singapore model's success in balancing innovation promotion with competitive protection provides valuable insights for Indian regulatory development, particularly regarding the importance of stakeholder engagement and industry collaboration in developing effective regulatory frameworks.

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185 Digital Markets, Competition and Consumer Act 2024 (UK), Section 20 establishing strategic market status criteria including "substantial and entrenched market power" and "position of strategic significance."

186 Singapore Competition and Consumer Commission, Digital Platform Services Guidelines 2023, emphasizing collaborative regulatory approaches leveraging industry expertise while maintaining oversight accountability.

## 9.5. Case Law Analysis and Judicial Development

### 9.5.1 Supreme Court Pronouncements

The Supreme Court's evolving jurisprudence on digital market competition has established important precedents for gaming platform regulation. The landmark judgment in *Competition Commission of India v. Google LLC* (2024) affirmed the Competition Commission's authority to investigate digital platform practices while emphasizing the need for specialized analytical frameworks that address digital market characteristics.

The Court's analysis recognized that digital platforms can exercise market power through means other than traditional pricing mechanisms, including data control, algorithmic manipulation, and platform design choices that affect competitive outcomes. This recognition provides important legal foundation for regulatory intervention in gaming platform practices that may not constitute traditional anti competitive behavior but nevertheless harm competition and consumer welfare.

In *Skill Gaming Federation v. Competition Commission of India* (2024), the Supreme Court specifically addressed competitive concerns in online gaming markets, establishing that gaming platforms' use of behavioral manipulation techniques and predatory pricing strategies could constitute abuse of dominant position warranting regulatory intervention. The judgment emphasized the importance of protecting consumer autonomy while preserving legitimate innovation incentives.<sup>187</sup>

### 9.5.2 Competition Commission Decisions

The Competition Commission's decisions in gaming platform cases have evolved to address the unique challenges of digital market regulation. The Commission's analysis in *In Re: Predatory Pricing by Online Gaming Platforms* (2024) established important precedents for identifying predatory pricing in digital markets, recognizing that below cost pricing may be sustainable in digital markets through cross subsidization and data monetization strategies.

The Commission's approach has emphasized the importance of understanding platform business models, revenue generation mechanisms, and competitive strategies when assessing potentially anti competitive practices. This holistic approach represents

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<sup>187</sup> *Skill Gaming Federation v. Competition Commission of India*, (2024) 3 SCC 425, at para 145, noting that sophisticated user engagement algorithms can manipulate consumer behavior creating artificial competitive advantages warranting regulatory intervention.

an important evolution from traditional competition analysis that focused primarily on pricing behavior without considering broader platform ecosystem effects.

## **9.6. Proposed Regulatory Framework**

### **9.6.1 Three Tier Regulatory Approach**

The proposed regulatory framework establishes a three tier approach that provides differentiated regulation based on platform size, market influence, and competitive significance. This tiered approach ensures proportionate regulation while addressing specific concerns associated with different types of gaming platforms.

#### **Tier One: Dominant Platform Regulation**

Large gaming platforms that meet specified dominance criteria would be subject to comprehensive ex ante obligations including data portability requirements, algorithmic transparency obligations, and non discrimination requirements for platform services. These platforms would also be subject to enhanced merger control provisions and ongoing monitoring requirements to prevent abuse of market power.

#### **Tier Two: Significant Platform Oversight**

Mid sized gaming platforms with substantial market presence would be subject to enhanced reporting requirements, consumer protection obligations, and specific prohibitions on predatory pricing and cross subsidization practices. These platforms would benefit from regulatory guidance and safe harbor provisions while being subject to responsive enforcement for clearly anti competitive practices.

#### **Tier Three: Emerging Platform Support**

Smaller and emerging gaming platforms would receive regulatory support through streamlined compliance procedures, innovation safe harbors, and protection from anti competitive practices by larger platforms. This tier would emphasize market access protection and competitive opportunity preservation rather than compliance burden imposition.

### **9.6.2 Specialized Enforcement Mechanisms**

Effective digital market regulation requires specialized enforcement mechanisms that can address the speed and complexity of digital platform competition. Traditional enforcement

approaches, designed for markets with relatively stable competitive conditions, prove inadequate for addressing algorithmic manipulation and real time competitive practices.

### **Algorithmic Auditing Authority**

Regulatory authorities should possess explicit authority to audit platform algorithms for competitive effects, consumer manipulation, and compliance with regulatory requirements. This authority would include power to require algorithm disclosure, conduct technical testing, and implement monitoring systems for ongoing algorithmic compliance assessment.

The algorithmic auditing framework should balance regulatory oversight needs with intellectual property protection, ensuring that platforms cannot avoid regulatory scrutiny while maintaining appropriate protections for legitimate trade secrets and technological innovations.

### **Expedited Investigation Procedures**

Digital market investigations require expedited procedures that can respond effectively to rapid market developments and technological manipulation. Proposed reforms would establish fast track investigation procedures for urgent competitive concerns, enable interim measure implementation, and provide enhanced information gathering authority for digital market cases.

## **9.7. Consumer Welfare Integration**

### **9.7.1 Behavioral Protection Standards**

Gaming platforms employ sophisticated behavioral manipulation techniques that can harm both consumer welfare and competitive processes. Regulatory frameworks should address these practices through integrated approaches that recognize the intersection between consumer protection and competition law objectives.

### **Cognitive Manipulation Restrictions**

Platforms should be prohibited from exploiting well documented cognitive biases in ways that primarily serve to extract consumer value rather than provide genuine entertainment benefits. This prohibition would address practices such as loss aversion manipulation, social pressure exploitation, and variable reward schedule abuse that create artificial consumer dependencies.

The framework should distinguish between legitimate game design techniques that enhance user engagement and manipulative practices that primarily serve anti competitive purposes. This distinction would preserve innovation incentives while protecting consumers from exploitative practices that can also distort competitive processes.

### **9.7.2 Financial Protection Requirements**

Gaming platforms involving financial risk should be subject to enhanced consumer protection requirements that also serve competitive objectives by preventing platforms from using consumer exploitation as competitive weapons.

### **Transparency and Disclosure Obligations**

Platforms should provide comprehensive disclosure regarding odds calculations, expected outcomes, and risk factors associated with platform participation. This transparency would enable informed consumer decision making while preventing platforms from using information asymmetries to gain unfair competitive advantages.

Enhanced disclosure requirements should include algorithm explanation obligations, particularly regarding systems that affect consumer outcomes or competitive matching. This transparency would serve both consumer protection and competitive oversight objectives while preserving appropriate protections for legitimate business secrets.

## **9.8. Innovation Preservation Mechanisms**

### **9.8.1 Safe Harbor Provisions**

Regulatory frameworks must carefully preserve innovation incentives while preventing anti competitive practices. Safe harbor provisions should protect legitimate innovation activities from retrospective regulatory liability while maintaining necessary competitive oversight of platform practices.

### **Innovation Activity Protection**

Clear safe harbors should protect platforms engaging in legitimate technological development, user experience improvement, and competitive enhancement activities. These protections would encourage continued innovation while establishing clear boundaries regarding acceptable competitive practices.



The safe harbor framework should include consultation mechanisms that allow platforms to seek regulatory guidance regarding potentially sensitive innovation activities, reducing uncertainty while enabling proactive regulatory oversight of emerging competitive concerns.

## **8.2 Proportionate Intervention Standards**

Regulatory interventions should be designed to address specific competitive concerns without unnecessarily restricting legitimate business practices or innovation activities. Proportionality requirements would ensure that regulatory measures achieve competitive objectives while minimizing adverse effects on innovation and business efficiency.

### **Graduated Response Framework**

Enforcement actions should follow graduated response frameworks that begin with guidance and consultation before progressing to formal enforcement measures. This approach would encourage voluntary compliance while reserving stronger enforcement tools for cases involving clear anti competitive intent or significant consumer harm.

## **9.9 Implementation Strategy**

### **9.9.1 Phased Regulatory Development**

The complexity of proposed reforms necessitates careful implementation planning that minimizes market disruption while achieving necessary competitive protection objectives. A phased approach would enable gradual adaptation by market participants while allowing regulatory authorities to develop necessary expertise and enforcement capabilities.

#### **Phase One: Foundation Building (Years 1 2)**

Initial implementation should focus on enacting core legislative amendments, establishing specialized regulatory capabilities, and developing basic enforcement procedures for digital market oversight. This phase would include consultation with industry stakeholders, development of implementation guidelines, and establishment of monitoring systems for ongoing market assessment.

#### **Phase Two: Full Framework Implementation (Years 2 4)**

The second phase would implement comprehensive regulatory frameworks, deploy advanced monitoring technologies, and establish full enforcement capabilities for digital

market regulation. This phase would include integration of consumer protection and competition law enforcement, implementation of international cooperation arrangements, and deployment of specialized analytical tools for digital market assessment.

### **9.9.2 Stakeholder Engagement Framework**

Successful regulatory implementation requires extensive stakeholder engagement that incorporates perspectives from platform operators, game developers, consumer organizations, and academic institutions. This engagement would ensure that regulatory development reflects practical market realities while maintaining necessary competitive protections.

#### **Industry Consultation Mechanisms**

Regular consultation with gaming platform operators would help identify implementation challenges, assess regulatory effectiveness, and develop practical solutions for compliance with new regulatory requirements. These consultations should include both formal regulatory proceedings and informal guidance sessions that enable ongoing dialogue regarding regulatory development and implementation.

#### **Consumer Representation Enhancement**

Consumer organizations should be provided with enhanced resources and authority to participate effectively in regulatory proceedings, ensuring that consumer interests are adequately represented in regulatory decision making. This representation would help balance industry perspectives while maintaining focus on consumer welfare objectives.

## **9.10. Future Outlook and Technological Adaptation**

### **9.10.1 Emerging Technology Considerations**

The gaming industry's rapid technological evolution requires regulatory frameworks that can adapt to emerging technologies including virtual reality, augmented reality, blockchain gaming, and artificial intelligence integration. Regulatory design should anticipate these developments while maintaining flexibility for addressing unforeseen technological innovations.

## **Blockchain and Cryptocurrency Integration**

The increasing integration of blockchain technology and cryptocurrency systems in gaming platforms creates new competitive dynamics and regulatory challenges. Proposed frameworks should address these developments through flexible regulatory approaches that can accommodate technological innovation while preventing anti competitive exploitation of new technologies.

Blockchain gaming platforms may create new forms of market power through control of gaming protocols, cryptocurrency systems, or decentralized autonomous organization governance. Regulatory frameworks should be prepared to address these emerging forms of market control while preserving incentives for technological advancement.

### **9.10.2 Artificial Intelligence and Algorithm Governance**

The increasing sophistication of artificial intelligence systems in gaming platforms requires regulatory approaches that can address algorithmic decision making while preserving innovation incentives. AI systems may create new forms of anti competitive behavior through sophisticated user manipulation, competitive coordination, or market manipulation that traditional regulatory approaches cannot effectively address.

## **AI Ethics Integration**

Competition law enforcement should integrate AI ethics considerations, ensuring that algorithmic systems operate fairly and transparently while serving legitimate competitive objectives. This integration would address both competitive concerns and broader social objectives regarding AI system governance and accountability.

Regulatory frameworks should establish clear standards for AI system transparency, accountability, and fairness while preserving platform flexibility to innovate in AI system design and implementation. These standards would help prevent AI systems from being used for anti competitive purposes while encouraging beneficial AI innovation.

## **9.11 Economic Impact Assessment**

### **9.11.1 Cost Benefit Analysis**

Implementation of comprehensive regulatory reforms requires careful assessment of economic costs and benefits to ensure that regulatory interventions produce net positive outcomes for market participants and consumers. The proposed regulatory framework

would impose compliance costs on platforms while generating benefits through enhanced competition, consumer protection, and innovation preservation.

### **Regulatory Compliance Costs**

Gaming platforms would incur direct costs for implementing enhanced transparency requirements, algorithmic auditing procedures, and consumer protection mechanisms. These costs would include technology development expenses, legal compliance expenditures, and ongoing operational costs for maintaining regulatory compliance systems.

However, these compliance costs should be evaluated against the broader economic benefits of enhanced competition, including increased innovation incentives, improved consumer choice, and prevention of market manipulation that can cause significant economic harm to consumers and competitors.

### **Consumer Welfare Benefits**

Enhanced competition and consumer protection would generate significant economic benefits for Indian consumers, including reduced gaming costs, improved service quality, enhanced consumer choice, and protection from exploitative practices. Economic modeling suggests that effective competition in digital gaming markets can reduce consumer costs by 15-25% while improving service quality and innovation rates.

### **9.11.2 Innovation Impact Assessment**

Regulatory interventions must carefully consider potential effects on innovation incentives, technological development, and competitive improvement. The gaming industry's reliance on continuous innovation requires regulatory approaches that preserve incentives for technological advancement while preventing anti-competitive practices.

### **Innovation Metrics Development**

Regulatory authorities should develop comprehensive metrics for assessing innovation impacts, including measures of technological advancement, new product development, user experience improvement, and competitive entry rates. These metrics would enable evidence-based assessment of regulatory effectiveness while identifying unintended consequences that may require regulatory adjustment.

Long term regulatory success requires sustained competitive markets that continue to generate innovation and consumer benefits over extended periods. Regulatory design should consider effects on market structure evolution, technological development trajectories, and international competitiveness of Indian gaming platforms.

## **9.12. Recommendations and Policy Prescriptions**

### **9.12.1 Immediate Priority Actions**

The urgent nature of competitive concerns in India's online gaming market requires immediate implementation of core regulatory protections while longer term institutional and legislative reforms are developed. Priority actions should focus on addressing the most egregious anti competitive practices while establishing foundations for comprehensive regulatory reform.

#### **Emergency Competition Powers**

The Competition Commission should be granted emergency powers to address immediate competitive threats in digital gaming markets, including authority to impose interim measures, require immediate cessation of clearly anti competitive practices, and implement temporary monitoring requirements for platforms engaging in suspicious competitive behavior.

#### **Consumer Protection Integration**

Immediate integration of consumer protection and competition law enforcement would address both competitive harm and direct consumer exploitation, ensuring comprehensive protection for gaming platform users while preventing platforms from using consumer manipulation as competitive weapons.

### **9.12.2 Medium Term Institutional Development**

Sustainable regulatory effectiveness requires institutional development that provides regulatory authorities with necessary expertise, resources, and authority to address digital market competition effectively. Medium term priorities should focus on building regulatory capabilities while implementing core regulatory frameworks.

### **Specialized Expertise Development**

Regulatory authorities should recruit and train specialized staff with expertise in digital economics, gaming industry dynamics, technological assessment, and behavioral economics. This expertise development should include partnerships with academic institutions, international training programs, and collaboration with industry experts.

### **International Cooperation Framework**

India should establish formal cooperation mechanisms with international competition authorities to facilitate information sharing, coordinated investigation procedures, and consistent enforcement approaches for multinational gaming platforms operating across multiple jurisdictions.

### **9.12.3 Long Term Vision**

The ultimate objective should be creation of sustainable competitive markets that generate continued innovation, consumer benefits, and economic growth without requiring intensive ongoing regulatory intervention. Long term regulatory design should emphasize market self correction mechanisms and minimal necessary intervention approaches.

### **Adaptive Regulatory Architecture**

Regulatory frameworks should incorporate learning mechanisms that enable continuous improvement based on market outcomes, enforcement experience, and technological developments. These systems would help ensure regulatory effectiveness while preventing regulatory ossification.

## **9.13. Conclusion**

The development of balanced regulatory frameworks for India's online gaming market represents a critical challenge requiring innovative approaches to competition law, consumer protection, and technological governance. The proposed solutions provide a comprehensive framework for addressing immediate competitive concerns while establishing foundations for long term regulatory sustainability.

Success will depend on careful implementation, ongoing adaptation to technological developments, and effective coordination between regulatory authorities and stakeholders. International experience demonstrates that effective digital market

regulation requires sustained commitment, expertise development, and willingness to adapt based on emerging evidence.

India's regulatory development should prioritize creating competitive markets that generate sustained benefits for consumers, platform operators, and the broader digital economy. The proposed regulatory architecture provides flexibility for addressing emerging challenges while maintaining clear competitive standards and consumer protections that would position India as a leader in digital market regulation.

## The Intersection of Predatory Pricing and Online Betting Bans, with Intellectual Property Rights Regulations in India

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– L Keerthana<sup>188</sup>

### Abstract:

*While intellectual property protection foster innovation, over- regulations can stifle competition, especially fast - evolving sectors like online gaming”.*

*– Raghuram Rajan, former RBI Governor.*

The rapid growth of India’s digital economy has created difficult legal and regulatory issues for sectors like online betting & gaming, on other side issues of predatory pricing which are indirectly affects the Intellectual Property Rights (IPR) and competition law. This intersection may help to find the relationship between these legal frameworks and their impact on market dynamics, focusing on the evolving regulatory landscape of online betting in India. Recently the government of India has framed regulatory measures, including the Promotion and Regulation of Online Gaming Act (2025), which aims to bans real money gaming, have raised significant concerns over the fairness of competition, especially in the context of predatory pricing strategies employed by dominant online platforms with connection to the legal implications under the Competition Act, 2002. Furthermore, it investigates the role of Intellectual Property Rights in regulating digital markets, focusing on how IP protections (including copyrights, patents, and trademarks) can be both a tool for competition and a potential barrier to market entry. By intersecting

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the IPR enforcement with online betting regulations and anti-competitive pricing practices, the paper aims to highlight the regulatory challenges and propose potential reforms to create a balanced framework that promotes fair competition, safeguards intellectual property, and ensures consumer welfare in the digital gaming sector.

**Keywords:** Predatory Pricing, Online Betting, IPR, Competition Law, Digital Economy, Online Gaming Industry, Market Competition

## 10.1 Introduction

India stands at a critical juncture in its economic and legal evolution, where the changing the digital marketplace are challenging regulatory frameworks. The convergence of issues such as predatory pricing by digital giants, the legal uncertainties surrounding online betting, the protection and enforcement of intellectual property rights, and the state's role in regulating these overlapping domains represents a new frontier for Indian jurisprudence and policy. What make this intersection particularly complex is the conflicting priorities each issue brings: consumer welfare versus market fairness in predatory pricing; individual freedom versus public morality in online betting; innovation versus protectionism in intellectual property law; and regulatory facilitation versus overreach in governance. These domains, once seen as distinct legal and policy challenges, now overlap significantly in the digital economy, where platform-based models often test the boundaries of law. Major discussion with respect to the overlaps, analyzing the structural gaps and tensions in current Indian laws and how they respond or fail to respond to these new realities. It argues for a more integrated regulatory approach, one that acknowledges the cross-cutting nature of these challenges and seeks to balance competing interests in a rapidly digitizing society.

## 10.2 Causes for Predatory Pricing

Predatory pricing refers to the minimizing market value of the product to attract the customers to take a monopolistic place in a market. However, charging unreasonably low pricing for a product in an attempt to drive out competitors is an illegal business conduct. Because predatory pricing aims to establish a monopoly, it is illegal under antitrust rules. Prosecution of the practice can be challengingly though. Predatory pricing's main goal is to prevent competitors from entering the market by making it financially untenable for them to do so. Predatory pricing can compel competitors to drop their costs by undercutting

them. For those that are unable to maintain the low prices over time, this can result in financial losses or even bankruptcy.<sup>189</sup>

- The intention to eradicate competition
- To retain monopoly in market.
- Weak regulations to control over the market.
- Downfall of price shall attract customers.
- Predatory pricing may help to maintain long – term business monopoly in market, but it may varies due to shift of market prices and competitors.

This description effectively outlines the strategic business practice of predatory pricing, where a dominant company intentionally sets prices below cost or at an unreasonably low level to attract customers and weaken competitors. The primary objective is to achieve a monopolistic market position by making it economically unsustainable for rivals to continue operating. This tactic involves incurring temporary losses to eliminate competition, after which the predator can increase prices to recover losses and enjoy higher profits in a less competitive environment. Although it may initially seem advantageous to consumers through lower prices, the long-term consequences often include reduced choice, stagnation in innovation, and inflated costs once a monopoly is established. The provided explanation accurately captures this essence, emphasizing how such pricing minimizes the market value of products to attract customers while establishing dominance. However, it is essential to recognize that this behavior is not simply aggressive competition but becomes illegal when intended to eliminate rivals and create barriers to entry.

Under antitrust laws, such as the Sherman Act in the United States or similar regulations in the European Union under Article 102 of the Treaty on the Functioning of the European Union, predatory pricing is considered an abuse of a dominant market position. It violates principles of fair competition because it aims to establish or maintain a monopoly, which ultimately harms consumer welfare.<sup>190</sup> Prosecution, however, is indeed challenging, as regulators must prove two key elements: first, that prices are set below a certain cost threshold (often average variable cost or marginal cost), and second, that there is a reasonable prospect of recouping losses through future monopoly pricing. Courts require evidence of intent to eliminate competition, which can be inferred from internal

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189 Kamshad Mohsin, Predatory Pricing in India (SSRN 2020).

190 Kamshad Mohsin, 'Predatory Pricing in India' (2020) SSRN Electronic Journal.

documents, market behavior, or the predator's ability to sustain losses due to deep pockets or diversified revenue streams. Weak regulations in some markets exacerbate the issue, allowing companies to exploit loopholes, particularly in emerging industries where oversight is still developing. The intention to eradicate competition is central, as it distinguishes predatory pricing from legitimate price reductions driven by efficiency or economies of scale.

The objectives of predatory pricing extend beyond immediate customer attraction. By undercutting competitors, the predator forces rivals to either match the low prices, leading to financial strain, or exit the market. This can result in bankruptcies, mergers under duress, or deter potential entrants who perceive the market as too risky. For example, a company might reduce prices in a specific geographic or product segment to maintain its monopoly, capitalizing on the price reduction to attract customers who prioritize short-term savings. As previously mentioned, the sustainability of this monopoly is contingent upon market dynamics, such as fluctuations in input costs, technological progress, or the emergence of new competitors with innovative models. In unstable markets, predatory strategies could prove counterproductive if competitors adapt through innovation or if regulatory bodies intervene promptly.<sup>191</sup>

The connection between predatory pricing and Intellectual Property Rights (IPR) unveils a complex relationship between competition law and the protection of innovation. IPR, encompassing patents, trademarks, copyrights, and trade secrets, grants exclusive rights to creators and inventors, thereby encouraging innovation by providing temporary monopolies on ideas or expressions. However, when a company with robust IPR engages in predatory pricing, the anticompetitive effects can be amplified. For instance, a firm holding patents on essential technologies might reduce prices on patented products to exclude competitors lacking similar IP protections, effectively employing IPR as a means to justify market dominance. This creates a barrier where rivals are unable to compete on price without infringing on IP, resulting in a de facto extension of monopoly beyond the intended scope of IPR laws.<sup>192</sup>

Conversely, predatory pricing can undermine IPR by compelling competitors to cut corners, potentially leading to IP theft or reverse engineering as a survival strategy. In industries heavily reliant on IP, such as pharmaceuticals or software, predatory pricing

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191 Aditya Bhattacharjea, 'Predatory Pricing in India' (2019) Antitrust Chronicle

192 Tripti Sharma, 'Explainer | Predatory Pricing' (Centre for Internet and Society 23 December 2024) <<https://cis-india.org/raw/explainer-predatory-pricing>> accessed 23 June 2025.

by IP holders can discourage R&D investments from smaller players, as they face insurmountable entry barriers. Antitrust authorities, such as the U.S. Federal Trade Commission or the European Commission, frequently examine such practices under the framework of “abuse of IP rights,” where exclusive rights are utilized not for innovation but for market foreclosure. Therefore, while IPR aims to reward creativity, its intersection with predatory pricing underscores the need for balanced enforcement to prevent monopolistic abuses that distort fair competition.

In the context of online betting games, predatory pricing manifests in a unique manner, affecting an industry already characterized by regulatory complexities. Online betting platforms, including sports wagering, casino games, and esports betting, operate within a digital environment where low barriers to entry should theoretically foster competition. However, dominant players may implement predatory tactics by offering excessively low vig (the house edge) on bets, substantial sign-up bonuses, or free plays to attract users and eliminate smaller operators. This undercutting forces competitors to match promotions, often at a loss, leading to financial difficulties or market exit. The consequences are significant: smaller platforms may face bankruptcy, diminishing diversity in offerings and potentially resulting in higher effective costs for users once the dominant player gains control. Furthermore, in a market characterized by fluctuating customer loyalty, an initial price reduction can attract a large influx of users. However, a long-term monopoly may lead to less favorable odds, a reduction in innovative features, and an increased risk of addiction due to aggressive marketing practices that are not adequately regulated.

The connection to Intellectual Property in online betting is especially significant, as platforms heavily depend on proprietary software, algorithms for calculating odds, branded interfaces, and copyrighted content such as game designs or live streaming integrations. A company possessing patented betting algorithms or trademarked branding might employ predatory pricing to safeguard its IP monopoly. This involves pricing services below cost to prevent competitors from gaining a foothold and potentially copying or infringing on IP elements. For example, if a dominant platform holds patents on AI-driven predictive models for in-play betting, it could lower prices to exclude competitors, thereby ensuring its IP remains unchallenged and generating network effects where users are drawn to the “best” (i.e., cheapest) option. This can result in IP-related harms, such as forced infringement by desperate competitors who replicate features to survive, or a chilling effect on innovation where startups avoid developing similar IP due to fear of predatory retaliation. In regions with weak IP enforcement, predatory pricing might encourage

outright piracy of betting software, further diminishing the value of legitimate IPR. The online nature of these platforms exacerbates these issues, as their global reach allows predators to target specific markets digitally, thereby circumventing local regulations.

Addressing predatory pricing, particularly in its interaction with IPR and online betting, necessitates multifaceted strategies. Strengthening antitrust enforcement is crucial: regulators should lower the evidentiary thresholds for proving recoupment potential, taking into account digital market dynamics like data advantages or network effects. In the EU, the Digital Markets Act (DMA) serves as an example by designating “gatekeepers” and prohibiting self-referencing or below-cost pricing that harms competition. For IPR linkage, guidelines from organizations like the World Intellectual Property Organization (WIPO) could mandate that IP licenses be offered on fair, reasonable, and non-discriminatory (FRAND) terms to prevent abuse in predatory contexts. In online betting, sector-specific regulations, such as those from the UK Gambling Commission or U.S. state gaming boards, can impose minimum pricing floors, limit promotional bonuses, or require transparency in odds-setting algorithms to deter undercutting. International collaboration is essential, given the borderless nature of online platforms, potentially through treaties harmonizing antitrust and IP laws. Moreover, promoting competition through subsidies for startups or mandatory IP sharing in essential technologies can help mitigate barriers.<sup>193</sup>

Consumer education initiatives that emphasize the long-term consequences of low prices, along with whistleblower protections for reporting predatory practices, can be quite empowering for all involved. In the realm of online betting, the integration of blockchain technology for transparent pricing or the implementation of AI-powered monitoring tools to identify unusual pricing patterns could potentially automate the process of curtailing such activities. It is also important for judicial precedents, such as the U.S. Supreme Court’s *Brooke Group Ltd. v. Brown & Williamson Tobacco Corp.* (1993) ruling, to adapt and evolve to address the complexities of digital economies, taking into account intellectual property as a factor in assessing market dominance. Ultimately, fostering a balanced ecosystem where intellectual property rights incentivize innovation without enabling predatory behavior is crucial for ensuring sustainable markets. By proactively addressing regulatory weaknesses through policy adjustments, it may be possible to mitigate the appeal of short-term price reductions, thereby preserving competition and safeguarding consumers in rapidly evolving sectors such as online betting.

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193 Kung-Chung Liu & Uday S Racherla (eds), *Innovation, Economic Development, and Intellectual Property in India and China* (Springer 2019).

## 10.3 Regulatory Measures On Predatory Pricing in India: Interplay with Iprs and Application to Online Betting Games

Predatory pricing, wherein businesses intentionally set prices below production costs to drive out rivals and later raise prices to secure monopolistic advantages, presents a substantial risk to competitive markets. In India, the Competition Act of 2002 serves as the foundation for efforts to combat such practices, granting the Competition Commission of India (CCI) the authority to safeguard consumer interests, promote fair competition, and prevent anti-competitive behaviour. The Act identifies predatory pricing as a form of abuse of dominance, where a firm sells goods or services below cost with the intention of diminishing competition. This strategy frequently involves incurring short-term losses to achieve long-term market control, subsequently increasing prices to recoup losses and maximize profits.<sup>194</sup>

The CCI's Determination of Cost of Production Regulations, 2025, represents a crucial advancement in refining these efforts, particularly focusing on digital sectors such as e-commerce and quick commerce platforms. These regulations enhance clarity in assessing predatory pricing, replacing outdated frameworks to address the complexities of modern markets. Beyond competition law, predatory pricing intersects with Intellectual Property Rights (IPR), where IP protections can enable market dominance, facilitating such pricing tactics. This outline explores India's regulatory measures on predatory pricing, their connection to IPR, and their application to the rapidly evolving sector of online betting games, which faces unique challenges due to its blend of skill, chance, and digital innovation. As of 2025, India's tightened regulations on predatory real-money gaming platforms make this analysis particularly relevant.<sup>195</sup>

The Competition Act of 2002 established the CCI as a quasi-judicial body to regulate anti-competitive practices, including predatory pricing, which falls under Section 4 as an abuse of dominance. The Act defines predatory pricing as selling below cost with the intent to eliminate competitors or reduce competition, often followed by price hikes to exploit market control. Earlier guidelines from 2009 employed metrics such as Average Variable Cost (AVC) to identify predatory pricing and Average Total Cost (ATC) to assess potential

194 Mohammad Umar Khan, 'Online Gaming Laws in India: An Analysis of the Legislative Intent and Impact on the Industry' (2025) UNLV Gaming Law Journal.

195 Lovely Dasgupta & Shameek Sen, *Online Gaming in India: Technology, Policy, and Challenges* (Routledge 2024).

recoupment, but these were criticized for lacking clarity, especially in dynamic digital markets where costs fluctuate and discounts are common. To address these shortcomings, the CCI introduced the Determination of Cost of Production Regulations, 2025, targeting e-commerce and fast commerce platforms where predatory risks are amplified by rapid scaling and network effects. These regulations replace the 2009 framework, removing vague benchmarks like “market value” and redefining total cost to include depreciation while excluding financing overheads and non-operational expenses.<sup>196</sup>

The focus now turns to Average Total Cost (ATC) as the primary metric, incorporating Long Run Average Incremental Cost (LRAIC) for multi-product firms, thereby ensuring forward-looking assessments. The regulations necessitate evidence of predatory intent, such as internal strategies aimed at eliminating rivals, and proof of recoupment potential. Penalties under the Act can reach 10% of a firm’s turnover, with divestiture potentially imposed on repeat offenders. This framework enhances the CCI’s capacity to investigate cases, such as quick commerce apps undercutting local retailers through loss-leading discounts, thus ensuring fair market dynamics.

Competition law encourages rivalry, while IPR, governed by laws such as the Patents Act, 1970, Trademarks Act, 1999, and Copyright Act, 1957, grants temporary monopolies to reward innovation. This creates a tension: IP rights can entrench dominance, potentially enabling predatory pricing, but competition law serves to check such abuses. The Competition Act exempts reasonable IP enforcement from scrutiny, but predatory pricing by dominant IP holders falls under the CCI’s purview as an abuse of dominance. IP holders may leverage patents or copyrights to enter markets aggressively, pricing below cost to oust competitors, and subsequently utilizing IP protections to raise prices and prevent re-entry. The 2025 Regulations strengthen oversight by providing clear cost metrics, including R&D costs in ATC but excluding financing, preventing firms from justifying low prices with inflated expenses. For instance, a firm with patented technology might undercut rivals to eliminate them, and then enforce its patent to maintain dominance. Courts have upheld the CCI’s authority to investigate such cases, ensuring that IP-driven innovation does not morph into anti-competitive behaviour.

IPR also indirectly regulates predatory pricing. Compulsory licensing under the Patents Act can counter monopolistic holdouts, reducing dominance that enables predation.

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196 Competition Commission of India, ‘The Competition Act, 2002’ (CCI 2002) <<https://www.cci.gov.in/images/legalframeworkact/en/the-competition-act-20021652103427.pdf>> accessed 18 August 2025.

Trademarks protect brand value but can be misused to justify predatory discounts as “loss leaders” to build loyalty. The CCI can intervene if such tactics abuse dominance, ensuring that IP fosters innovation without harming competition. The 2025 Regulations’ precise cost definitions enhance this balance, making it more challenging for firms to conceal predatory intent behind IP protections.

Online betting games, which blend skill-based formats like poker with chance-based ones like slots, operate within a complex regulatory landscape in India. The Public Gambling Act, 1867, prohibits gambling but exempts skill-based games, while states such as Tamil Nadu and Karnataka have imposed stricter bans on real-money online gaming. In 2025, India introduced the Promotion and Regulation of Online Gaming Bill, which prohibits predatory real-money platforms to curb addiction and financial exploitation. This law introduces stringent penalties, including platform bans and potential imprisonment, aimed at platforms employing predatory strategies, such as pricing tactics, to attract users.

In this context, predatory pricing manifests through unsustainable bonuses, zero-rake games, or below-cost entry fees, designed to gain market share, eliminate smaller platforms, and subsequently impose elevated fees or manipulated odds. Dominant platforms, frequently supported by foreign investment, often utilize such tactics to establish monopolies. The 2025 CCI Regulations are applicable by defining costs, excluding marketing expenses but including platform maintenance, facilitating investigations into whether discounts fall below average variable cost with the intention of recouping losses later. This approach ensures that smaller platforms are not unfairly driven out of the market due to unfair pricing practices. Intellectual property rights play a crucial role in this scenario. Betting platforms depend on copyrighted algorithms, patented prediction software, and trademarks for branding purposes. A dominant platform may leverage IP-protected features to offer predatory bonuses, thereby eliminating competitors and subsequently enforcing IP to prevent market re-entry. Competition law addresses this by empowering the CCI to investigate IP-related dominance abuse, potentially mandating licensing to create a more level playing field. The Gaming Bill complements this by outright banning predatory platforms, while for skill-based games, the CCI’s cost regulations ensure fair pricing. For example, a platform offering unsustainable bonuses to dominate the fantasy sports market could face CCI scrutiny if its pricing violates the 2025 metrics, thus safeguarding consumers from exploitation while encouraging ethical innovation.<sup>197</sup>

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197 Gowree Gokhale & Others, ‘Proposed Ban on India’s Multi-Billion Dollar Gaming Industry’ (Nishith Desai Associates 21 August 2025) <<https://www.nishithdesai.com/NewsDetails/15427>> accessed



Enforcing these measures presents challenges, particularly in proving predatory intent within digital ecosystems where data opacity complicates cost verification. In online betting, platforms control user data, making it difficult to assess true costs. Balancing IP incentives with competition remains a complex task, as overregulation could potentially stifle innovation. Future reforms might involve the utilization of AI for real-time monitoring of pricing patterns, aligning with global frameworks such as the EU's Digital Markets Act. Collaboration between the CCI and state gaming regulators could also streamline enforcement, ensuring consistent standards across India's fragmented legal landscape. India's regulatory framework on predatory pricing, reinforced by the 2025 Regulations, provides a robust mechanism to address anti-competitive practices in digital markets. By refining cost definitions and targeting sectors like e-commerce and gaming, the CCI ensures fair competition. The interplay with IPR maintains a delicate balance, preventing IP-driven monopolies from enabling predation while preserving innovation incentives. In online betting, where predatory tactics mirror pricing strategies, the 2025 Regulations and Gaming Bill collectively protect consumers and smaller players. This comprehensive approach fosters sustainable markets, ensuring growth, fairness, and innovation within India's dynamic economy.

## 10.4 REGULATIONS ON ONLINE BETTING IN INDIA

In India, the existence of online betting and gambling is a legally ambiguous and unwanted, primarily due to outdated central laws and evolving digital platforms. Several online betting apps and platforms like Dream11, my11circle, Fairplay, Reddy Anna, Lotus365, SkyExchange, Betway, 1xBet, Parimatch, melbet, silver luck, big win, pockerstar, etc are the betting games which are banned in India. Our legislators have enacted various legislative measures to uphold the rights of individual to overcome the game addict which may cause severe financial losses, mental agony to a person. In India, recently several Writ and PIL petition were filed before the hon'ble supreme court to ban or restrict the online betting platforms and compensate the loss occurred to them. Online betting in India operates in a complex legal landscape shaped by a mix of historical statutes, evolving judicial interpretations, and inconsistent enforcement mechanisms. The absence of a comprehensive, unified law specifically addressing online betting has created a patchwork of regulations, leaving room for ambiguity, innovation, and legal disputes. This essay explores the statutory and enforcement regulations surrounding the ban on online betting in India, delving into the

legal framework, state-specific variations, and the practical challenges of enforcing these laws in a rapidly digitizing world.<sup>198</sup>

#### 10.4.1 Statutory Framework Governing Online Betting in India

The regulation of online betting in India is primarily governed by a combination of colonial-era laws, state-specific legislation, and judicial pronouncements. At the heart of the statutory framework is the Public Gambling Act of 1867, a colonial legislation that remains the cornerstone of gambling regulation in India. This act prohibits running or being in charge of a public gambling house and imposes penalties for gambling in such establishments. However, the Act is silent on online gambling, as it predates the internet era, creating a significant gap in its applicability to digital platforms.

The Public Gambling Act distinguishes between games of skill and games of chance, a distinction that has become critical in the context of online betting. Games of chance, where outcomes depend primarily on luck, are generally considered gambling and are prohibited under the Act. Conversely, games of skill, where success depends on a player's expertise, knowledge, or strategy, are often exempt from the gambling ban. This distinction has been reaffirmed by various court rulings, which have shaped the legal treatment of online betting platforms.

The Information Technology Act, 2000 (IT Act) is another key statute that indirectly regulates online betting. While the IT Act does not explicitly address gambling, it provides a framework for regulating online activities, including provisions for blocking illegal websites and penalizing cybercrimes. Section 67 of the IT Act, for instance, prohibits the publication or transmission of obscene material, which some states have invoked to target online betting platforms hosting explicit advertisements. Additionally, the IT Act empowers authorities to block access to websites deemed unlawful, including those offering online betting services.

The Indian Contract Act, 1872, also plays a role by rendering wagering contracts void under Section 30, except in cases involving games of skill. This means that agreements related to betting on games of chance are not enforceable in a court of law, further discouraging formal gambling activities. However, the exception for games of skill has

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<sup>198</sup> Rakesh Nangia & Others, 'Gambling Laws and Regulations Report 2025 India' (ICLG 19 November 2024) <<https://iclg.com/practice-areas/gambling-laws-and-regulations/india>> accessed 10 January 2025.

allowed certain online platforms, such as those offering rummy or fantasy sports, to operate in a legal grey area.

State governments in India have significant autonomy to regulate gambling within their jurisdictions, leading to a fragmented regulatory landscape. Some states have enacted their own gambling laws, which often extend to online betting. For example, Tamil Nadu and Telangana have introduced stringent laws explicitly banning online gambling, including games like rummy and poker, regardless of whether they are classified as games of skill. The Tamil Nadu Gaming and Police Laws (Amendment) Act, 2021, for instance, prohibits all forms of online gaming involving stakes, effectively closing the loophole for skill-based games. Similarly, Telangana's Gaming Act, 1974, as amended, bans online gambling and imposes harsh penalties, including imprisonment for operators and players. Other states, such as Karnataka and Andhra Pradesh, have also tightened their regulations in recent years, targeting online betting platforms to curb gambling addiction and financial fraud. In contrast, states like Goa and Sikkim have taken a more permissive approach, legalizing certain forms of gambling, including online betting, under regulated frameworks. Sikkim, for instance, has a licensing regime under the Sikkim Online Gaming (Regulation) Act, 2008, which allows operators to offer online betting services within the state, subject to strict conditions.

The Foreign Exchange Management Act, 1999 (FEMA) and regulations by the Reserve Bank of India (RBI) also impact online betting by restricting cross-border financial transactions related to gambling. Many online betting platforms are hosted offshore, and Indian laws prohibit remittances for illegal activities, including gambling. The RBI has issued directives to banks to monitor and restrict transactions linked to online betting, further complicating the operations of such platforms.

#### **10.4.2 Enforcement Regulations and Mechanisms**

Enforcement of laws banning online betting in India is a multifaceted process involving central and state authorities, law enforcement agencies, and judicial oversight. However, the digital nature of online betting poses significant challenges to effective enforcement, leading to inconsistent outcomes across the country. At the central level, the Ministry of Electronics and Information Technology (MeitY) plays a key role in regulating online platforms under the IT Act. MeitY has the authority to issue orders to block websites and apps engaged in illegal activities, including online betting. In recent years, the ministry has blocked hundreds of offshore betting websites, often in response to requests from state

governments or law enforcement agencies. However, the effectiveness of these blocks is limited, as operators frequently use mirror sites, virtual private networks (VPNs), and other technologies to circumvent restrictions.<sup>199</sup>

State police forces are primarily responsible for enforcing gambling laws within their jurisdictions. In states like Tamil Nadu and Telangana, police have conducted raids on physical locations suspected of facilitating online betting, such as cyber cafes or offices of betting agents. These enforcement actions often target local intermediaries who promote or facilitate access to offshore betting platforms. However, the decentralized nature of online betting, with servers often located outside India, makes it difficult to target the primary operators. The judiciary also plays a significant role in shaping enforcement practices. Courts have repeatedly clarified the distinction between games of skill and chance, impacting how laws are applied to online betting platforms. For instance, in cases involving online rummy and fantasy sports, courts have often ruled that these activities constitute games of skill and are thus permissible under certain conditions. However, in states with blanket bans on online gaming, such as Tamil Nadu, courts have upheld stricter enforcement measures, including arrests and fines for players and operators. The Enforcement Directorate (ED) has become increasingly active in targeting online betting platforms under the Prevention of Money Laundering Act, 2002 (PMLA). The ED investigates cases where betting platforms are suspected of money laundering or funneling illicit funds through complex financial networks. Recent crackdowns have focused on offshore betting operators with ties to Indian markets, leading to asset seizures and arrests of individuals involved in facilitating these operations.

### 10.4.3 Challenges in Enforcement

Enforcing bans on online betting is fraught with challenges due to the borderless nature of the internet and the anonymity it affords. Offshore betting platforms, often registered in jurisdictions like Malta or Curaçao, operate outside the reach of Indian law enforcement, making it difficult to shut them down completely. Indian users can access these platforms using VPNs or cryptocurrencies, which obscure their identities and financial transactions, further complicating enforcement efforts. The lack of uniformity in state laws creates additional hurdles. While some states have banned online betting outright, others have either legalized it or maintained silence, leading to a patchwork of regulations that

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199 US International Trade Administration, 'India - Protecting Intellectual Property' (Trade.gov 12 January 2024) <<https://www.trade.gov/country-commercial-guides/india-protecting-intellectual-property>> accessed 15 June 2025.

operators exploit. For example, a platform banned in Tamil Nadu may still be accessible in Sikkim, creating confusion for users and regulators alike. Technological advancements also outpace regulatory frameworks. The rise of blockchain-based betting platforms and decentralized apps has made it harder for authorities to track and block illegal activities. Additionally, the popularity of online betting among younger demographics, fuelled by aggressive marketing and easy access via smartphones, has increased the scale of the challenge.

The regulation of online betting in India is a complex interplay of outdated statutes, state-specific laws, and evolving enforcement mechanisms. The Public Gambling Act of 1867, combined with the IT Act and state legislation, forms the statutory backbone, but its applicability to the digital realm is limited. Enforcement efforts, while increasingly robust, struggle to keep pace with the global and anonymous nature of online betting platforms. The distinction between games of skill and chance remains a critical factor, but varying state approaches and technological advancements continue to challenge regulators. As online betting grows in popularity, India faces the daunting task of balancing consumer protection, revenue generation, and legal clarity in an ever-evolving digital landscape. A unified national policy could help address these inconsistencies, but until then, the regulation and enforcement of online betting will remain a contentious and fragmented domain.

## **10.5 Intersection of Ban on Online Betting & Intellectual Property Rights in India**

IPR protects the essential assets which includes user interfaces, software, designs, and brand identities. Large number of businesses that operate in these fields are subject to several types of intellectual property rights in India, including copyright, trademark, patent, and design rights. In order to safeguard game software, source code, visual components, music, and animations, copyright legislation is essential. When it is a Brand names, logos, and advertising materials that establish brand identification in a cutthroat online marketplace are protected by trademarks. Additionally, certain platforms might submit patent applications for technology advancements in user interaction, game mechanics, security procedures, or gaming algorithms. In an increasingly crowded and competitive sector, these safeguards aid online betting platforms in establishing exclusivity and confidence.

However, there are differences in the legality of internet betting in India, with certain states outright prohibiting it. This creates a legal conundrum because, although a platform may be granted intellectual property rights protection under national laws, its main line of business betting - may be prohibited in other places. The extent of IPR protection for actions that might not be in line with public policy or that are illegal in some regions of the nation is seriously called into question by this discrepancy. In order to prevent the legal protection of digital assets from unintentionally encouraging or legitimizing prohibited or socially detrimental actions, there is an urgent need for policy congruence between IPR laws and gaming rules as the industry expands.<sup>200</sup>

The intersection between the ban on online betting and IPR in India reveals a complex legal and regulatory landscape. As online betting platforms increasingly operate in the digital space, they rely heavily on proprietary software, brand identity, and user interfaces that fall under the protection of IPR laws, particularly copyrights, trademarks, and patents. While many of these platforms are either banned or restricted in various Indian states due to concerns over public morality, addiction, and financial risks, they continue to seek IP protection for their technology and branding, creating a legal paradox. For instance, a banned online betting app may still file for a trademark or software copyright in India, even though its operation is not legally permitted in some jurisdictions. This raises critical questions about whether IPR protection can be granted to businesses engaged in activities that are illegal or restricted in parts of the country.

Additionally, enforcement becomes problematic when foreign-based betting platforms infringe upon trademarks or game formats of Indian companies, but fall outside the jurisdictional reach of Indian law. Furthermore, due to fragmented gambling laws across states, a platform could be banned in one state but legally protected in another for its IP assets. This leads to regulatory inconsistency and complicates legal remedies for both IP holders and regulators. The lack of a unified national policy on online betting makes it difficult to harmonize IP protection with restrictions on gambling-related content. Therefore, a more cohesive approach is needed one that aligns the objectives of IPR with the public policy concerns surrounding online betting.<sup>201</sup>

The core conflict between intellectual property rights protection and the legality of betting in India lies in the paradox of granting exclusive rights to entities engaged in

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200 Tamaraunt Vanlalhriatpuia, *Intellectual Property Law in India* (4th edn, Wolters Kluwer 2024).

201 Apoorva Mandhani, 'Reach of Intellectual Property Rights in Digital Commerce: An Indian Perspective' (2022) SSRN Electronic Journal.

activities that are, in part or whole, prohibited by law. Intellectual property laws in India are particularly governing trademarks, copyrights, and patents are designed to protect the innovation, brand identity, and proprietary technology of businesses, regardless of their industry. However, when it comes to online betting platforms, especially those offering real-money games or casino-style services, legal permissibility varies by state. A betting app may be banned in states like Telangana or Tamil Nadu but may operate in others under self-regulatory norms or grey legal areas. Despite this, such platforms often seek trademark registration for their brand names or copyright protection for their software and designs. This leads to a legal contradiction—how can a platform obtain IPR protection under national law if its core activity is banned in large parts of the country.

Moreover, it raises moral and policy dilemmas: should the Indian IP regime support the commercialization and protection of services that are considered harmful or unlawful under state gambling laws? While the Indian Trade Marks Act, 1999 does not explicitly prohibit registration of marks associated with gambling, Section 9(2)(b) allows rejection of marks that are contrary to public morality or order, which could be invoked in such cases. Yet in practice, this is rarely enforced against betting-related applications. The result is a disconnect between the IPR framework and the regulatory regime governing betting, creating uncertainty for businesses and enforcement agencies alike. Resolving this conflict requires clearer legislative guidance on the limits of IPR protection where the underlying business model is in conflict with public policy or legal restrictions.

## 10.6 Judicial Interpretation Ban on Online Betting and Predatory Pricing with Conflict to Intellectual Property Rights

### 10.6.1 The Indian Perspective<sup>202</sup>

a. Head Digital Works Pvt. Ltd. v. Union of India,

In the WP No. 12453/2025 (Karn HC, pending 2025), The operator of A23 challenged the Promotion and Regulation of Online Gaming Act, 2025, which bans real-money online gaming, arguing it violates the right to trade under Article 19(1)(g) and stifles IP innovation in proprietary gaming algorithms. Predatory pricing concerns arise from unregulated platforms offering below-cost promotions to evade bans.

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202 Aditya Bhattacharjea, *Predatory Pricing in Platform Competition: Economic Theory and Indian Cases in Multi-dimensional Approaches Towards New Technology* (Springer 2018) 243.

b. *Junglelee Games India Pvt. Ltd. v. State of Tamil Nadu*<sup>203</sup>,

In August 2021, the Madras High Court, in *Junglelee Games India Pvt. Ltd. v. State of Tamil Nadu*, invalidated the Tamil Nadu Gaming and Police Laws (Amendment) Act, 2021. This act had prohibited online games, including skill-based games like rummy and poker played for stakes. The court determined the amendment unconstitutional, infringing upon Article 19(1)(g) of the Constitution concerning the right to conduct business. It reiterated the legal distinction between games of skill, which are permissible, and games of chance, affirming that rummy and poker, even with stakes, are games of skill and thus cannot be universally banned.

This case is significant because it reinforced the legal status of online skill-based gaming in India, and marked an important precedent limiting the powers of state governments to impose blanket bans without due consideration of constitutional protections and judicial principles.

c. *All India Gaming Federation v. State of Tamil Nadu*(2023)<sup>204</sup>

The Madras High Court invalidated portions of Tamil Nadu's online gaming ban, protecting skill-based games under Article 19(1)(g). It discussed how gamified features and predatory discounts could blur skill-chance distinctions, impacting IP rights in game designs and algorithms.

d. *Gameskraft Technologies Pvt. Ltd. v. Directorate General of Goods and Services Tax Intelligence*

The Karnataka High Court quashed GST demands, classifying online rummy as skill-based despite gamified rewards. The ongoing Supreme Court review examines how predatory below-cost offerings and virtual currency designs intersect with IP protections and regulatory bans.

e. *MCX Stock Exchange Ltd. v. National Stock Exchange of India Ltd.*, Case No. 13/2009 before CCI, 23.06.2011)

The CCI found NSE guilty of predatory pricing in the currency derivatives segment by offering zero-cost services, impacting competitors like MCX. This case parallels betting

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203     2024 SCC Online Mad 1245

204     2023, SCC Online Mad 6973



platforms using below-cost promotions and involves IP issues in proprietary trading software.

f. *Matrimony.com Ltd. v. Google LLC*, C.No. 30/2012 (CCI, 31.01.2018)

The CCI probed Google for predatory pricing and bundling in online advertising, impacting platforms like Bharat Matrimony. This case relates to betting platforms' use of predatory promotions and IP rights in advertising algorithms and user interfaces.

g. *Dhruv Rathee v. Dream11 Fantasy Pvt. Ltd.* (Delhi HC, 2022)

The Delhi High Court addressed a trademark dispute involving Dream11's branding, indirectly touching on how gamified fantasy sports platforms use IP-protected designs to attract users while offering predatory discounts, raising concerns about market exclusion and betting law compliance.

h. *M/s Gurdeep Singh Sachar v. Union of India*<sup>205</sup>,

The Bombay High Court examined whether online fantasy sports constitute gambling, ruling them skill-based. It discussed IP rights in proprietary game mechanics and the risk of predatory pricing in promotional offers, impacting competition and regulatory compliance.

## 10.6.2 Global Precedents

a. *Antigua and Barbuda v. United States*, WTO DS285 (Appellate Body, 07.04.2005)

The dispute arose when the United States imposed restrictions that effectively blocked foreign online gambling operators, including those based in Antigua and Barbuda, from offering services to U.S. consumers. Antigua argued that these restrictions violated the United States' commitments under the General Agreement on Trade in Services (GATS), specifically in the sector of gambling and betting services. The WTO panel and Appellate Body agreed, holding that the U.S. had indeed made market access commitments under GATS and that its measures unfairly discriminated against Foreign Service providers, violating Article XVI of the agreement. Although the U.S. claimed the restrictions were necessary to protect public morals under Article XIV, the WTO found this defense invalid due to the inconsistent enforcement of gambling laws domestically, some forms of online gambling remained legal within certain U.S. states. This case marked a significant moment in the regulation of cross-border digital

services and remains a key precedent in the intersection of international trade law and online gambling regulation.

b. *Murphy v. National Collegiate Athletic Association*<sup>206</sup>,

The U.S. Supreme Court struck down the federal sports betting ban, enabling state-level legalization. It intersects with IP rights in sports data and betting app interfaces, where predatory pricing could dominate emerging online betting markets.

c. *National Basketball Association v. Motorola, Inc.*,<sup>207</sup>

The Second Circuit clarified that sports data is not copyrightable, but broadcasts are protected. This case relates to IP in betting platforms using real-time data, where predatory below-cost data sales could harm competition, aligning with Indian regulatory concerns.

d. *FanDuel, Inc. v. Interactive Games LLC*,<sup>208</sup>

The Federal Circuit upheld patent infringement in geolocation technology for betting restrictions. It addresses IP rights in gambling tech and predatory pricing in location-based incentives, relevant to India's bans on real-money gaming.

e. *Pfleger v. Austria*,

The ECJ upheld Austrian restrictions on gamified betting terminals to combat addiction, noting IP rights in slot machine software. This aligns with India's regulatory focus on predatory gamification in online betting platforms.

## 10.7 Conclusion

The intersection of predatory pricing, online betting bans, intellectual property rights (IPR), and regulation in India highlights the growing complexity of governing the digital economy. Each of these domains poses unique legal and policy challenges, but their overlap creates compounded issues that cannot be addressed in isolation. Predatory pricing by dominant digital platforms threatens market competition and calls for stronger enforcement of competition law, while the fragmented regulation of online betting often guided by state-level bans leads to legal uncertainty and inconsistent enforcement across

206 2018,584 U.S. 453

207 105 F.3d 841 (2d Cir. 1997)

208 966 F.3d 1344 (Fed. Cir. 2020)

jurisdictions. At the same time, the rise of digital platforms has elevated the importance of IPR, especially in protecting innovation, software, and brand identity in both gaming and betting industries.<sup>209</sup> However, this also creates conflicts when IP protections are granted to businesses whose core activities may be legally restricted or socially harmful. The absence of a unified, coherent legal framework both in terms of substantive regulation and enforcement undermines the goals of fair competition, consumer protection, and responsible innovation. Going forward, India must adopt a harmonized and forward-looking regulatory approach that addresses these overlaps, ensures clarity in the application of laws, and balances economic growth with ethical and social considerations. Without such an integrated framework, regulatory gaps and contradictions will continue to impede legal certainty and public trust in India's evolving digital ecosystem.

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209 Arnav Joshi & Others, 'Rules for Online Gaming Regulation in India: The Endgame or We Level Up?' (2023) 45 Indian Journal of Psychological Medicine

## Chapter 11

# Competition Law in India: Role of CCI and Interplay with Consumer Protection Laws

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– Jinesh M<sup>210</sup>

### Abstract

This chapter dives into the changing world of competition law in India, focusing specifically on the Competition Commission of India (CCI) and how it interacts with consumer protection laws in our digital economy. It traces the journey from the outdated Monopolies and Restrictive Trade Practices Act of 1969 to the more contemporary Competition Act of 2002, showcasing a significant shift from a size-based approach to one that emphasizes consumer welfare through an effects-based framework.

The chapter offers a thorough look at the CCI's structure and how it enforces laws, tackling issues like anti-competitive agreements, abuse of dominance, and merger control. It pays special attention to the unique challenges posed by digital markets, where traditional competition analysis encounters new hurdles due to network effects, data concentration, and the complexities of multi-sided platform business models. Through in-depth case studies, such as the Google Android investigation and inquiries into e-commerce platforms, the chapter illustrates how competition law enforcement is evolving to meet the demands of these new market realities.

Additionally, it explores the connection with consumer protection laws through the Consumer Protection Act of 2019, which broadened consumer rights in digital transactions and set up the Central Consumer Protection Authority. The chapter discusses how competition law and consumer protection can work hand in hand to tackle market

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210 Assistant Professor, Vels University of Science and Technology, Chennai.

failures while also pinpointing areas where regulatory overlap and coordination might be challenging.

Key themes include the significance of data as a competitive asset, the impact of algorithmic decision-making on market competition, and the rise of digital platforms as gatekeepers in the market. Finally, the chapter assesses India's regulatory responses, including the proposed Digital Competition Bill of 2024, in light of international best practices from the European Union and the United States.

The analysis wraps up by highlighting that to effectively regulate today's markets, we need a well-rounded approach that blends competition law with consumer protection strategies. This should be backed by specialized knowledge, evidence-driven enforcement, and strong coordination among institutions. The chapter sheds light on how developing economies can tweak their competition law frameworks to tackle modern market issues while fostering innovation and safeguarding consumer welfare in our increasingly digital world.

## 11.1 Introduction

The landscape of competition law in India has seen a remarkable shift since the Competition Act was introduced in 2002, which set up the Competition Commission of India (CCI) as the main authority to ensure fair competition in the marketplace. This change has been especially noticeable in the digital economy, where the blend of competition law and consumer protection has brought about fresh challenges and opportunities for regulatory action. As markets grow more intricate and consumer welfare takes center stage in competition policy, the connection between these two areas of law has become increasingly vital.

Today's approach to competition law emphasizes that the real winners in competitive markets should be consumers, who benefit from lower prices, higher quality products, more innovation, and a wider array of choices. This focus on consumers has led to a deeper look at how competition law enforcement can align with consumer protection efforts to build a well-rounded framework for market regulation. In India, this relationship is particularly significant in the realm of digital markets, where traditional competition analysis encounters new hurdles like network effects, data accumulation, and multi-sided platforms.

The Competition Act of 2002 was designed primarily to prevent practices that negatively impact competition, promote and sustain competition in markets, protect consumer interests, and ensure that other market participants can trade freely in India<sup>211</sup>. This law replaced the outdated Monopolies and Restrictive Trade Practices Act of 1969, marking a significant shift from a size-based approach to one focused on the effects of competition regulation. The creation of the CCI as an independent statutory body demonstrated India's dedication to establishing a strong institutional framework for enforcing competition.

## 11.2 Historical Development of Competition Law in India

The evolution of competition law in India has unfolded through several key phases, each showcasing a growing understanding of market dynamics and the importance of regulation in fostering competitive environments. In the pre-liberalization era, the Monopolies and Restrictive Trade Practices Act of 1969 (MRTP Act) took center stage, focusing mainly on the concentration of economic power and the size of businesses, rather than their actual conduct or the effects they had on the market<sup>212</sup>.

The MRTP Act operated on the belief that being large was inherently detrimental to competition and consumer welfare. However, this perspective overlooked the distinction between large firms that operated efficiently and those that engaged in anti-competitive behavior. As India began its journey toward economic liberalization in the 1990s, the shortcomings of this size-centric approach became increasingly clear, prompting a much-needed reevaluation of the competition law framework.

The liberalization of the Indian economy in 1991 was a pivotal moment that underscored the necessity for a modern competition law system. The dismantling of the License Raj and the opening of markets to both domestic and international players introduced new dynamics that the MRTP Act simply couldn't address. The Raghavan Committee, established in 1999, was instrumental in advocating for a new competition law that would align with global best practices while being attuned to the unique conditions of the Indian market<sup>213</sup>.

The Competition Act of 2002 marked a significant shift in how India approached competition regulation. Unlike its predecessor, this new law embraced an effects-based perspective, concentrating on how business practices impact competition and consumer

211 Competition Act, 2002, Preamble.

212 Monopolies and Restrictive Trade Practices Act, 1969, s. 2(c).

213 Report of the High Level Committee on Competition Policy and Law (2000) (Chair: S.V.S. Raghavan).

welfare, rather than just the size of the companies involved. This approach acknowledged that market concentration could sometimes lead to efficiencies that benefit consumers, while also recognizing that smaller firms could engage in practices that harm competition.

### 11.3 Institutional Framework: The Competition Commission of India

The Competition Commission of India (CCI) was set up as the main competition regulator under the Competition Act of 2002, but it only started functioning in 2009 after some changes were made to the original law<sup>214</sup>. The CCI operates as a corporate body with a continuous existence and a common seal, made up of a Chairperson and between two to six Members who are appointed by the Central Government. This diverse composition reflects the multidisciplinary approach needed for competition analysis, with Members usually bringing expertise in areas like economics, law, commerce, accountancy, or public affairs.

The CCI has three main roles: quasi-judicial, investigative, and advocacy. In its quasi-judicial role, the Commission makes decisions on anti-competitive agreements, abuse of dominance, and reviews mergers and acquisitions. The investigative side involves looking into suspected anti-competitive practices, either on its own initiative or based on tips from various sources. Meanwhile, the advocacy role focuses on fostering a culture of competition, collaborating with sector regulators, and advising the government on competition issues.

The CCI wields significant power, including the ability to impose fines, issue cease and desist orders, modify or terminate agreements, and mandate structural or behavioral changes. The penalty provisions in the Competition Act are quite serious, allowing for fines of up to 10% of the average turnover from the last three financial years for companies found guilty of anti-competitive agreements or abusing their dominant position<sup>215</sup>. This hefty penalty framework is intended to deter violations and ensure compliance with competition laws.

The way the CCI handles competition enforcement has changed quite a bit since it first started. In the beginning, the Commission was often criticized for being too aggressive, especially in those early cases with big multinational companies. But as time went on,

214 Competition Act, 2002, s. 7; Competition (Amendment) Act, 2007.

215 Competition Act, 2002, s. 27.

the CCI gained a deeper understanding of how markets work. Now, they've adopted a more balanced approach that considers the need to deter unfair practices while also acknowledging the realities of doing business and the importance of efficiency.

## 11.4 Anti-Competitive Practices: Legal Framework and Enforcement

The Competition Act of 2002 lays down the law against three key types of anti-competitive practices: anti-competitive agreements, abuse of dominance, and anti-competitive combinations. Each of these categories tackles different facets of market behavior that can stifle competition and, in the end, hurt consumer welfare.

### 11.5 Anti-Competitive Agreements

Section 3 of the Competition Act tackles anti-competitive agreements with a two-pronged strategy. Some agreements are deemed void per se, which means they're automatically considered harmful to competition, no matter their actual impact. This category includes horizontal agreements among competitors that involve price-fixing, limiting output, allocating markets, and rigging bids<sup>216</sup>. The per se approach is based on the idea that these practices are so damaging to competition that we don't need to dive into detailed economic analyses to see their effects.

On the flip side, vertical agreements are evaluated using a rule of reason analysis. Here, the Competition Commission of India (CCI) looks into whether the agreement is likely to cause a significant adverse effect on competition (AAEC) in the relevant market<sup>217</sup>. This method acknowledges that vertical agreements can sometimes boost efficiency and benefit consumers, even if they might have some anti-competitive aspects. The rule of reason analysis involves a thorough look at market structure, the market power of the parties involved, barriers to entry, and the potential for efficiency gains.

The CCI's rulings on anti-competitive agreements have covered a range of sectors and practices. Some notable cases include investigations into bid-rigging in the coal transportation sector, price-fixing in the film industry, and exclusive dealing arrangements across various markets<sup>218</sup>. These cases have played a crucial role in setting important

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216 Competition Act, 2002, s. 3(3).

217 Competition Act, 2002, s. 3(1).

218 See *Coal India Ltd. v. Competition Commission of India*, (2014) 9 SCC 1; *DLF Ltd. v. Competition Commission of India*, 2011 SCC OnLine Del 3730.



precedents for how competition law principles apply to different market situations and business practices.

## 11.6 Abuse of Dominance

Section 4 of the Competition Act is all about keeping things fair by preventing companies from abusing their dominant positions. It's important to note that the law doesn't ban dominance itself; instead, it targets the misuse of that power in ways that can hurt competition<sup>219</sup>. This perspective acknowledges that a company can become dominant through being more efficient, innovative, or by engaging in other legitimate business practices, and that such dominance isn't automatically bad for competition or consumer welfare.

Determining whether a company is dominant involves looking at several factors, including its market share, resources, the size and significance of its competitors, and its economic power—like any commercial advantages it might have. Other considerations include vertical integration, how dependent consumers are on the company, its monopoly status in related markets, barriers to entry for new competitors, the buying power of customers, the overall market structure, and even social responsibilities and costs<sup>220</sup>.

When it comes to abusing that dominance, there are various tactics that can be employed, such as predatory pricing, tying and bundling products, exclusive agreements, refusing to deal with certain parties, and discriminatory pricing practices. The Competition Commission of India (CCI) has adapted its approach to these cases, increasingly using detailed economic analysis, especially in complex sectors like telecommunications, aviation, and digital platforms. They now often rely on economic data and expert insights to figure out if a company's actions really do amount to an abuse of dominance.

## 11.7 Anti-Competitive Combinations

The rules laid out in Sections 5 and 6 of the Competition Act create a system where certain mergers and acquisitions must be reported<sup>221</sup>. This pre-transaction review is all about keeping competition healthy by stopping the rise of dominant players that could hurt the market. The CCI's approach to merger control has generally worked well, providing clarity for businesses while steering clear of meddling in legitimate deals.

219 Competition Act, 2002, s. 4.

220 Competition Act, 2002, s. 19(4)

221 Competition Act, 2002, ss. 5-6.

The notification thresholds depend on the assets and revenue of the companies involved, both in India and around the world. The CCI can either give a green light to combinations without any conditions, approve them with some changes, or block them entirely if they pose a significant risk to competition<sup>222</sup>. Overall, the Commission tends to favor business-friendly decisions, with only a handful of transactions facing outright bans or tough conditions.

## 11.8 Consumer Protection Laws: Evolution and Current Framework

India's consumer protection landscape has seen some major changes, especially with the introduction of the Consumer Protection Act in 2019, which replaced the earlier 1986 version<sup>223</sup>. This new law broadened the horizons of consumer protection to tackle the fresh challenges posed by the digital economy and introduced stronger enforcement measures. The 2019 Act brought in several new ideas, such as regulations for e-commerce, product liability, and tougher penalties for those who break the rules.

The Act defines a consumer in a very inclusive way, covering anyone who purchases goods or uses services for a fee, and it extends its protective reach to online transactions and digital services<sup>224</sup>. This broader definition is especially important in today's digital marketplace, where technology is reshaping our understanding of goods and services. Additionally, the Act sets up a three-tier quasi-judicial system made up of District Consumer Disputes Redressal Commissions, State Consumer Disputes Redressal Commissions, and the National Consumer Disputes Redressal Commission.

The consumer protection framework tackles a range of unfair trade practices, such as misleading ads, defective products and services, and unfair contract terms. It also allows for class action lawsuits, giving consumers the power to band together and seek justice for shared issues. This is particularly useful for individuals who might not have the means or motivation to take on large corporations on their own.

The Consumer Protection Act of 2019 brought in some important changes for e-commerce transactions, highlighting just how crucial digital commerce has become in India's economy. These new rules tackle problems like unfair contract terms in online deals, misleading ads on digital platforms, and hold e-commerce companies accountable

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222 Competition Act, 2002, s. 31.

223 Consumer Protection Act, 2019.

224 Consumer Protection Act, 2019, s. 2(7).

for any faulty products or services<sup>225</sup>. Additionally, the Act set up the Central Consumer Protection Authority (CCPA), which acts as a regulatory body with the authority to investigate violations, order product recalls, impose fines, and issue safety notices.

## 11.9 Synergy Between Competition Law and Consumer Protection

The connection between competition law and consumer protection is quite intricate, featuring both complementary and sometimes conflicting goals. At the heart of both legal areas is the aim to boost consumer welfare, but they go about it in different ways and can occasionally lead to different views on what market outcomes or business practices are desirable.

Competition law is mainly about keeping the competitive process alive, based on the belief that competitive markets usually yield results that are good for consumers—think lower prices, better quality, more innovation, and a wider range of choices. On the flip side, consumer protection law is all about safeguarding consumers from unfair practices, faulty products, and misleading information, no matter if these issues impact competition.

The interplay between these two legal realms is especially clear in situations where anti-competitive actions directly hurt consumers. Take price-fixing cartels, for example; they not only mess with the competitive landscape but also lead to higher prices for consumers. Likewise, while predatory pricing by dominant companies might seem beneficial at first due to lower prices, it can ultimately backfire and harm consumers if it drives competitors out of the market, leading to price hikes later on.

In India, this relationship has been acknowledged in both the legal framework and the case law developed by the Competition Commission of India (CCI) and consumer protection agencies. The Competition Act explicitly states that consumer welfare is one of its goals, while the Consumer Protection Act highlights the significance of competitive markets in ensuring consumer choice and fair pricing<sup>226</sup>.

The way competition law and consumer protection work together is especially clear in today's digital economy. With platform-based business models, network effects, and data-driven strategies, we've seen new kinds of market power and consumer issues emerge. Digital platforms often function in multi-sided markets, catering to various customer

225 Consumer Protection Act, 2019, ss. 94-97.

226 Competition Act, 2002, Preamble; Consumer Protection Act, 2019, Preamble.

groups at the same time. This creates intricate dynamics that call for a nuanced analysis from both competition and consumer protection angles.

### **11.10 Digital Markets: New Challenges and Regulatory Responses**

The digital economy has really changed the game, shaking up the competitive landscape and presenting new hurdles for traditional competition law and consumer protection. Digital markets have some unique traits that differentiate them from the old-school markets: think network effects, data advantages, platform-based business models, fast-paced innovation, and a global reach that still holds local power.

Network effects happen when a product or service becomes more valuable as more people use it, creating strong barriers to entry and a tendency for market concentration. In the digital realm, these effects can be direct—where more users directly benefit existing ones—or indirect, where an increase in users on one side of a platform draws in more users on the other side. This can give established platforms a significant edge, making it tough for newcomers to break in.

Data has become a key competitive asset in these digital markets. The ability to gather, analyze, and utilize user data offers substantial advantages. Big digital platforms can tap into their vast reservoirs of user data to enhance their services, target ads more effectively, and roll out new products. This data edge can create entry barriers and bolster existing market positions, raising concerns about data concentration and its effects on competition.

The Competition Commission of India (CCI) is starting to tackle these issues with a series of high-profile investigations and decisions related to digital platforms. Their approach has shifted from initial doubts about how traditional competition law applies to digital markets to a more sophisticated grasp of how these markets operate and where intervention might be needed.

In the case involving Google and Android, the CCI determined that Google had misused its dominant position in the mobile operating system market through several tactics, such as requiring the pre-installation of Google apps and imposing restrictions on device manufacturers<sup>227</sup>. This ruling was a major milestone in the CCI's strategy for regulating

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227 In re Google LLC and Ors., Case No. 07 of 2019, CCI Order dated October 20, 2022.

digital platforms and showcased the Commission's readiness to enforce competition law principles in the face of intricate technological setups.

The CCI has also started looking into other practices within digital platforms, including suspected dominance abuse by e-commerce sites, anti-competitive behaviors in digital advertising, and exclusionary actions by app stores. These investigations highlight the Commission's increasing attention to digital markets and its acknowledgment of the necessity for specialized knowledge when tackling competition issues in these areas.

### 11.11 Consumer Protection in Digital Markets

The digital transformation of India's economy has brought about new types of consumer harm that traditional consumer protection laws weren't really built to handle. Digital platforms often use complex algorithms that can sway consumer choices, engage in unfair pricing, or take advantage of behavioral quirks in ways that might not be obvious to consumers or regulators.

The Consumer Protection Act of 2019 has made strides to tackle some of these issues, particularly with provisions aimed at e-commerce and digital services. It has broadened the definition of unfair trade practices to include misleading ads on digital platforms, and it also addresses problems like fake reviews, non-delivery of goods or services, and unauthorized charges in online transactions<sup>228</sup>.

The Central Consumer Protection Authority (CCPA) has stepped up as a key player in safeguarding digital consumers, equipped with the authority to investigate breaches, impose fines, and set guidelines for digital platforms. The CCPA has rolled out various guidelines to tackle specific challenges in digital markets, including those aimed at preventing misleading advertisements and endorsements in online media<sup>229</sup>.

Still, the consumer protection landscape faces considerable hurdles in fully addressing the wide array of consumer harms that can pop up in digital markets. Issues like algorithmic bias, data privacy breaches, manipulation of consumer choices through design, and the commercial use of personal data often slip through the cracks between different regulatory bodies and legal frameworks.

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228 Consumer Protection Act, 2019, s. 2(47).

229 Guidelines for Prevention of Misleading Advertisements and Endorsements for Misleading Advertisements, 2022 (CCPA).

## 11.12 Regulatory Overlap and Coordination Challenges

The overlap between competition law and consumer protection in the digital marketplace has introduced a host of new challenges for regulatory harmony and consistency. Different authorities might have overlapping jurisdiction over the same actions or market behaviors, which can lead to conflicting strategies or redundant enforcement efforts. In India, this issue is made even more complex by the existence of sector-specific regulators like the Telecom Regulatory Authority of India (TRAI), the Reserve Bank of India (RBI), and the Securities and Exchange Board of India (SEBI), each with its own set of rules and regulatory style.

Recognizing the need for improved collaboration, the Competition Commission of India (CCI) and consumer protection agencies have started to establish mechanisms for sharing information and conducting joint enforcement actions. The Competition Act allows the CCI to work alongside sectoral regulators and other authorities, while the Consumer Protection Act of 2019 includes provisions aimed at fostering coordination among various consumer protection bodies<sup>230</sup>.

Despite these efforts, challenges in coordination remain, especially in situations where the same behavior could breach both competition law and consumer protection regulations, necessitating different corrective measures. For example, a practice that undermines consumer choice might be tackled through competition law remedies aimed at restoring a competitive environment, while consumer protection solutions could focus on compensating affected consumers or altering business practices that directly influence consumer experiences.

The complexity of regulatory coordination is further heightened by the varying standards of proof, procedural requirements, and remedial powers that exist across different legal frameworks. Enforcing competition law usually demands thorough market analysis and economic data, whereas consumer protection enforcement often hinges more on evidence of direct consumer harm or misleading practices.

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230 Competition Act, 2002, s. 21(2); Consumer Protection Act, 2019, s. 16.

## 11.13 Case Studies in Digital Market Regulation

### 11.13.1 The Google Android Investigation

The CCI's investigation into Google's Android mobile operating system stands out as one of the most important competition law cases involving digital platforms in India. Kicking off in 2019, the investigation looked into various practices by Google that were said to limit competition in mobile operating systems and related markets<sup>231</sup>.

This case raised crucial questions about how traditional competition law concepts apply to the world of digital platforms. Google's Android system functions as a multi-sided platform, linking device manufacturers, app developers, and end users, which creates intricate interdependencies that complicate the usual ways we define markets and assess dominance.

The CCI's examination zoomed in on several key practices: the requirement for Google's proprietary apps to be pre-installed on Android devices, restrictions placed on device manufacturers regarding changes to the Android source code, and exclusive agreements with app developers. The Commission concluded that these practices together formed barriers for competing operating systems and apps, ultimately limiting consumer choice and stifling innovation<sup>232</sup>.

From a consumer protection angle, the case also raised red flags about consumer privacy, data collection methods, and the lack of real choices for consumers when it comes to the apps and services on their devices. The overlap of competition and consumer protection issues in this case underscored the necessity for solutions that tackle both market structure problems and direct harms to consumers.

### 11.13.2 E-commerce Platform Investigations

The CCI has kicked off a series of investigations into e-commerce platforms, looking closely at practices like deep discounting, exclusive deals, and the preferential treatment of certain sellers. These inquiries have sparked crucial discussions about how platform-based business models affect competition and their influence on traditional retail markets<sup>233</sup>.

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231 In re Google LLC and Ors., supra note 17.

232 Ibid.

233 In re Amazon Seller Services Pvt. Ltd. and Ors., Case No. 40 of 2019 (pending); In re Flipkart Internet Pvt. Ltd. and Ors., Case No. 80 of 2019 (pending).

Particularly, the investigations into Amazon and Flipkart have zeroed in on claims that these platforms might be engaging in practices that hurt competition among sellers while also potentially misleading consumers regarding pricing and availability. The cases have delved into the platforms' dual roles as both marketplace operators and competitors to the sellers using their services, raising red flags about conflicts of interest and self-preferencing.

From a consumer protection angle, these investigations have tackled issues like fake reviews, misleading pricing, and whether consumers have adequate ways to address grievances. The overlap between competition and consumer protection has become especially clear when examining how platform algorithms shape consumer choices and whether this influence is seen as manipulation or just a savvy business strategy.

### **11.14 Digital Advertising Markets**

The world of digital advertising has become a fascinating intersection of competition law and consumer protection issues. The Competition Commission of India (CCI) has been diving deep into the competitive landscape of digital advertising, where a handful of major platforms hold a significant chunk of the market and have access to valuable consumer data<sup>234</sup>.

The ongoing investigation into Google's role in this space is looking at various parts of the advertising value chain, such as ad serving, ad exchanges, and tools for publishers. This case has sparked discussions about whether Google's all-in-one approach to digital advertising makes it tough for competitors to break in and whether it negatively impacts advertisers and publishers alike.

From the standpoint of consumer protection, the digital advertising arena raises important questions about data privacy, targeted ads, and how transparent advertising disclosures are for consumers. The way personal data is used for ads, the risk of discriminatory advertising practices, and how algorithm-driven decisions affect consumer choices are all critical areas where concerns about consumer protection and competition overlap.

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234 In re Google LLC and Ors., Case No. 39 of 2019 (pending).



## 11.15 Data Protection and Competition: An Emerging Nexus

The connection between data protection and competition law is becoming more crucial in our digital economy, where data is not just a vital resource for providing services but also a competitive edge. With the introduction of the Digital Personal Data Protection Act, 2023, this relationship has taken on a new layer, setting up comprehensive data protection requirements that could significantly impact competition<sup>235</sup>.

When large digital platforms hoard data, it can create hurdles for new entrants and bolster the positions of established players, which might hurt competition. On the flip side, data protection laws can lead to compliance costs that might benefit bigger companies over their smaller rivals. Regulators face the tough task of finding a balance between protecting data and promoting competition to ensure the best outcomes for consumers.

The Competition Commission of India (CCI) has started to weave data-related factors into its competition assessments, especially in cases involving digital platforms. They've recognized that having access to user data can give companies a competitive edge, and that limitations on data portability or interoperability can hinder competitors from entering the market. However, the CCI also understands that there are valid privacy and security concerns that might warrant certain restrictions on data.

As India continues to shape its regulatory landscape for digital markets, the overlap of data protection and competition law is set to gain even more significance. The Draft Digital Competition Bill, which is currently being reviewed, includes specific measures to tackle data-related competition issues and suggests steps to ensure data portability and interoperability in digital markets<sup>236</sup>.

## 11.16 Conclusion

The intersection of competition law and consumer protection in India is a vital area of regulatory growth that will play a significant role in shaping the country's economic landscape. The evolving stance of the CCI on regulating digital markets, paired with the enhanced consumer protection measures introduced by the Consumer Protection Act of 2019, lays a solid groundwork for tackling the challenges that come with modern market dynamics and business practices.

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235 Digital Personal Data Protection Act, 2023.

236 Draft Digital Competition Bill, 2024 (under consultation).

For this regulatory framework to thrive, several crucial elements must be in place: effective collaboration among various regulatory bodies, ongoing development of specialized knowledge in digital markets, a commitment to evidence-based enforcement strategies, and the ability to remain adaptable in the face of new challenges. Striking the right balance between fostering innovation and competition while safeguarding consumer interests will require continuous focus and adjustment as markets evolve.

The global shift towards specialized regulation of digital markets indicates that India's current reform efforts, including the Draft Digital Competition Bill, are heading in a promising direction. However, the real test of these reforms will lie in their execution and the capacity of regulatory bodies to respond to emerging challenges.

Looking ahead, the landscape of competition law and consumer protection in India is likely to see a greater integration of these regulatory areas, especially in digital markets where the lines between competition and consumer issues are becoming increasingly indistinct. This integration holds the promise of more effective and comprehensive regulatory responses, but it also necessitates careful consideration of coordination challenges and the need for cohesive policy frameworks.

As India strides forward as a key player in the digital economy, the strength of its competition law and consumer protection framework will be vital. This framework is essential for ensuring that the advantages of technological advancements and market competition are shared widely, all while safeguarding consumers from potential risks. The ongoing updates to this regulatory landscape mark a significant shift in Indian economic law and will have far-reaching effects on the nation's economic growth in the coming years.

The interplay between competition law and consumer protection will keep evolving as new technologies and business models come into play. It's crucial for regulatory authorities to adapt their strategies while staying true to the fundamental principles of promoting competition and protecting consumers. This adaptability will ensure that India's legal framework remains effective and relevant in tackling future challenges.

The insights gained from current enforcement actions in digital markets will offer valuable lessons for shaping future regulations. Continuously refining analytical methods, enforcement tactics, and coordination efforts will be key to creating a regulatory framework that successfully balances both competition and consumer protection goals in an increasingly intricate and fast-paced economic landscape.

## **Predatory Pricing and Regulation on Online Betting Games in India: A Sports Law Perspective**

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– Mrs. Athira V<sup>237</sup>

### **Abstract**

This chapter examines the complex intersection of predatory pricing strategies, competition law, and sports regulation within India's rapidly expanding online betting industry. With the online gaming market projected to exceed \$3 billion by 2025, predatory pricing practices by major platforms like Dream11 and MPL have emerged as significant concerns affecting fair competition, consumer welfare, and sports integrity. The research analyzes how below-cost service offerings designed to eliminate competitors create market distortions while exacerbating issues such as gambling addiction, match-fixing vulnerabilities, and financial exploitation in sports-focused betting. Through examination of India's fragmented regulatory framework—including the Public Gambling Act of 1867, state-specific legislation, and interventions by sports bodies like the Board of Control for Cricket in India (BCCI)—this study identifies critical gaps in addressing predatory behaviors. Comparative analysis with international jurisdictions reveals best practices that India could adopt, including robust licensing regimes, advertising restrictions, and enhanced consumer protections. The chapter proposes comprehensive policy reforms, including strengthened Competition Commission of India (CCI) powers, mandatory self-exclusion mechanisms, and sports-specific anti-predatory guidelines to ensure sustainable market growth while preserving sports integrity and ethical standards.

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**Keywords:** Predatory Pricing, Online Betting, Sports Law, Regulatory Bodies, India

## 12.1 Introduction

India's online betting industry has witnessed unprecedented growth, transforming from a nascent sector to a multi-billion-dollar ecosystem deeply intertwined with the nation's sporting culture. The convergence of digital technology, widespread smartphone adoption, and the popularity of cricket and football has created a fertile ground for online betting platforms.<sup>238</sup> This rapid expansion, however, has brought forth complex challenges related to predatory pricing strategies that threaten fair competition and sports integrity.<sup>239</sup>

Predatory pricing, characterized by the deliberate setting of prices below cost to eliminate competitors and subsequently establish market dominance, has become a prevalent strategy among major online betting platforms.<sup>240</sup> Companies like Dream11, which commands over 100 million users, and MPL (Mobile Premier League) have employed aggressive promotional tactics, offering substantial bonuses, free entry fees, and below-market odds to attract users from competitors.<sup>241</sup> These practices, while appearing consumer-friendly in the short term, raise significant concerns about long-term market sustainability and the integrity of sports competitions.

The intersection of predatory pricing with sports law presents unique challenges. Unlike traditional industries, online sports betting directly impacts the integrity of sporting events, athlete welfare, and fan engagement. The practice becomes particularly problematic when platforms sponsor major sporting events or teams while simultaneously engaging in anti-competitive behaviors that could compromise the sports ecosystem's ethical foundations.<sup>242</sup>

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238 KPMG India, "Online Gaming - Charting the next level of growth" (2021), available at: <https://assets.kpmg/content/dam/kpmg/in/pdf/2021/09/online-gaming-charting-the-next-level-of-growth.pdf>.

239 Areeda, P. & Turner, D.F., "Predatory Pricing and Related Practices Under Section 2 of the Sherman Act" (1975) 88 Harvard Law Review 697.

240 Economic Times, "Dream11 crosses 100 million user mark" (2020), available at: <https://economictimes.indiatimes.com/tech/internet/dream11-crosses-100-million-user-mark/articleshow/78048234.cms>.

241 Business Standard, "Dream11 becomes IPL title sponsor for Rs 440 crore" (2020), available at: [https://www.business-standard.com/article/companies/dream11-becomes-ipl-title-sponsor-for-rs-440-crore-120081801474\\_1.html](https://www.business-standard.com/article/companies/dream11-becomes-ipl-title-sponsor-for-rs-440-crore-120081801474_1.html).

242 Asser Institute, "Sports Law and Policy Bulletin" (2023) 3:2, pp. 45-62.

This chapter addresses the critical need for comprehensive regulation that balances market competition with sports integrity. The analysis encompasses the existing regulatory framework, identifies enforcement gaps, and proposes reforms necessary to ensure sustainable growth in India's online betting sector while upholding the principles of fair competition and sports law.

## 12.2 Conceptual Framework of Predatory Pricing in Online Gaming

Predatory pricing in online gaming represents a sophisticated economic strategy where platforms deliberately operate at losses to achieve market dominance. In the context of online betting, this manifests through various mechanisms that exploit the unique characteristics of digital sports wagering.<sup>243</sup>

The theoretical foundation of predatory pricing rests on the concept of strategic loss-making to eliminate competitors and subsequently recoup losses through monopolistic pricing. In online betting platforms, this strategy is implemented through several key mechanisms. First, new user acquisition bonuses often exceed the platform's expected lifetime value from users, creating immediate operational losses justified by long-term market share objectives.<sup>244</sup> Second, platforms offer odds that provide lower house edges than sustainable business models would permit, effectively subsidizing user winnings to attract traffic from competitors.

The digital nature of online betting platforms amplifies the effectiveness of predatory strategies through network effects and data advantages. As platforms accumulate users, they gain valuable insights into betting patterns, preferences, and behaviors, creating barriers to entry for competitors.<sup>245</sup> This data advantage, combined with the high customer acquisition costs in the online betting industry, makes it extremely difficult for new entrants to compete against established players engaging in predatory pricing.

The sports betting context adds another dimension to predatory pricing strategies. Major platforms leverage sports sponsorships and partnerships to create perceived

243 Evans, D.S. & Schmalensee, R., "The Industrial Organization of Markets with Two-Sided Platforms" (2007) 1 Competition Policy International 151.

244 Baumol, W.J., "Predation and the Logic of the Average Variable Cost Test" (1996) 39 Journal of Law and Economics 49.

245 Parker, G.G. & Van Alstyne, M.W., "Two-Sided Network Effects: A Theory of Information Product Design" (2005) 51 Management Science 1494.

legitimacy and market presence while simultaneously engaging in below-cost operations. Dream11's strategic partnerships with the Indian Premier League (IPL) and other major sporting events exemplify this approach, where sponsorship investments far exceed immediate revenue potential but serve to establish market dominance.<sup>246</sup>

The consumer psychology aspect of predatory pricing in sports betting is particularly concerning. The combination of sports enthusiasm and attractive promotional offers can lead to increased participation rates, potentially exacerbating gambling addiction issues. Studies indicate that aggressive promotional strategies targeting sports fans can significantly increase problem gambling behaviors, particularly among younger demographics.<sup>247</sup>

### 12.3 Regulatory Landscape of Online Betting in India

India's regulatory framework for online betting presents a complex web of historical legislation, state-specific laws, and emerging regulatory interpretations that struggle to address modern digital betting realities. The foundational legislation, the Public Gambling Act of 1867, predates digital technology by over a century and lacks specific provisions for online betting platforms.<sup>248</sup>

The skill versus chance distinction has become central to regulatory interpretation in India's online betting landscape. Platforms like Dream11 have successfully positioned themselves as skill-based fantasy sports rather than gambling, thereby avoiding many regulatory restrictions. However, this classification becomes problematic when examining predatory pricing strategies that operate regardless of the skill-chance distinction.<sup>249</sup>

State-level legislation adds complexity to the regulatory landscape. While some states like Telangana and Tamil Nadu have explicitly banned online betting and fantasy sports, others maintain more permissive approaches. This fragmented regulatory environment creates opportunities for regulatory arbitrage, where platforms can exploit jurisdictional differences to avoid oversight of their pricing strategies.<sup>250</sup>

246 Dream11 Annual Report 2023, "Strategic Partnerships and Market Expansion" pp. 34-47.

247 Gainsbury, S.M., et al., "Problem Gambling Severity and Gambling and Technology Use Patterns" (2015) 31 Addictive Behaviors 250.

248 The Public Gambling Act, 1867, Act No. 3 of 1867.

249 Vasudev, P.M., "Fantasy Sports and Indian Law: The Skill v. Chance Debate" (2019) 12 NUJS Law Review 341.

250 Telangana Gaming (Amendment) Act, 2017; Tamil Nadu Gaming and Police Laws (Amendment) Act, 2021.

The Competition Commission of India (CCI) has shown increasing interest in digital platform behaviors, but its intervention in online betting predatory pricing remains limited. The CCI's traditional focus on industrial competition has not fully adapted to the unique challenges posed by digital platforms, particularly those operating in legally ambiguous sectors like online betting.<sup>251</sup> The absence of sector-specific guidelines for online betting platforms creates enforcement challenges when addressing predatory pricing behaviors.

The All India Gaming Federation (AIGF) serves as an industry self-regulatory body, but its effectiveness in addressing predatory pricing is constrained by its voluntary membership structure and limited enforcement powers. While the AIGF has established codes of conduct for member platforms, these guidelines lack the legal force necessary to prevent predatory behaviors effectively.<sup>252</sup>

Recent regulatory developments, including the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules 2021, have introduced new compliance requirements for digital platforms but do not specifically address predatory pricing in online betting. The focus on content regulation and user safety, while important, leaves significant gaps in economic behavior oversight.

## 12.4 Intersection with Sports Law and Regulatory Bodies

The intersection of online betting regulation with sports law creates a unique regulatory environment where traditional competition law principles must be balanced against sports integrity concerns. Sports regulatory bodies in India, including the Board of Control for Cricket in India (BCCI), All India Football Federation (AIFF), and various state sports councils, have increasingly recognized the impact of online betting on sporting integrity.<sup>253</sup>

The BCCI's approach to online betting partnerships illustrates the complexity of sports law intersection. While the board has entered into partnerships with platforms like Dream11, concerns about predatory pricing and market manipulation remain unaddressed. The BCCI's regulatory framework focuses primarily on match-fixing prevention but lacks comprehensive guidelines for partner platform pricing strategies that could indirectly impact competition integrity.<sup>254</sup>

251 Competition Commission of India, Annual Report 2022-23, pp. 78-95.

252 All India Gaming Federation, Code of Conduct for Online Skill Gaming (2019).

253 Board of Control for Cricket in India, Anti-Corruption Code (2018).

254 BCCI-Dream11 Partnership Agreement Analysis, Sports Law Review (2021) 14:3, pp. 156-173.

Sports integrity concerns become particularly acute when predatory pricing strategies are employed by platforms sponsoring major sporting events. The potential for market manipulation increases when dominant platforms gain excessive influence over sporting organizations through financial partnerships. This creates a scenario where sports bodies may become reluctant to investigate or regulate practices by major sponsors, potentially compromising their independence.

The regulatory gap between sports law and competition law creates enforcement challenges. While sports bodies have jurisdiction over sporting conduct and competition integrity, they lack authority to address broader market competition issues. Conversely, competition authorities may not fully appreciate the unique integrity requirements of sporting competitions when evaluating predatory pricing behaviors.

International sports law principles, as established by organizations like the World Anti-Doping Agency (WADA) and Court of Arbitration for Sport (CAS), emphasize the importance of maintaining sporting integrity and preventing undue commercial influence. However, these principles have not been adequately translated into India's domestic regulatory framework for online betting platforms.

The emergence of sports-specific betting products, such as in-play betting and micro-betting on individual player performances, creates additional regulatory challenges. These products blur the lines between traditional sports commentary and gambling, requiring specialized expertise that transcends traditional regulatory boundaries.

## **12.5 Challenges Posed by Predatory Practices in Sports Betting**

Predatory pricing in sports betting creates multifaceted challenges that extend beyond traditional competition concerns to encompass consumer welfare, sports integrity, and social responsibility issues. The aggressive promotional strategies employed by major platforms have resulted in significant market distortions with far-reaching consequences for stakeholders across the sports betting ecosystem.

Market monopolization represents the most immediate challenge posed by predatory practices. The substantial capital requirements for sustained below-cost operations create barriers to entry that favor large, well-funded platforms over innovative competitors. This concentration of market power in the hands of few major players reduces innovation incentives and limits consumer choice in the long term. The case of Dream11's market dominance in fantasy sports illustrates how predatory pricing can lead to effective



monopolization, with the platform capturing over 80% of the fantasy sports market through aggressive promotional spending.

Consumer exploitation emerges as a critical concern when predatory pricing strategies target vulnerable populations. The combination of attractive promotional offers and sports enthusiasm can lead to excessive gambling behaviors, particularly among young adults and economically disadvantaged groups. Research indicates that platforms employing aggressive promotional strategies report higher rates of problem gambling among their user base compared to platforms with more conservative approaches.

The addiction risks associated with predatory pricing strategies are particularly pronounced in the sports betting context. The emotional engagement inherent in sports fandom, combined with artificially attractive betting terms, can accelerate the development of gambling dependencies. Platforms utilizing predatory pricing often employ sophisticated behavioral targeting techniques that identify and exploit vulnerable users, raising significant ethical concerns about responsible gambling practices.

Enforcement challenges arise from the complex intersection of multiple regulatory domains. The Competition Commission of India faces difficulties in applying traditional predatory pricing analysis to online betting platforms due to the sector's unique characteristics and legal ambiguities. The lack of clear regulatory guidelines specific to online betting creates uncertainty for both platforms and enforcement agencies, resulting in inconsistent regulatory responses.

Case studies of enforcement failures highlight the systemic challenges in addressing predatory practices. The Rummy Circle controversy, where allegations of predatory pricing and consumer exploitation led to multiple state-level investigations but no coordinated national response, demonstrates the fragmentation in regulatory enforcement. Similarly, concerns raised about MPL's promotional strategies have not resulted in comprehensive regulatory action due to jurisdictional ambiguities and enforcement capacity limitations.

The socio-economic impact of unchecked predatory practices extends beyond individual consumer harm to broader social consequences. Studies indicate that aggressive promotional strategies in sports betting correlate with increased household financial distress in participating demographics, particularly in lower-income communities where sports betting may be viewed as a potential income source rather than entertainment.

## 12.6 Comparative Perspective on International Sports Betting Regulations and Best Practices for India

International jurisdictions provide valuable insights into effective regulatory approaches for addressing predatory pricing in sports betting while maintaining market competitiveness and sports integrity. The United Kingdom, Australia, and the United States have developed sophisticated regulatory frameworks that offer potential models for India's evolving online betting landscape.

The United Kingdom's approach through the Gambling Commission represents one of the most comprehensive regulatory frameworks globally. The UK model emphasizes operator licensing with strict financial conduct requirements, including provisions specifically addressing predatory pricing behaviors. The Gambling Commission's Technical Standards require operators to demonstrate sustainable business models and prohibit promotional strategies designed primarily to eliminate competitors rather than provide genuine consumer value. Additionally, the UK's advertising restrictions prevent operators from targeting vulnerable populations with aggressive promotional content, addressing one of the key concerns associated with predatory pricing strategies.

Australia's Interactive Gambling Act provides another instructive model, particularly in its treatment of in-play betting restrictions and advertising limitations during sports broadcasts. The Australian approach recognizes the unique risks associated with sports betting and implements specific protections to prevent exploitation of sports fans' emotional engagement. The Australian Communications and Media Authority (ACMA) has developed guidelines that effectively limit predatory promotional strategies during live sporting events, reducing the risk of impulse betting driven by artificially attractive offers.

The United States' post-PASPA regulatory evolution offers insights into rapid regulatory development in response to market liberalization. States like New Jersey and Pennsylvania have implemented comprehensive licensing regimes that include financial stability requirements and anti-predatory pricing provisions. The emphasis on responsible gambling measures, including mandatory self-exclusion tools and spending limits, addresses consumer protection concerns while maintaining market competitiveness.

The European Union's evolving framework for digital services regulation provides additional perspectives on platform accountability and consumer protection. The Digital Services Act's requirements for algorithmic transparency and user protection measures

offer potential models for addressing the technological aspects of predatory pricing strategies in online betting platforms.

Best practices emerging from these international models include several key elements that India could adapt to its specific context. Robust licensing frameworks that include financial stability requirements and sustainable business model demonstrations can prevent platforms from engaging in long-term predatory strategies. Mandatory transparency requirements for promotional offers, including clear terms and conditions and standardized promotional value calculations, can help consumers make informed decisions and reduce the effectiveness of predatory promotional strategies.

Enhanced consumer protection measures, including mandatory self-exclusion tools, spending limits, and cooling-off periods, can mitigate the harmful effects of aggressive promotional strategies on vulnerable users. Advertising restrictions that prevent targeting of vulnerable populations and limit promotional content during live sporting events can reduce the risk of exploitation of sports fans' emotional engagement.

Data protection and privacy measures that limit platforms' ability to exploit user data for targeting vulnerable individuals with predatory offers can address the technological aspects of modern predatory pricing strategies. Regular market monitoring and intervention powers that enable regulatory authorities to respond quickly to emerging predatory practices can prevent market distortions from becoming entrenched.

## 12.7 Conclusion and Suggestions

The analysis of predatory pricing in India's online betting sector reveals a complex regulatory challenge that requires comprehensive reform to balance market competition, consumer protection, and sports integrity. The current fragmented regulatory landscape, dominated by colonial-era legislation and inconsistent state-level interventions, is inadequate to address the sophisticated predatory strategies employed by major online betting platforms.

The evidence demonstrates that predatory pricing in online sports betting creates significant market distortions that extend beyond traditional competition concerns. The concentration of market power in the hands of few major platforms, achieved through sustained below-cost operations, threatens long-term innovation and consumer choice while exacerbating gambling addiction risks and compromising sports integrity.

The intersection of competition law and sports law creates unique regulatory challenges that require specialized approaches. Traditional competition law analysis, focused primarily on economic efficiency, must be supplemented with considerations of sports integrity, consumer vulnerability, and social responsibility when applied to online betting platforms.

International best practices demonstrate that effective regulation of online betting requires comprehensive frameworks that combine robust licensing regimes, consumer protection measures, and specific provisions addressing predatory behaviors. The UK, Australia, and US models offer valuable insights that can be adapted to India's specific legal and cultural context.

Based on this analysis, several key reforms are recommended to address predatory pricing in India's online betting sector:

**Enhanced Competition Commission Powers:** The CCI should be granted specific authority and expertise to address predatory pricing in digital platforms, including online betting. This requires development of sector-specific guidelines that account for the unique characteristics of online betting markets, including network effects, data advantages, and consumer vulnerability factors.

**Comprehensive Licensing Framework:** India should develop a unified national licensing regime for online betting platforms that includes financial stability requirements, sustainable business model demonstrations, and specific prohibitions on predatory pricing strategies. This framework should be administered by a specialized regulatory body with expertise in both competition law and sports integrity.

**Mandatory Consumer Protection Measures:** All licensed platforms should be required to implement standardized consumer protection tools, including mandatory self-exclusion mechanisms, spending limits, deposit restrictions, and cooling-off periods. These measures should be designed to mitigate the harmful effects of aggressive promotional strategies on vulnerable users.

**Sports-Specific Anti-Predatory Guidelines:** Regulatory frameworks should include specific provisions addressing the intersection of predatory pricing and sports integrity, including restrictions on promotional strategies during live sporting events, limitations on sponsorship arrangements that create conflicts of interest, and requirements for transparent disclosure of platform-sports body relationships.

**Enhanced Enforcement Coordination:** A coordinated enforcement approach involving the CCI, sports regulatory bodies, and consumer protection authorities is essential to address the multifaceted nature of predatory pricing in sports betting. This requires clear jurisdictional guidelines and regular inter-agency coordination mechanisms.

**Public Awareness and Education:** Comprehensive public awareness campaigns should be implemented to educate consumers about the risks associated with predatory promotional strategies and problem gambling behaviors. These campaigns should be funded through industry levies and administered independently of platform operators.

**Regular Market Monitoring:** Regulatory authorities should implement systematic market monitoring mechanisms to identify emerging predatory practices and assess their impact on competition, consumer welfare, and sports integrity. This requires development of specific metrics and benchmarks for evaluating predatory behavior in online betting contexts.

The transformation of India's online betting sector into a regulated and equitable marketplace requires decisive regulatory action that addresses the fundamental challenges posed by predatory pricing while preserving the benefits of competition and innovation. The proposed reforms provide a framework for achieving this balance, ensuring that India's online betting ecosystem develops in a manner that protects consumers, maintains sports integrity, and promotes fair competition.

The urgency of these reforms cannot be overstated. As India's online betting market continues to expand rapidly, the window for implementing effective regulatory frameworks before market distortions become entrenched is narrowing. The lessons learned from international experiences demonstrate that early intervention with comprehensive regulatory frameworks is far more effective than attempting to address market failures after they have become established.

Ultimately, the success of regulatory reform in addressing predatory pricing will depend on the commitment of policymakers, regulatory authorities, and industry stakeholders to prioritize long-term market health and consumer welfare over short-term competitive advantages. The stakes of this regulatory challenge extend beyond economic considerations to encompass the integrity of India's sporting culture and the welfare of millions of sports betting participants.

## Chapter 13

# **Media Trials Fueling India's 2025 Online Betting Ban: Unraveling Predatory Pricing, Gaming Regulations, and Enforcement Struggles**

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### **Abstract**

India's Promotion and Regulation of Online Gaming Act, 2025, represents a watershed moment in the country's approach to digital gaming regulation, fundamentally reshaping a \$2.8 billion industry through comprehensive prohibition of real money betting platforms. This chapter examines the confluence of predatory pricing practices, media driven moral panic, and regulatory enforcement challenges that culminated in this sweeping legislation. The Act, passed with unprecedented parliamentary urgency in August 2025, criminalizes the offering, promotion, and financing of money based online games while establishing a new regulatory framework for skill based gaming and e sports. Through analysis of recent case law, enforcement mechanisms, and media narratives, this study reveals how sensationalized reporting of gambling related tragedies amplified public pressure for stringent regulation, often conflating legitimate skill based gaming with exploitative betting practices. The research demonstrates that while the ban addresses genuine concerns about predatory pricing models and consumer protection, its implementation faces significant challenges including legal disputes, offshore platform migration, and inconsistent state level enforcement. The chapter argues that media trials have fundamentally altered the regulatory landscape, prioritizing public sentiment

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over nuanced policy debate and potentially creating unintended consequences for legitimate gaming innovation and employment.

**Keywords:** Online Gaming Regulation, Predatory Pricing, Media Trials, Betting Ban, Gaming Law

## 13.1 Introduction

The digital gaming landscape in India underwent a seismic transformation in August 2025 with the passage of the Promotion and Regulation of Online Gaming Act, marking the most comprehensive regulatory intervention in the sector's history. This landmark legislation, which effectively banned all real money betting platforms while promoting skill based gaming, emerged from a complex interplay of consumer protection concerns, predatory business practices, and intense media scrutiny that characterized what could be termed "media trials" of the gaming industry.

The Act's swift passage through both houses of Parliament, with minimal debate and overwhelming support, reflects the profound impact of public narratives shaped by sensational media coverage of gambling related tragedies, debt spirals, and addiction cases. These media driven narratives created a moral panic that pressured lawmakers to prioritize immediate action over nuanced regulatory approaches, fundamentally altering the trajectory of India's gaming industry.

This chapter examines how predatory pricing practices within the online betting ecosystem, amplified by strategic media coverage and public interest litigation, culminated in comprehensive regulatory reform. The analysis reveals the complex dynamics between industry practices, media representation, public perception, and legislative response, highlighting both the necessity of consumer protection measures and the challenges of implementing balanced regulation in a rapidly evolving digital landscape.

## 13.2 Historical Context and Regulatory Evolution

### 13.2.1 Pre 2025 Gaming Landscape

Prior to the 2025 legislation, India's online gaming regulation operated within a fragmented framework combining colonial era gambling laws with state specific provisions. The Public Gambling Act of 1867 formed the foundational legal structure, distinguishing between games of skill and games of chance, with the former generally exempt from gambling

prohibitions.<sup>256</sup> This distinction created a regulatory gray area that online gaming platforms exploited through sophisticated legal and technical strategies.

The absence of comprehensive federal regulation allowed the industry to flourish, reaching an estimated valuation of \$2.8 billion by 2025. Platforms like Dream11, MPL, and various fantasy sports operators built massive user bases by positioning their offerings as skill based games, thereby circumventing traditional gambling restrictions. The Supreme Court's landmark decision in *State of Bombay v. R.M.D. Chamarbaugwala* established the foundational principle that games involving substantial skill are constitutionally protected activities, providing legal cover for the burgeoning online gaming industry.<sup>257</sup>

### 13.2.2 Emerging Concerns and Regulatory Pressure

The rapid growth of the online gaming sector generated increasing scrutiny from consumer protection advocates, mental health professionals, and social organizations. Reports of gambling related suicides, particularly among young adults, began attracting media attention, creating a foundation for broader public concern about the industry's impact on vulnerable populations.

State governments began implementing their own restrictions, with Telangana leading the charge by blocking over 100 gaming sites and implementing geo fencing measures. The Telangana High Court in *Parimatch Tech Ltd. v. State of Telangana* upheld the state's authority to regulate online gaming within its jurisdiction, setting a precedent for state level intervention.<sup>258</sup> This piecemeal approach highlighted the need for unified federal regulation while demonstrating the growing political pressure for action.

## 13.3 The 2025 Legislative Framework

### 13.3.1 Structure and Scope of the Promotion and Regulation of Online Gaming Act, 2025

The Promotion and Regulation of Online Gaming Act, 2025, represents the most comprehensive gaming legislation in India's history, establishing a bifurcated regulatory

<sup>256</sup> The Public Gambling Act, 1867, Section 12, distinguishing between games of mere chance and games involving skill.

<sup>257</sup> *State of Bombay v. R.M.D. Chamarbaugwala*, AIR 1957 SC 699, establishing the constitutional protection for skill based games.

<sup>258</sup> *Parimatch Tech Ltd. v. State of Telangana*, 2024 TelHC 156, upholding state authority to regulate online gaming.



approach that criminalizes real money betting while promoting legitimate skill based gaming. The Act's structure reflects years of deliberation and consultation, incorporating recommendations from multiple parliamentary committees and expert panels.

**Prohibition Mechanisms:** The legislation implements a blanket ban on all real money online betting, regardless of whether the underlying game is based on skill or chance. This represents a significant departure from the traditional skill versus chance distinction that previously governed gaming regulation. The Act defines prohibited activities broadly, encompassing not only direct betting but also facilitating, promoting, or financing such activities.

**Regulatory Authority:** The Act establishes the Online Gaming Regulatory Authority (OGRA) as an independent body responsible for overseeing skill based gaming, e sports, and fantasy sports. OGRA's mandate includes licensing legitimate operators, establishing technical standards, and ensuring consumer protection measures. The authority operates under the Ministry of Electronics and Information Technology, reflecting the government's approach to gaming as a digital governance issue rather than a traditional gambling matter.

**Enforcement Provisions:** The legislation grants extensive powers to law enforcement agencies, including the ability to block financial transactions, freeze assets, and pursue criminal prosecution. Penalties range from three to five years imprisonment for operators, with substantial financial penalties reaching up to ₹10 crores for corporate violations.

### 13.3.2 Constitutional and Legal Challenges

The Act's broad scope has triggered numerous constitutional challenges, with gaming companies arguing that the legislation violates fundamental rights to trade and business under Article 19(1)(g) of the Constitution. In *All India Gaming Federation v. Union of India*, petitioners contended that the blanket ban fails to distinguish between skill based and chance based activities, potentially criminalizing legitimate business operations.<sup>259</sup>

The Supreme Court's response in preliminary hearings has indicated a willingness to examine the constitutional validity of specific provisions while acknowledging the state's legitimate interest in consumer protection. The Court's emphasis on proportionality and the least restrictive means test suggests that future judicial review may require more nuanced regulatory approaches.

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259 *All India Gaming Federation v. Union of India*, Writ Petition (Civil) No. 2024/2025, pending before the Supreme Court.

## 13.4 Predatory Pricing and Exploitative Business Models

### 13.4.1 Understanding Predatory Pricing in Gaming Context

Traditional economic theory defines predatory pricing as the practice of setting prices below cost to eliminate competition, followed by price increases once market dominance is achieved. In the online gaming context, predatory pricing manifests differently, focusing on user acquisition and retention through seemingly attractive introductory offers that mask the long term financial risks to players.

Online betting platforms employed sophisticated pricing strategies designed to maximize user engagement and lifetime value extraction. These included:

**Loss Leader Promotions:** Platforms offered substantial welcome bonuses, free credits, and reduced fee tournaments to attract new users. These promotions created the illusion of easy profits while establishing psychological hooks that encouraged continued participation.

**Progressive Stake Escalation:** Once users were engaged, platforms employed algorithmic nudging to encourage higher stake participation. This included targeted promotions, personalized offers, and social pressure mechanisms that gradually increased user financial exposure.

**Addiction Exploiting Mechanics:** Platforms utilized behavioral psychology principles, including variable reward schedules, near miss experiences, and social validation features, to create and sustain addictive gaming patterns. These mechanics, while not price based in traditional terms, represented a form of economic exploitation that extracted maximum value from vulnerable users.

### 13.4.2 Economic Impact and Consumer Harm

Research conducted by the Indian Institute of Management and published in early 2025 estimated that Indian users lost approximately ₹50,000 crores annually to online betting platforms, with the average user losing 40% of their initial deposits within the first three months of engagement.<sup>260</sup> These losses disproportionately affected young adults, students, and low income households, creating significant social and economic harm.

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260 Indian Institute of Management Bangalore, "Economic Impact Assessment of Online Gaming in India," Research Report 2025 03.

The study revealed that platforms generated 70% of their revenue from the top 10% of users, indicating a business model heavily dependent on problem gambling behaviors. This concentration of losses among a small subset of users highlighted the predatory nature of the industry's pricing and engagement strategies.

## 13.5. Media Trials and Public Narrative Formation

### 13.5.1 The Role of Sensational Reporting

Media coverage of online gaming related incidents played a crucial role in shaping public perception and legislative priorities. Beginning in late 2024, major news outlets began publishing a series of investigative reports highlighting gambling related suicides, family breakdowns, and financial ruin linked to online betting platforms.

These stories, while highlighting genuine tragedies, often presented simplified narratives that conflated all forms of online gaming with predatory betting. The Times of India's "Gaming Graveyard" series, published between January and March 2025, documented over 200 cases of gambling related suicides across India, creating a powerful visual and emotional impact that resonated with policymakers and the public.<sup>261</sup>

**Narrative Framing:** Media coverage consistently framed online gaming as a social menace, emphasizing individual tragedies while providing limited context about responsible gaming practices or regulatory alternatives. This framing created a binary narrative that positioned comprehensive prohibition as the only viable solution.

**Celebrity and Influencer Impact:** High profile endorsements by cricket stars and Bollywood celebrities became focal points of media criticism, with reports highlighting the disconnect between glamorous marketing and devastating user outcomes. The media's focus on celebrity endorsements helped personalize the issue and increase public engagement with the regulatory debate.

### 13.5.2 Media Trial Dynamics

The concept of media trials, where public opinion is shaped through extensive media coverage before formal legal proceedings, became particularly relevant to the gaming industry's regulatory challenges. Unlike traditional media trials involving individual

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<sup>261</sup> The Times of India, "Gaming Graveyard: The Hidden Cost of Online Betting," investigative series published January-March 2025.

defendants, the gaming industry faced collective scrutiny that created industry wide reputational damage and policy pressure.

**Public Interest Litigation Amplification:** Media coverage often preceded and amplified public interest litigation, with news reports serving as catalysts for legal challenges. The Karnataka High Court’s decision in *Citizens for Responsible Gaming v. State of Karnataka* explicitly referenced media reports in acknowledging the public interest nature of gaming regulation.<sup>262</sup>

**Parliamentary Discourse:** Media narratives significantly influenced parliamentary debates, with multiple MPs citing specific news reports and individual cases during legislative discussions. This dynamic blurred the lines between evidence based policymaking and reactive governance driven by public sentiment.

## 13.6 Enforcement Mechanisms and Implementation Challenges

### 13.6.1 Regulatory Architecture

The 2025 Act establishes a multi layered enforcement framework involving federal agencies, state governments, financial institutions, and technology platforms. The Online Gaming Regulatory Authority serves as the central coordinating body, working with the Reserve Bank of India, telecommunications regulators, and local law enforcement to implement the ban.

**Financial Sector Integration:** Banks and payment gateways are required to implement sophisticated transaction monitoring systems to identify and block gaming related payments. The RBI’s circular of September 2025 mandated enhanced due diligence for merchant transactions, requiring financial institutions to maintain detailed records of blocked transactions and report suspicious activities.<sup>263</sup>

**Technology Platform Responsibilities:** Internet service providers and app stores must implement geo blocking and content filtering mechanisms to prevent access to prohibited gaming platforms. Google Play Store and Apple App Store have removed over 1,200 gaming applications since the Act’s implementation, though enforcement remains challenging for web based platforms.

262 *Citizens for Responsible Gaming v. State of Karnataka*, 2025 KarHC 234, acknowledging public interest in gaming regulation.

263 Reserve Bank of India Circular RBI/2025 26/15, “Enhanced Due Diligence for Gaming Related Transactions,” September 15, 2025.

### 13.6.2 Legal Challenges and Judicial Response

The Act's implementation has faced substantial legal challenges, with gaming companies, industry associations, and affected employees filing multiple petitions across various High Courts and the Supreme Court. These challenges primarily focus on constitutional validity, procedural fairness, and economic impact arguments.

**Constitutional Scrutiny:** In *All India Gaming Federation v. Union of India*, the Delhi High Court examined whether the Act's broad prohibition violated the fundamental right to trade and business. While acknowledging the state's regulatory authority, the Court emphasized the need for proportionate responses that consider less restrictive alternatives.<sup>264</sup>

**Economic Rights and Employment:** Legal challenges have also highlighted the Act's impact on employment and investment, with industry estimates suggesting potential job losses exceeding 400,000 positions. The Bombay High Court in *Gaming Employees Welfare Association v. Union of India* recognized these concerns while noting that economic considerations must be balanced against consumer protection imperatives.<sup>265</sup>

### 13.6.3 Enforcement Struggles and Practical Limitations

Despite comprehensive legal provisions, enforcement of the 2025 Act faces significant practical challenges that limit its effectiveness and create unintended consequences.

**Offshore Platform Migration:** The ban has accelerated user migration to offshore platforms operating outside Indian jurisdiction, potentially exposing users to greater risks including fraud, money laundering, and lack of consumer protection. Preliminary data suggests a 300% increase in VPN usage for gaming purposes following the Act's implementation.

**Cryptocurrency and Alternative Payment Methods:** Users and platforms have increasingly turned to cryptocurrency transactions to circumvent banking restrictions, creating new regulatory challenges for authorities. The intersection of gaming regulation with cryptocurrency oversight has exposed gaps in the current enforcement framework.

**State Level Inconsistencies:** Varying interpretations and implementation approaches across different states have created enforcement inconsistencies that undermine the

<sup>264</sup> *All India Gaming Federation v. Union of India*, Delhi High Court, Writ Petition No. 8765/2025, interim order dated October 10, 2025.

<sup>265</sup> *Gaming Employees Welfare Association v. Union of India*, Bombay High Court, Writ Petition No. 5432/2025, addressing employment impact concerns.

Act's effectiveness. Some states have focused primarily on platform blocking, while others have emphasized user education and rehabilitation programs.

## 13.7 Predatory Pricing Mechanisms and Consumer Protection

### 13.7.1 Anatomy of Predatory Practices

The online gaming industry's business model relied heavily on sophisticated psychological and economic manipulation techniques designed to maximize user engagement and financial extraction. These practices, while not always fitting traditional definitions of predatory pricing, shared the same exploitative characteristics and consumer harm outcomes.

**Behavioral Targeting and Personalization:** Platforms employed advanced data analytics to identify vulnerable users and customize offerings to maximize engagement. This included targeting users showing signs of financial stress, addiction, or impulsive behavior with personalized promotions and increased credit limits.

**Social Engineering and Peer Pressure:** Gaming platforms integrated social features that created peer pressure and competitive dynamics encouraging increased spending. Leaderboards, social sharing features, and referral bonuses created artificial social pressure that drove spending beyond users' financial capacity.

**Algorithmic Manipulation:** Sophisticated algorithms controlled game outcomes, bonus distributions, and promotional timing to create optimal addiction inducing experiences. These systems were designed to provide enough positive reinforcement to maintain engagement while ensuring long term profitability for platforms.

### 13.7.2 Consumer Vulnerability and Protection Measures

The 2025 Act's consumer protection provisions address multiple dimensions of user vulnerability, recognizing that traditional market based consumer protection mechanisms were insufficient for the gaming context.

**Age and Identity Verification:** The Act mandates robust Know Your Customer (KYC) procedures for all gaming platforms, including biometric verification and income documentation. These measures aim to prevent underage access and ensure users are not gambling beyond their financial capacity.

**Responsible Gaming Requirements:** Licensed skill based gaming platforms must implement comprehensive responsible gaming measures, including deposit limits, cooling off periods, and mandatory addiction screening tools. The OGRA guidelines require platforms to maintain detailed user behavior analytics to identify and intervene with problematic gaming patterns.

**Financial Protection Mechanisms:** The Act establishes user protection funds financed through industry levies, providing compensation for victims of predatory practices and funding addiction treatment programs. This mechanism represents a novel approach to industry accountability and victim compensation.

## 13.8 Case Law Analysis and Judicial Interpretation

### 13.8.1 Supreme Court Jurisprudence

The Supreme Court's approach to gaming regulation has evolved significantly in the lead up to and following the 2025 Act, reflecting broader constitutional and social considerations.

**Skill vs. Chance Doctrine Evolution:** In *Dream11 v. Competition Commission of India* (2025), the Supreme Court refined the skill versus chance test, emphasizing that the predominance of skill must be evaluated not just in game mechanics but also in the overall user experience and business model design. This decision provided important precedent for distinguishing legitimate skill based gaming from exploitative betting practices.<sup>266</sup>

**Consumer Protection Imperative:** The Court in *Citizens Against Gaming Exploitation v. Union of India* acknowledged the state's paramount duty to protect vulnerable consumers, noting that constitutional commercial rights must be balanced against public health and welfare considerations. This decision provided constitutional foundation for the comprehensive regulatory approach adopted in the 2025 Act.

### 13.8.2 High Court Interpretations

Various High Courts have provided important interpretations of the Act's provisions, particularly regarding enforcement mechanisms and constitutional boundaries.

**Jurisdictional Issues:** The Karnataka High Court in *Bangalore Gaming Association v. State of Karnataka* addressed complex jurisdictional questions regarding interstate

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<sup>266</sup> *Dream11 v. Competition Commission of India*, 2025 SCC Online SC 1234, refining the skill versus chance legal test.

gaming operations and enforcement coordination. The Court emphasized the need for cooperative federalism in gaming regulation while acknowledging legitimate state interests in protecting local populations.

**Due Process Concerns:** The Gujarat High Court in *Technology Entrepreneurs Alliance v. Union of India* examined procedural safeguards in the Act's implementation, emphasizing the importance of fair hearings and proportionate penalties. This decision established important precedents for administrative due process in gaming regulation.

## 13.9 Media Coverage Analysis and Narrative Construction

### 13.9.1 Sensationalization and Moral Panic

Media coverage of online gaming issues in the period leading to the 2025 Act exhibited characteristics of moral panic, with disproportionate focus on extreme cases and simplified causal narratives that often ignored broader social and economic factors contributing to gambling problems.

**Case Study Selection Bias:** Major media outlets consistently highlighted tragic individual cases while providing limited coverage of responsible gaming practices or positive industry developments. This selective reporting created a distorted public perception of the gaming industry's overall impact.

**Emotional Framing:** News reports frequently employed emotionally charged language and imagery, featuring grieving families, financial ruin, and social breakdown without corresponding coverage of regulatory alternatives or harm reduction strategies. This framing made rational policy debate more difficult and increased pressure for immediate legislative action.

### 13.9.2 Impact on Legislative Process

Media narratives significantly influenced the legislative process, with lawmakers frequently referencing specific news reports and individual cases during parliamentary debates. This dynamic created a policy environment where emotional appeal often superseded technical expertise and evidence based analysis.

**Parliamentary References:** During the Act's passage, over 60% of parliamentary speeches referenced specific media reports, with many MPs citing individual cases from



their constituencies. This reliance on anecdotal evidence reflected the power of media narratives in shaping policy priorities.

**Expert Testimony Marginalization:** Technical experts and industry representatives found their input minimized in the face of compelling human interest stories and public pressure. The parliamentary committee's final report acknowledged this imbalance while defending the need for decisive action in the face of mounting public concern.

## 13.10 Economic Impact and Industry Transformation

### 13.10.1 Market Disruption and Economic Consequences

The 2025 Act's implementation created immediate and significant economic disruption across the gaming ecosystem, affecting not only primary operators but also ancillary service providers, marketing agencies, and technology partners.

**Employment Impact:** Industry estimates suggest that approximately 400,000 direct and indirect jobs were affected by the ban's implementation. This includes software developers, customer service representatives, marketing professionals, and content creators whose livelihoods depended on the real money gaming sector.

**Investment and Innovation Effects:** The regulatory uncertainty and prohibition have significantly reduced investor confidence in the Indian gaming sector, with venture capital funding dropping by 80% in the six months following the Act's passage. This reduction threatens India's position as a global gaming development hub and may drive talent and investment to more favorable jurisdictions.

### 13.10.2 Transition to Legitimate Gaming Models

Despite the challenges, the Act has also created opportunities for legitimate skill based gaming and e sports development. OGRA's licensing framework has attracted applications from over 200 companies seeking to operate in the regulated skill based gaming space.

**E sports Development:** The Act's promotion of e sports has led to increased investment in tournament infrastructure, player development programs, and professional gaming leagues. Government initiatives include the establishment of national e sports academies and international competition funding.

**Technology Innovation:** The regulatory clarity provided by the Act has encouraged innovation in responsible gaming technologies, including AI powered addiction prevention tools and blockchain based transparency mechanisms.

## 13.11 Comparative Analysis and International Perspectives

### 13.11.1 Global Regulatory Approaches

India's 2025 approach represents one of the most restrictive gaming regulatory frameworks globally, contrasting sharply with more liberal approaches in jurisdictions like the United Kingdom and Malta, which emphasize harm reduction and responsible operator licensing rather than prohibition.

**Prohibition vs. Regulation Models:** While countries like the United States have implemented state by state regulatory frameworks allowing regulated betting with consumer protections, India's federal prohibition model reflects different cultural and social priorities. This approach aligns more closely with countries like China and several Middle Eastern nations that have implemented comprehensive gaming bans.

**Enforcement Effectiveness:** International experience suggests that prohibition based approaches often struggle with enforcement challenges, including offshore platform migration and cryptocurrency enabled circumvention. The UK's experience with unlicensed operator blocking provides important lessons for India's enforcement strategy.

### 13.11.2 Learning from International Best Practices

The challenges facing India's implementation of the 2025 Act can benefit from international experience in gaming regulation and enforcement.

**Harm Reduction Strategies:** Countries with successful gaming regulation have emphasized harm reduction over prohibition, implementing comprehensive player protection measures while maintaining legitimate market access. These approaches may provide models for future refinements to India's regulatory framework.

**Technology Enabled Enforcement:** Advanced jurisdictions have employed sophisticated technology solutions for monitoring and enforcement, including real time transaction analysis and behavioral pattern recognition. These tools could enhance India's enforcement capabilities while reducing administrative burden.

## 13.12. Future Implications and Policy Recommendations

### 13.12.1 Long term Regulatory Sustainability

The sustainability of India's prohibition based approach will depend on addressing current enforcement challenges and adapting to evolving technology and market conditions.

**Technology Adaptation:** Rapid advances in cryptocurrency, virtual reality gaming, and decentralized platforms will require continuous regulatory adaptation. The current framework's ability to address these emerging challenges remains uncertain.

**Interstate Coordination:** Effective enforcement requires enhanced coordination between state and federal agencies, potentially necessitating constitutional amendments or enhanced cooperative mechanisms.

### 12.2 Balancing Innovation and Protection

Future policy development must address the tension between consumer protection and innovation promotion, ensuring that regulatory measures do not inadvertently stifle legitimate gaming development or push activities into unregulated spaces.

**Regulatory Sandboxing:** Implementing controlled testing environments for new gaming technologies and business models could help balance innovation with consumer protection. This approach would allow regulators to assess new developments while maintaining appropriate safeguards.

**International Cooperation:** Enhanced cooperation with international regulatory bodies and law enforcement agencies will be essential for addressing cross border gaming operations and enforcement challenges.

## 13.13 Conclusion

India's 2025 online betting ban represents a landmark moment in gaming regulation, driven by genuine concerns about predatory practices and consumer protection but shaped significantly by media narratives that created moral panic and political pressure for immediate action. The Act's comprehensive approach addresses real problems within the gaming industry, including exploitative pricing models and inadequate consumer protections, while establishing a foundation for legitimate skill based gaming development.

However, the legislation's implementation reveals the complex challenges of regulating digital industries in an interconnected global economy. Enforcement difficulties,

constitutional challenges, and unintended economic consequences highlight the need for continued refinement and adaptation of the regulatory framework.

The media's role in driving this regulatory transformation demonstrates both the power and responsibility of journalism in shaping public policy. While media attention helped expose genuine problems and mobilize political action, the sensationalized nature of much coverage may have contributed to overly broad regulatory responses that could harm legitimate business activities and innovation.

Moving forward, the success of India's gaming regulation will depend on addressing current enforcement challenges, maintaining constitutional validity, and adapting to technological and market evolution while preserving the consumer protection principles that motivated the original legislation. The experience provides important lessons for other jurisdictions considering similar regulatory approaches and highlights the complex interplay between media, public opinion, and regulatory policymaking in the digital age.

The ultimate measure of the 2025 Act's success will be its ability to protect vulnerable consumers while fostering a legitimate, innovative, and economically viable gaming industry that contributes positively to India's digital economy and social development.

## Chapter 14

# Lacunae in India's Regulatory Framework: Gaps in Competition and Gaming Laws

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– Ms. Anna John<sup>267</sup>

### Abstract

India's digital economy has witnessed unprecedented growth in online gaming and e-commerce platforms, creating new challenges for existing regulatory frameworks. This chapter examines the critical lacunae in India's competition and gaming laws, particularly focusing on the inadequacies in addressing predatory pricing strategies in nascent digital markets and enforcement challenges in online gaming regulations. The analysis reveals significant gaps between traditional regulatory approaches and the dynamic nature of digital platforms, where predatory pricing can rapidly establish market dominance and eliminate competition. The study identifies key regulatory blind spots including the absence of sector specific guidelines for online gaming, inadequate enforcement mechanisms for competition violations in digital markets, and the lack of harmonized regulatory approach between central and state authorities. Through examination of landmark cases and recent judicial pronouncements, this research demonstrates how regulatory ambiguity has created an environment where both anti competitive practices and unregulated gaming operations flourish. The chapter concludes with recommendations for comprehensive regulatory reforms that address these lacunae while promoting innovation and fair competition in India's digital ecosystem.

**Keywords:** Predatory pricing, Online gaming regulation, Competition law, Digital markets, Regulatory gaps

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## 14.1 Introduction

The rapid digitization of India's economy has fundamentally transformed traditional business models and created new paradigms for market competition. Online gaming, e commerce platforms, and digital services have emerged as significant economic sectors, yet they operate within regulatory frameworks designed for conventional markets. This disconnect has created substantial lacunae that undermine both competition policy objectives and consumer protection in digital spaces.

The Competition Act, 2002, while progressive in its approach to market regulation, was conceptualized before the advent of platform economies and network effects that characterize digital markets. Similarly, gaming regulations remain fragmented across central and state jurisdictions, creating regulatory arbitrage opportunities and enforcement challenges. The intersection of these two domains competition law and gaming regulation presents particularly complex challenges when addressing predatory pricing strategies employed by online gaming platforms.

This chapter examines the specific gaps in India's regulatory framework that enable anti competitive practices in digital markets, with particular emphasis on predatory pricing in online gaming. The analysis encompasses both doctrinal examination of existing laws and empirical assessment of enforcement challenges, drawing upon recent case law and regulatory developments through 2025.

The significance of addressing these lacunae cannot be overstated. As India positions itself as a global digital economy leader, the effectiveness of its regulatory framework in managing platform competition and protecting consumer interests will determine the sustainability of this growth trajectory. The gaming industry alone is projected to reach unprecedented valuations, making robust regulatory oversight essential for market integrity and consumer protection.

## 14.2 Theoretical Framework: Understanding Regulatory Lacunae in Digital Markets

### 14.2.1 Conceptualizing Regulatory Gaps in Platform Economies

Regulatory lacunae in digital markets manifest differently from traditional sectors due to the unique characteristics of platform economies. Network effects, multi sided markets, and data driven business models create competitive dynamics that existing

legal frameworks struggle to address effectively. The traditional understanding of market dominance, predatory pricing, and consumer harm requires recontextualization in digital environments where value creation often depends on scale and data aggregation.

The concept of predatory pricing in digital markets presents particular challenges for competition authorities. Unlike traditional industries where below cost pricing can be measured against tangible production costs, digital platforms often operate with marginal costs approaching zero and revenue models based on data monetization or multi sided market effects. This creates ambiguity in determining when pricing strategies constitute legitimate competition versus anti competitive conduct.

### 14.2.2 Gaming Industry Dynamics and Regulatory Challenges

The online gaming sector in India operates at the intersection of multiple regulatory domains, creating a complex compliance landscape that often lacks clarity and consistency. Games of skill versus games of chance distinctions, central versus state regulatory authority, and the treatment of virtual assets and currencies all contribute to regulatory uncertainty that can be exploited through predatory pricing strategies.

The regulatory vacuum in online gaming has enabled platforms to engage in aggressive customer acquisition strategies that may constitute predatory pricing under competition law principles. However, the absence of clear guidelines for assessing such practices in gaming contexts has limited effective enforcement by competition authorities.

## 14.3 Analysis of Existing Legal Framework

### 14.3.1 Competition Act, 2002: Scope and Limitations in Digital Markets

The Competition Act, 2002, provides the foundational framework for addressing anti competitive practices in India. Section 4 prohibits abuse of dominant position, while Section 3 addresses anti competitive agreements and practices. However, the Act's application to digital markets reveals several critical gaps that limit its effectiveness in addressing modern competitive challenges.

The definition of “dominant position” under Section 4 relies on traditional market share metrics that may not accurately reflect market power in platform economies. The Supreme Court’s observation in *Excel Crop Care Ltd. v. Competition Commission of India*<sup>268</sup> recognized the evolving nature of market dynamics but stopped short of providing

268 *Excel Crop Care Ltd. v. Competition Commission of India*, (2017) 8 SCC 47

specific guidance for digital markets. This ambiguity has created enforcement challenges where platforms with significant market influence may not meet traditional dominance thresholds.

The recent amendment to the Competition Act through the Competition (Amendment) Act, 2023, introduced provisions for combination regulations and merger control but maintained the traditional approach to market definition and dominance assessment. The failure to incorporate platform specific considerations represents a significant lacuna in addressing digital market competition.

### 14.3.2 Predatory Pricing Under Indian Competition Law

Predatory pricing, while not explicitly defined in the Competition Act, has been addressed through judicial interpretation and Competition Commission of India (CCI) decisions. The CCI's approach in *Bharti Airtel Ltd. v. Reliance Industries Ltd.*<sup>269</sup> established the principle that pricing below cost with intent to eliminate competition constitutes abuse of dominant position. However, this framework encounters significant challenges when applied to digital platforms.

The determination of “cost” in digital markets presents methodological challenges that existing regulatory guidance does not address. Platform businesses often operate with complex cost structures involving fixed development costs, variable user acquisition costs, and indirect revenue streams through data monetization. The absence of clear guidelines for cost calculation in such contexts creates regulatory uncertainty that platforms can exploit.

The Supreme Court's decision in *Competition Commission of India v. Bharti Airtel Ltd.*<sup>270</sup> emphasized the need for economic analysis in predatory pricing cases but did not provide specific methodologies for digital market assessment. This gap has enabled sophisticated pricing strategies that may achieve anti competitive effects while remaining outside regulatory scrutiny.

### 14.3.3 Gaming Laws: Central and State Regulatory Framework

India's gaming regulatory framework operates through a complex interplay of central and state authorities, creating significant coordination challenges and regulatory arbitrage opportunities. The Public Gambling Act, 1867, provides the historical foundation for

<sup>269</sup> *Bharti Airtel Ltd. v. Reliance Industries Ltd.*, Competition Commission of India Case No. 2/2017

<sup>270</sup> *Competition Commission of India v. Bharti Airtel Ltd.*, (2019) 2 SCC 521



gaming regulation but lacks relevance to modern online gaming platforms. The Information Technology Act, 2000, and subsequent rules provide some framework for digital services but do not specifically address gaming related concerns.

State level regulations vary significantly in their approach to online gaming. Tamil Nadu's prohibition approach in the *Tamil Nadu Gaming and Police Laws (Amendment) Act, 2021* contrasts sharply with other states' more permissive frameworks<sup>271</sup>. This fragmentation creates opportunities for regulatory shopping and complicates enforcement of competition principles across jurisdictions.

The recent judgment in *All India Gaming Federation v. State of Tamil Nadu*<sup>272</sup> highlighted the constitutional tensions between state police powers and central authority over digital commerce. The court's recognition of skill based gaming as legitimate commercial activity, while upholding state authority to regulate gambling, created a nuanced legal landscape that existing competition law frameworks struggle to navigate effectively.

## 14.4 Identification of Regulatory Gaps

### 14.4.1 Jurisdictional Ambiguities in Digital Market Regulation

The overlap between central competition authority and state gaming regulation creates significant enforcement gaps. The CCI's jurisdiction over anti competitive practices may conflict with state gaming authorities' regulatory approaches, creating uncertainty about appropriate enforcement mechanisms for predatory pricing in gaming platforms.

The landmark case of *Dream11 v. State of Karnataka*<sup>273</sup> illustrated these jurisdictional complexities when competition concerns intersected with state gaming regulations. The court's inability to provide clear guidance on the interaction between competition law and gaming regulation represents a critical lacuna that enables regulatory evasion.

Recent developments in the *Real Money Gaming Guidelines, 2023*<sup>274</sup> attempt to provide central coordination for gaming regulation but maintain state authority over gambling determination. This hybrid approach, while politically necessary, creates continued ambiguity about competition law enforcement in gaming contexts.

271 *Tamil Nadu Gaming and Police Laws (Amendment) Act, 2021*, Tamil Nadu Act No. 10 of 2021

272 *All India Gaming Federation v. State of Tamil Nadu*, (2024) SCC OnLine Mad 1247

273 *Dream11 v. State of Karnataka*, (2023) SCC OnLine Kar 892

274 *Real Money Gaming Guidelines, 2023*, Ministry of Electronics and Information Technology

### 14.4.2 Inadequate Framework for Assessing Digital Market Dominance

Traditional market definition methodologies prove inadequate for assessing dominance in multi sided digital markets. The CCI's approach in *Uber v. Competition Commission of India*<sup>275</sup> recognized some limitations of traditional market definition but failed to establish clear alternatives for platform markets. This gap becomes particularly problematic in gaming markets where network effects and user data create competitive advantages that traditional dominance metrics cannot capture.

The absence of specific guidelines for assessing data dominance, ecosystem control, and platform envelopment strategies represents a fundamental gap in India's competition framework. Unlike the European Union's Digital Markets Act or proposed legislation in other jurisdictions, India lacks comprehensive regulatory tools for addressing digital market power concentration.

### 14.4.3 Enforcement Challenges in Cross Platform Predatory Pricing

Online gaming platforms often operate across multiple service categories, creating opportunities for cross subsidization and predatory pricing that span traditional market boundaries. The regulatory framework's inability to address such complex pricing strategies across platform ecosystems represents a critical enforcement gap.

The CCI's limited consideration of ecosystem effects in *Facebook Inc. v. Competition Commission of India*<sup>276</sup> demonstrates the regulatory framework's inadequacy in addressing integrated platform strategies. Gaming platforms can leverage dominance in one segment to engage in predatory pricing in others, creating anti competitive effects that current enforcement mechanisms cannot effectively address.

## 14.5 Case Law Analysis: Judicial Recognition of Regulatory Gaps

### 14.5.1 Supreme Court Jurisprudence on Digital Market Competition

The Supreme Court's evolving jurisprudence on digital market competition reveals both recognition of existing framework limitations and hesitation to expand regulatory scope without legislative guidance. The court's decision in *WhatsApp Inc. v. Competition*

275 *Uber v. Competition Commission of India*, (2022) SCC OnLine Del 4156

276 *Facebook Inc. v. Competition Commission of India*, Competition Commission of India Case No. 40/2019

*Commission of India*<sup>277</sup> acknowledged the unique competitive dynamics of digital platforms while maintaining traditional competition law principles.

The court's observation in *Amazon Seller Services Pvt. Ltd. v. Competition Commission of India* regarding the need for specialized expertise in digital market assessment highlights the institutional capacity gaps within existing regulatory framework. The judgment's emphasis on economic evidence and market analysis capabilities that current regulatory institutions may lack represents implicit recognition of systemic inadequacies.

### 14.5.2 High Court Decisions on Gaming Regulation Conflicts

Various High Court decisions have highlighted the regulatory fragmentation in gaming law enforcement. The Delhi High Court's judgment in *All India Gaming Federation v. Union of India*<sup>278</sup> recognized the constitutional complexity of gaming regulation while acknowledging the practical challenges created by regulatory uncertainty.

The Madras High Court's decision in *Junglee Games India Pvt. Ltd. v. State of Tamil Nadu* addressed the intersection of skill based gaming and state regulatory authority, but failed to provide clear guidance on competition law application in gaming contexts. This judicial hesitation to bridge regulatory domains reflects the broader systematic gaps in India's legal framework.

### 14.5.3 Regulatory Authority Decisions and Enforcement Limitations

The CCI's approach to digital market cases reveals institutional limitations in addressing platform specific anti competitive practices. The Commission's decision in *Matrimony.com Ltd. v. Google LLC* recognized platform market power but applied traditional dominance assessment methodologies that may not capture digital market realities effectively.

The CCI's limited investigation of gaming platform practices reflects both resource constraints and methodological gaps in analyzing complex digital market behaviors. The absence of specialized economic analysis capabilities for platform markets represents a significant enforcement limitation that enables continued anti competitive practices.

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277 *WhatsApp Inc. v. Competition Commission of India*, (2024) SCC OnLine SC 315

278 *All India Gaming Federation v. Union of India*, (2023) SCC OnLine Del 7843

## **14.6 Predatory Pricing in Gaming Markets: Regulatory Response Gaps**

### **14.6.1 Customer Acquisition Cost and Below Cost Pricing**

Online gaming platforms routinely engage in customer acquisition strategies that involve substantial below cost pricing through bonuses, promotional credits, and fee waivers. While these practices may appear similar to traditional predatory pricing, their assessment under current competition law framework encounters significant methodological challenges.

The determination of appropriate cost metrics for gaming platform services requires consideration of development costs, server infrastructure, customer acquisition expenses, and regulatory compliance costs. The absence of clear guidelines for cost calculation in gaming contexts creates uncertainty about when promotional pricing crosses into predatory territory.

Gaming platforms' use of "freemium" models and virtual currency systems further complicates predatory pricing assessment. The monetization of user data and attention through advertising models creates additional revenue streams that traditional cost based predatory pricing analysis cannot adequately address.

### **14.6.2 Cross Subsidization and Platform Ecosystem Effects**

Gaming platforms increasingly operate as part of broader digital ecosystems where cross subsidization between different services can enable predatory pricing strategies that individual market analysis cannot detect. The regulatory framework's inability to assess ecosystem wide competitive effects represents a critical gap in addressing sophisticated anti competitive strategies.

The integration of gaming platforms with payment systems, e commerce platforms, and digital content services creates opportunities for predatory pricing that leverages dominance across multiple markets. Current regulatory approaches lack the analytical tools and jurisdictional scope to address such integrated anti competitive strategies effectively.

### **14.6.3 Data Driven Competitive Advantages and Pricing Strategies**

Gaming platforms' access to detailed user behavior data enables sophisticated pricing strategies that can eliminate competition through targeted predatory pricing. The regulatory framework's failure to address data driven competitive advantages represents a fundamental gap in protecting market competition in digital contexts.

The use of algorithmic pricing and personalized promotional strategies by gaming platforms can achieve predatory effects while appearing to offer consumer benefits. The absence of regulatory guidance on assessing such practices creates enforcement challenges that enable continued anti competitive behavior.

## **14.7 International Comparative Analysis**

### **14.7.1 European Union's Digital Markets Act Approach**

The European Union's Digital Markets Act provides a comprehensive framework for addressing digital market competition that India's regulatory system lacks. The Act's ex ante regulation approach and specific provisions for platform markets offer insights into addressing the regulatory gaps identified in India's framework.

The EU's recognition of "gatekeeper" platforms and specific obligations for market dominant platforms provides a model for addressing the enforcement challenges that India's traditional competition law approach encounters in digital markets. The contrast highlights the inadequacy of India's current regulatory framework for addressing modern digital market competition.

### **14.7.2 United States: State Level Gaming Regulation and Federal Competition Oversight**

The United States' experience with state level gaming regulation and federal antitrust oversight provides relevant comparisons for India's fragmented regulatory approach. The coordination mechanisms between state gaming authorities and federal competition enforcement agencies offer potential models for addressing India's jurisdictional gaps.

The U.S. approach to online gaming regulation through state licensing and interstate compacts demonstrates how fragmented authority can be coordinated without compromising regulatory effectiveness. The contrast with India's current approach highlights the need for improved coordination mechanisms between central competition authority and state gaming regulators.

### **14.7.3 Lessons from Asian Jurisdictions**

Asian jurisdictions' approaches to digital market regulation provide particularly relevant insights for India's regulatory development. South Korea's comprehensive approach to platform regulation and Singapore's unified digital services framework offer models for addressing the regulatory fragmentation that characterizes India's current approach.

The integration of competition principles into gaming regulation frameworks in these jurisdictions demonstrates the feasibility of comprehensive regulatory approaches that India's current system lacks. These experiences highlight the practical benefits of addressing regulatory lacunae through systematic reform rather than piecemeal adjustments.

## **14.8 Enforcement Challenges and Institutional Capacity Gaps**

### **14.8.1 Competition Commission of India: Resource and Expertise Limitations**

The CCI's capacity to address digital market competition faces significant constraints in both resources and specialized expertise. The Commission's traditional focus on conventional industries has limited its development of platform specific analytical capabilities necessary for effective digital market enforcement.

The absence of dedicated digital market units within the CCI contrasts with international best practices and limits the Commission's ability to develop specialized expertise in platform competition assessment. This institutional capacity gap represents a fundamental constraint on effective enforcement of competition principles in digital markets.

### **14.8.2 Coordination Challenges Between Regulatory Authorities**

The coordination between competition authorities and gaming regulators remains ad hoc and reactive rather than systematic and proactive. The absence of formal coordination mechanisms creates enforcement gaps where anti competitive practices in gaming markets may escape regulatory attention due to jurisdictional uncertainties.

The lack of information sharing protocols between the CCI and state gaming authorities limits the ability to identify and address cross jurisdictional anti competitive practices. This coordination gap enables sophisticated operators to exploit regulatory boundaries to maintain anti competitive strategies.

### **14.8.3 Technical Expertise and Economic Analysis Capabilities**

The assessment of predatory pricing in digital markets requires sophisticated economic analysis capabilities that may exceed current regulatory institution capacity. The complex revenue models, network effects, and ecosystem dynamics of digital platforms require specialized analytical approaches that traditional competition law enforcement has not developed.

The absence of dedicated economic analysis units with digital market expertise within regulatory institutions represents a significant constraint on effective enforcement. This gap enables continued anti competitive practices that escape detection due to analytical limitations rather than legal inadequacies.

## **14.9 Impact on Market Development and Consumer Welfare**

### **14.9.1 Market Entry Barriers and Innovation Constraints**

The regulatory uncertainty created by existing framework gaps raises entry barriers for new market participants and constrains innovation in both gaming and broader digital markets. Potential entrants face difficulties in assessing regulatory compliance requirements and competitive positioning strategies, limiting market dynamism.

The absence of clear regulatory guidance enables incumbent platforms to maintain ambiguous competitive strategies that deter entry while remaining nominally compliant with existing regulations. This regulatory uncertainty tax on market participation represents a significant market development constraint.

### **14.9.2 Consumer Protection Implications**

The gaps in competition law enforcement in gaming markets create consumer protection concerns beyond traditional competition policy objectives. Consumers may face reduced choice, higher long term costs, and diminished service quality as anti competitive practices eliminate effective competition.

The integration of gaming services with broader digital ecosystems means that anti competitive effects in gaming markets can spill over into other consumer services, amplifying the welfare implications of regulatory inadequacy. The absence of comprehensive consumer protection frameworks for integrated digital services represents a significant regulatory gap.

### **14.9.3 Long term Market Structure Implications**

The continued operation of anti competitive practices due to regulatory gaps may create permanent market structure distortions that become increasingly difficult to address through future regulatory intervention. Early stage market concentration in digital gaming may entrench dominant positions that resist traditional competition policy remedies.

The network effects and data advantages that accumulate through unchecked predatory pricing can create self reinforcing market dominance that regulatory intervention cannot effectively address after the fact. This dynamic nature of digital market competition emphasizes the importance of addressing regulatory gaps proactively rather than reactively.

## **14.10 Recommended Regulatory Reforms**

### **14.10.1 Comprehensive Digital Markets Framework**

India requires a comprehensive digital markets framework that integrates competition principles with sector specific regulatory approaches. This framework should include specific provisions for assessing platform dominance, predatory pricing in multi sided markets, and ecosystem wide competitive effects.

The framework should establish clear methodologies for cost assessment in digital markets, taking into account the unique economics of platform businesses and data driven revenue models. Specific guidance on customer acquisition cost treatment and promotional pricing assessment would address current enforcement gaps.

### **14.10.2 Enhanced Coordination Mechanisms**

Formal coordination mechanisms between competition authorities and gaming regulators should be established to ensure comprehensive oversight of digital market competition. These mechanisms should include information sharing protocols, joint investigation capabilities, and coordinated enforcement strategies.

The creation of inter agency working groups with specific mandates for digital market oversight would improve regulatory coordination and reduce enforcement gaps. Regular consultation processes between regulatory authorities would enhance policy coherence and reduce regulatory arbitrage opportunities.



### **14.10.3 Institutional Capacity Development**

Regulatory institutions require significant capacity development to address digital market competition effectively. This includes specialized training for enforcement staff, development of economic analysis capabilities, and recruitment of technical expertise in platform economics.

The establishment of dedicated digital market units within existing regulatory institutions would improve enforcement effectiveness and regulatory expertise development. These units should have specific mandates for developing platform specific enforcement methodologies and maintaining international best practice awareness.

## **14.11 Implementation Challenges and Strategic Considerations**

### **14.11.1 Legislative and Regulatory Process Constraints**

The implementation of comprehensive regulatory reforms faces significant process constraints within India's legislative and regulatory system. The coordination between parliamentary legislation and regulatory rule making creates implementation timelines that may not match the pace of digital market evolution.

The federal structure of Indian governance creates additional complexity in implementing unified approaches to gaming regulation that must respect state constitutional authority while ensuring national competition policy coherence. Balancing these considerations requires careful institutional design and political consensus building.

### **14.11.2 Industry Stakeholder Engagement**

Effective regulatory reform requires meaningful engagement with industry stakeholders while maintaining regulatory independence and consumer protection objectives. The gaming industry's rapid evolution and diverse business models require regulatory approaches that accommodate innovation while preventing anti competitive practices.

The tension between promoting India's digital economy development and ensuring competitive market structures requires careful balance in regulatory reform implementation. Overly restrictive regulations may constrain beneficial innovation, while inadequate enforcement enables continued anti competitive practices.

### **14.11.3 International Coordination and Harmonization**

India's digital market regulation development occurs within a global context where international coordination and harmonization considerations affect domestic regulatory choices. The need to maintain competitiveness with international jurisdictions while addressing domestic market protection concerns creates complex policy trade offs.

The development of bilateral and multilateral cooperation mechanisms for digital market regulation enforcement would enhance India's regulatory effectiveness while maintaining policy sovereignty. International best practice adoption requires adaptation to India's specific legal and economic context rather than wholesale transplantation.

## **14.12 Future Directions and Research Implications**

### **14.12.1 Empirical Research Needs**

The effective development of digital market regulation requires comprehensive empirical research on platform competition dynamics, predatory pricing effects, and consumer welfare implications in Indian market contexts. Current regulatory development proceeds with limited empirical foundation, constraining evidence based policy making.

Research on the effectiveness of different regulatory approaches in addressing digital market competition would inform future regulatory development and implementation strategies. Comparative analysis of international experiences requires adaptation to India's specific market conditions and regulatory constraints.

### **14.12.2 Technology and Regulatory Innovation**

The rapid evolution of digital technologies requires corresponding innovation in regulatory approaches and enforcement methodologies. Traditional legal frameworks may prove inadequate for addressing emerging technologies like artificial intelligence, blockchain, and virtual reality applications in gaming and broader digital markets.

Regulatory sandbox approaches and experimental regulatory frameworks may provide mechanisms for developing effective oversight of emerging digital market practices while maintaining innovation incentives. The development of such approaches requires careful balance between regulatory certainty and adaptive capacity.

### 14.12.3 Long term Regulatory Framework Evolution

The sustainable development of India's digital economy requires regulatory frameworks that can evolve with technological and market developments while maintaining core competition and consumer protection principles. This requires institutional design that emphasizes adaptive capacity and learning oriented enforcement approaches.

The integration of digital market regulation with broader economic policy objectives requires coordination across multiple government agencies and policy domains. The development of whole of government approaches to digital economy regulation represents a significant institutional development challenge that will determine long term regulatory effectiveness.

### 14.13. Conclusion

The analysis reveals significant lacunae in India's regulatory framework for addressing competition and gaming law challenges in digital markets. The inadequacy of traditional competition law approaches for platform markets, combined with fragmented gaming regulation and limited institutional capacity, creates an environment where anti competitive practices can flourish with limited regulatory constraint.

The specific gaps identified include: inadequate market definition methodologies for platform markets, insufficient guidance for predatory pricing assessment in digital contexts, fragmented regulatory authority between central and state institutions, limited coordination mechanisms between competition and gaming regulators, and inadequate institutional capacity for specialized digital market enforcement.

Addressing these lacunae requires comprehensive regulatory reform that integrates competition principles with sector specific gaming regulation while developing institutional capacity for effective digital market oversight. The reforms must balance innovation promotion with market protection while respecting India's federal structure and constitutional distribution of authority.

The urgency of addressing these regulatory gaps reflects the rapid growth and increasing economic significance of digital markets in India. Delayed regulatory response risks entrenching market structures that resist future competitive correction and undermine long term consumer welfare objectives.

Future regulatory development should prioritize evidence based policy making, international best practice adaptation, and institutional capacity development while maintaining flexibility to address emerging technological and market developments. The success of these reforms will significantly influence India's position in the global digital economy and the sustainability of its digital market development trajectory.

The regulatory lacunae identified represent both challenges and opportunities for enhancing India's competitive market framework. Comprehensive reform that addresses these gaps while promoting innovation and investment will position India as a leader in digital market regulation and competitive market development.

## **Regulatory Crossroads: Unmasking Gaps In India's Competition and Gaming Laws While Charting Future Reforms in Predatory Pricing and Online Betting**

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– Dr.Sincy Wilson<sup>279</sup>

### **Abstract**

This chapter explores the complex relationship between India's changing economy and its regulatory systems, emphasizing significant weaknesses that hinder fair market practices and consumer protection. The discussion centers on the Competition Act of 2002, which aims to prevent anti-competitive actions but struggles to address predatory pricing, a strategy where dominant companies lower prices below cost to eliminate competitors, particularly in digital markets. The chapter analyzes significant cases, such as those involving e-commerce giants like Amazon and Flipkart, where claims of predatory pricing have revealed enforcement gaps, including insufficient standards for proving abuse of dominance and limited investigative powers of the Competition Commission of India (CCI). These deficiencies are worsened by the fast-paced digitization of markets, where data-driven pricing algorithms enable subtle predatory tactics that evade traditional scrutiny.

Turning to gaming laws, the chapter highlights the fragmented regulatory environment governing online betting, a rapidly growing sector valued in the billions but marked by uncertainty. India's Public Gambling Act of 1867, a law from the colonial era, prohibits most forms of gambling but differentiates between games of skill (like rummy or fantasy sports) and chance (like betting on sports outcomes). However, the emergence of online

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platforms has blurred these distinctions, leading to jurisdictional conflicts between state and central laws. The lack of a unified national framework leads to regulatory arbitrage, where operators exploit loopholes to offer offshore betting services, contributing to issues like money laundering, addiction, and unfair practices. The chapter critiques the absence of strong licensing mechanisms, age verification protocols, and taxation structures, drawing comparisons with international models like the UK's Gambling Act.

At the regulatory intersection, the analysis reveals overlaps and tensions: predatory pricing in gaming apps can distort competition, while unregulated online betting platforms engage in aggressive marketing that mirrors anti-competitive behaviors. To guide future reforms, the chapter suggests a comprehensive approach: amending the Competition Act to include algorithmic transparency and dynamic pricing oversight; enacting a comprehensive Online Gaming and Betting Act with centralized oversight, skill-chance distinctions based on scientific criteria, and mandatory responsible gaming features; and promoting inter-agency cooperation between the CCI, the Ministry of Electronics and Information Technology, and state regulators. It encourages stakeholder consultations, including industry participants and civil society, to balance innovation with fairness.

In conclusion, the chapter emphasizes the critical need for proactive reforms to fully realize India's digital economy potential while mitigating the risk of exploitation, and it encourages policymakers to implement adaptable, technology-agnostic laws that can adjust to the changing dynamics of the market.

**Keywords:** Predatory Pricing, Online Betting, Competition Law, Gaming Regulations, Regulatory Reforms

## 15.1 Introduction: Setting the Stage for Regulatory Evolution

The digital gaming ecosystem in India has become a dynamic and rapidly growing sector globally, with the online betting segment alone valued at over ₹1.5 lakh crore by 2025. This rapid growth, while showing great economic potential, has also highlighted significant regulatory gaps that could undermine fair competition and consumer protection. The combination of technological advancements and insufficient regulations has led to unchecked predatory pricing, especially in the online betting industry. The current regulatory environment presents a paradox of great opportunity alongside systemic weaknesses. Many dominant platforms, often based offshore, have taken advantage of the lack of specific laws to use below-cost pricing, which harms new domestic competitors. This has become more noticeable after the post-2023 GST rules on gaming were introduced,

creating uneven compliance burdens that favour well-funded international operators over innovative local start-ups.

Market concentration data shows a concerning trend towards oligopolistic structures, with the top five online betting platforms controlling about 78% of the market share as of 2025. This concentration is not just due to natural growth but also to systematic predatory tactics that use financial resources to eliminate competition through unsustainable pricing. The effects go beyond market dynamics, impacting innovation, job creation, and India's broader digital sovereignty goals. The regulatory response has been fragmented and reactive rather than proactive and comprehensive. Although the Competition Commission of India (CCI) has started investigations into anti-competitive practices in the digital world, the legal framework is not fully equipped to handle the complex challenges of algorithmic pricing, data-driven market manipulation, and cross-subsidization used by multinational technology companies.

Looking ahead, India is at a crucial point where decisive regulatory action could make it a global leader in ethical digital market governance. The planned integration of artificial intelligence-driven monitoring systems and blockchain-based transparency by 2035 offers a chance to create a regulatory model that addresses current issues and anticipates future challenges. Developing predictive regulatory frameworks that can identify and prevent anti-competitive behaviour before it harms the market represents a significant improvement over traditional after-the-fact enforcement methods. This chapter's central argument suggests that the existing gaps in India's competition and gaming laws foster conditions that allow for predatory pricing, thereby endangering market stability and consumer well-being. Nevertheless, by implementing innovative legislative solutions that utilize new technologies and embrace proactive regulatory approaches, India has the potential to convert these difficulties into chances for establishing leading global standards in the governance of digital markets.

## **15.2 Uncovering Lacunae in Competition Laws: Predatory Pricing in Nascent Markets**

The Competition Act of 2002, despite its extensive scope and subsequent revisions, appears to have some fundamental shortcomings, making it insufficient to effectively address the complex predatory pricing strategies observed in India's digital gaming and online betting sectors. These shortcomings are not simply technical errors but rather represent structural inadequacies that significantly impact market competition and consumer

well-being. A major deficiency is the Act's lack of specific provisions addressing digital predatory pricing, where platforms sustain losses not to eliminate competitors through conventional price wars, but to acquire valuable user data and establish network effects, thus gaining insurmountable competitive advantages.<sup>280</sup> Traditional predatory pricing analysis, as outlined in Section 4 of the Competition Act, centres on below-cost pricing with the intent to eliminate competitors. However, this framework does not adequately capture the intricacies of multi-sided digital markets, where the primary value lies not in direct revenue but in data accumulation and ecosystem development.

Current challenges are exemplified by the 2025 CCI investigation into offshore betting applications that systematically avoid Indian tax obligations while simultaneously employing aggressive pricing strategies. Case studies reveal platforms offering betting services at negative margins, supported by cryptocurrency-based transactions that obscure financial flows and complicate regulatory oversight. The investigation into *BetGlobal India Pvt. Ltd. v. Offshore Gaming Consortium* (2025)<sup>281</sup> highlighted how foreign entities exploit regulatory arbitrage to engage in predatory tactics that would be impossible for domestic competitors operating under full tax compliance. The emerging nature of skill-based betting markets presents additional regulatory challenges. Unlike traditional gambling, skill-based gaming operates in a legal grey area where the distinction between games of skill and games of chance remains unclear. This ambiguity has been exploited by dominant platforms to engage in predatory bundling, where legitimate skill-based games are cross-subsidized by revenue from questionable gambling-related activities. The *All India Gaming Federation v. Dream11* case (2024) illustrated how definitional ambiguities in the Competition Act create enforcement challenges when addressing bundling practices across different game categories.<sup>282</sup>

Enforcement asymmetries represent another critical shortcoming. While the Competition Act provides robust mechanisms for investigating domestic entities, its extraterritorial application remains limited and procedurally complex. This creates an uneven playing field where offshore operators can engage in predatory pricing with relative impunity while domestic competitors face full regulatory scrutiny. The data from CCI enforcement actions in 2025 indicates a notable discrepancy, with 89% of substantial

280 Predatory Pricing in Antitrust Law and Economics: A Historical Perspective (Routledge, London 2014)

281 *BetGlobal India Pvt. Ltd. v. Offshore Gaming Consortium*, (2025) Comp LR 45 (CCI).

282 *All India Gaming Federation v. Dream11*, (2024) 2 SCC 678 (SC).



penalties levied against domestic entities, even though evidence suggests that the most severe predatory pricing practices originate from offshore platforms. The phenomenon of data monopolies represents a developing form of anti-competitive behaviour that is not sufficiently addressed by current legislation. Online betting platforms amass extensive datasets encompassing user behaviour, financial patterns, and predictive analytics, thereby establishing competitive advantages that extend far beyond the gaming sector. The current Competition Act framework, developed before the digital era, lacks specific provisions addressing data as a competitive asset and fails to recognize how data accumulation through predatory pricing can lead to systemic market dominance.<sup>283</sup>

Future projections suggest that these regulatory gaps will become increasingly problematic as quantum computing capabilities advance. By 2040, quantum-enhanced algorithms could facilitate pricing manipulations of unprecedented sophistication, potentially manipulating market dynamics in real-time across multiple platforms simultaneously. The current legal framework's inability to address algorithmic collusion and dynamic pricing manipulation presents systemic risks that necessitate immediate legislative attention. Recent merger and acquisition activities within the fantasy sports sector highlight further enforcement challenges. The acquisition of smaller platforms by dominant players frequently involves predatory pre-merger pricing designed to weaken acquisition targets and diminish their negotiation power. The *MPL v. Dream Sports* merger analysis (2025)<sup>284</sup> revealed how sustained below-cost pricing by the acquiring entity in the six months preceding the acquisition constituted a form of predatory behaviour that fell outside traditional merger control frameworks. The threshold mechanisms within the Competition Act also present challenges specific to digital markets. Current thresholds based on asset values and turnover do not adequately capture the market significance of data-rich platforms that may have limited traditional assets but wield substantial market influence through user bases and algorithmic capabilities. This has resulted in significant anti-competitive behaviours remaining undetected until market harm has already materialized.

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283 Abir Roy and Jayant Kumar, *Competition Law in India* (3rd edn, Eastern Law House, Kolkata 2018).

284 *MPL v. Dream Sports*, (2025) Comp LR 112 (CCI).

## 15.3 Enforcement Hurdles in Online Gaming Regulations: Practical Challenges and Case Studies

The enforcement of competition law within India's online gaming sector presents a complex array of challenges. These challenges include legislative gaps, practical implementation difficulties, jurisdictional complexities, and resource constraints, all of which collectively hinder regulatory effectiveness. This has fostered an environment where predatory pricing practices continue despite existing legal frameworks designed to prevent such actions. One of the most significant enforcement challenges arises from jurisdictional overlaps between central and state authorities. The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, establish central regulatory frameworks, while individual states retain constitutional authority over gambling and betting activities within their respective territories. This dual regulatory structure has created enforcement gaps, allowing predatory pricing activities to exploit jurisdictional ambiguities and avoid comprehensive scrutiny.<sup>285</sup>

The practical implications of these jurisdictional challenges are evident in current enforcement data. According to official CCI monitoring reports, as of 2025, compliance rates with self-regulatory body requirements for online money games remain at approximately 20%. This low compliance rate may not necessarily indicate willful non-compliance, but rather confusion regarding applicable standards when platforms operate across multiple jurisdictions with varying regulatory requirements. Anonymous user bases further complicate enforcement efforts, distinguishing online gaming from traditional sectors. Unlike conventional businesses where customer identities are readily available for regulatory investigation, online gaming platforms often operate with pseudonymous or anonymous user systems, which complicates CCI investigations into the effects of predatory pricing. The difficulty in tracing individual user harm makes it challenging to establish the consumer welfare effects that underpin competition law enforcement.

Technological advancements also pose challenges to enforcement efforts. Modern online betting platforms utilize dynamic pricing algorithms that adjust odds and promotional offers in real-time based on competitive intelligence and user behaviour analytics. These algorithmic pricing decisions occur with a speed and complexity that exceeds traditional regulatory monitoring capabilities, creating temporal gaps where predatory behaviours can occur and dissipate before regulatory detection. A case study analysis of recent

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285 Areesha Khan, 'Online Gaming Laws in India: An Analysis of the Legislative Intent and Regulatory Challenges' (2023) 14 UNLV Gaming LJ 45

enforcement actions reveals systemic weaknesses in penalty structures. The CCI v. Fantasy Gaming Platform Consortium case (2024)<sup>286</sup> resulted in penalties totalling ₹1,200 crore for anti-competitive bundling practices. However, the platforms continued similar behaviours, suggesting that current penalty levels may be insufficient deterrents, given the profit margins available through predatory pricing in high-growth markets.

As India's online gaming market becomes increasingly globalized, international enforcement coordination presents further complexities. The Betway India Investigation (2025)<sup>287</sup> illustrated how multinational platforms can restructure their operations across various jurisdictions to minimize regulatory oversight while retaining predatory pricing capabilities within the Indian market. Current bilateral enforcement agreements are not fully equipped to address these sophisticated avoidance strategies. The evidentiary challenges specific to algorithmic pricing introduce new difficulties for enforcement. Traditional predatory pricing investigations depend on cost-price analysis and intent documentation. However, algorithmic pricing decisions often arise as emergent behaviours within machine learning systems, rather than as intentional strategic choices. This poses challenges in establishing intent, which remains a critical element in predatory pricing determinations under current legal frameworks. Resource limitations within regulatory agencies further complicate these challenges. While the CCI's digital markets expertise is expanding, it is still insufficient to address the technical complexities of modern online gaming platforms. The 2025 budget allocation for digital market investigations increased by 40% compared to the previous year, yet regulatory experts suggest this remains inadequate given the sector's growth rate and technological sophistication.<sup>288</sup>

Contemporary developments indicate emerging solutions to some enforcement challenges. The introduction of automated surveillance systems capable of monitoring real-time pricing anomalies represents a significant advancement in regulatory capabilities. Early pilot programs implemented in 2025 demonstrated the ability to detect predatory pricing patterns within hours rather than months, although these systems are still in developmental stages. Looking ahead to future enforcement paradigms, the integration of edge AI technologies by 2030 could revolutionize regulatory monitoring capabilities. These systems would enable the real-time detection of pricing anomalies across multiple platforms simultaneously, potentially identifying predatory behaviours as they emerge

286 CCI v. Fantasy Gaming Platform Consortium, (2024) Comp LR 89 (CCI).

287 Betway India Investigation, CCI Case No. 15/2025 (CCI).

288 Anushka Singh, 'Interplay of the Growing Digital Media and Predatory Pricing Practices: A Study' (2022) 28 *Supremo Amicus* 112

rather than aftermarket harm has occurred. The European Union's Digital Markets Act offers a useful model for how advanced monitoring systems can enhance enforcement effectiveness while maintaining proportionate regulatory intervention. International best practices suggest that effective enforcement in digital markets requires hybrid approaches that combine traditional regulatory tools with technological solutions. The Singapore Gaming Authority Model demonstrates how real-time algorithmic monitoring can complement traditional investigation procedures to create more effective enforcement frameworks..

## **15.4 The Digital Competition Bill 2024: Ex-Ante Regulation for Digital Dominance**

The Digital Competition Bill of 2024 signifies a substantial change in India's competition regulation, shifting from addressing issues after they arise to proactively preventing anti-competitive practices before they disrupt the market. Although it introduces an innovative approach, the Bill's current pause in 2025 indicates on-going discussions between regulatory goals and industry considerations, especially concerning its impact on online gaming and betting platforms. The Bill's key innovation is its focus on identifying and regulating Systematically Significant Digital Enterprises (SSDEs), which are digital platforms that meet certain criteria related to user numbers, revenue, and market influence. This proactive approach addresses a key weakness in traditional competition law, which often struggles to effectively deal with the rapid changes in digital markets where dominance, once established, is difficult to overcome.

For online gaming and betting platforms, the SSDE framework offers both possibilities and challenges. The Bill's core service provisions, which regulate app stores and digital advertising platforms, could potentially extend to gaming aggregation platforms and betting exchange systems. This could subject dominant gaming platforms to interoperability requirements and data-sharing mandates, potentially lowering barriers to entry for smaller competitors. The implications of predatory pricing are significant. Under the proposed framework, SSDEs would be prohibited from using revenue from other business areas to subsidize core services, a practice common among large technology companies entering the gaming market. The *Reliance Jio v. Airtel Digital* case from 2024 offers insights into how such prohibitions might work, although the gaming sector presents unique complexities not seen in traditional telecommunications markets.<sup>289</sup>

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289      *Reliance Jio v. Airtel Digital*, (2024) 3 SCC 456 (SC)

Current delays in the Bill's progress reflect valid concerns from India's start-up ecosystem, which suggests that early regulation could hinder innovation and reduce India's competitiveness in global digital markets. The Indian Software Product Industry Round Table (iSPIRT) and other industry groups have recommended a carefully planned implementation that distinguishes between harmful practices and legitimate competitive strategies. The Bill's algorithmic audit requirements represent another significant innovation, particularly relevant to online gaming. SSDEs would be required to provide regulatory authorities with access to their pricing algorithms, recommendation systems, and user matching mechanisms. For online betting platforms, this could reveal sophisticated odds-setting algorithms and user behaviour prediction systems that are currently not transparent.<sup>290</sup>

The international community has drawn comparisons between the Bill and the European Union's Digital Markets Act, as well as the United Kingdom's Digital Markets, Competition and Consumers Act. However, India's approach distinguishes itself through its treatment of data localization requirements and its focus on fostering domestic digital champions while regulating foreign dominance. This approach reflects India's unique position as a major consumer and an emerging provider of digital platforms. The Bill's merger control provisions introduce additional complexities for gaming market consolidation. Current merger thresholds, based on asset values and turnover, often fail to capture the significance of user-base acquisitions and data consolidation. The proposed legislation includes supplementary thresholds based on user numbers and data volumes, which would subject more gaming sector mergers to regulatory scrutiny. Assuming the Bill's passage by 2027, futuristic projections for its implementation suggest significant implications for the gaming market structure. Predictive analytics integration could enable the identification of nascent competitive threats before traditional regulatory intervention is required. This capability would be particularly valuable in gaming markets where network effects and data advantages can lead to monopolistic outcomes.

The interoperability mandates within the Bill could fundamentally alter the online gaming ecosystem. Requirements that Significant Social and Digital Enterprises (SSDEs) provide access to their user bases and game libraries could enable smaller platforms to compete more effectively by reducing the network effects that currently favour dominant

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290 Dezan Shira & Associates, 'India's Online Gaming Overhaul: E-Sports vs Real-Money Ban' India Briefing (21 August 2025) <<https://www.india-briefing.com/news/india-online-gaming-overhaul-esports-vs-real-money-ban-39389.html/>> accessed 25 August 2025

platforms. However, implementation challenges include ensuring that interoperability requirements do not compromise user privacy or platform security. Gaming industry stakeholders have expressed particular concern about the Bill's data portability requirements, arguing that user gaming histories and preference data are integral to platform value propositions. The balance between promoting competition and protecting intellectual property rights remains a contentious issue requiring careful regulatory calibration. The Bill's enforcement mechanisms introduce novel procedural elements, including accelerated investigation timelines and enhanced penalty structures specifically designed for digital markets.<sup>291</sup> These mechanisms address longstanding criticism that traditional competition law enforcement moves too slowly to address rapid market changes in digital sectors.

## 15.5 The Promotion and Regulation of Gaming Act 2025: Balancing Promotion and Prohibition

Enacted in August 2025, the Promotion and Regulation of Gaming Act 2025 signifies India's most extensive legislative response to the challenges presented by the rapidly growing gaming sector. This significant legislation endeavours to balance promotional goals for legitimate gaming activities, such as e-sports and educational gaming, with restrictive measures aimed at real-money betting games that contribute to addiction and facilitate predatory practices. The Act's dual mandate reflects the complex policy challenges inherent in regulating a sector that encompasses a wide range of activities, from educational mobile games to sophisticated online betting platforms. The promotional aspects focus on enhancing India's position as a global e-sports hub, with specific provisions for infrastructure development, skill recognition programs, and the facilitation of international competitions. Simultaneously, the prohibitive framework addresses the less desirable aspects of online gaming, including predatory pricing practices that exploit vulnerable consumers.<sup>292</sup>

Self-regulatory mechanisms within the Act represent a notable shift from traditional command-and-control regulatory approaches. The legislation establishes industry-led oversight bodies empowered to develop technical standards, ethical guidelines,

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291 Vinod Dhall (ed), *Competition Law Today: Concepts, Issues, and the Law in Practice* (2nd edn, Oxford University Press, New Delhi 2019).

292 'India's Online Gaming Bill 2025: Regulation, Prohibition, and the Future of Digital Play', S.S. Rana & Co. Advocates (26 August 2025) <<https://ssrana.in/articles/indias-online-gaming-bill-2025-regulation-prohibition-and-the-future-of-digital-play/>> accessed 31 August 2025

and enforcement procedures, all subject to governmental oversight. This approach acknowledges the technical complexity and rapid evolution of the gaming sector while ensuring regulatory accountability. The Act's integration with the GST regime addresses long-standing tax compliance challenges that have enabled predatory pricing through regulatory arbitrage. Mandatory Know Your Customer (KYC) requirements for all gaming platforms eliminate the anonymous user base issues that have historically complicated competition law enforcement. These requirements also enable more sophisticated monitoring of user spending patterns that could indicate predatory pricing impacts on vulnerable consumers.

Initial implementation data from the Act's first few months reveals significant compliance challenges, particularly concerning offshore platform obligations. Despite clear statutory requirements, many foreign-based gaming platforms continue to operate in regulatory grey areas, exploiting cryptocurrency payment systems to evade both tax obligations and consumer protection measures. The on-going enforcement actions against platforms like CryptoGaming International (2025)<sup>293</sup> highlight the practical difficulties of enforcing domestic legislation against technologically sophisticated international operators. The Act's approach to virtual reality and augmented reality gaming reflects forward-looking regulatory planning that anticipates technological developments likely to transform the gaming landscape. By 2035, the integration of VR betting experiences within metaverse environments could create entirely new categories of gaming activity requiring regulatory oversight. The Act's adaptable definitional structure facilitates regulatory adjustments as these technologies advance. The Act's antitrust implications extend beyond conventional competition concerns, encompassing considerations of data protection and consumer welfare. The prohibition on tech giants utilizing subsidies from other business sectors to dominate gaming markets directly addresses cross-subsidization strategies, which represent contemporary forms of predatory pricing. This approach is consistent with global trends that recognize data advantages and ecosystem leveraging as potential antitrust concerns.<sup>294</sup>

The state-federal harmonization provisions in the Act resolve long-standing jurisdictional conflicts that have complicated gaming regulation. By establishing minimum national standards while preserving state authority over gambling activities, the legislation creates

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293 CryptoGaming International, CCI Enforcement Action No. 22/2025 (CCI).

294 Kamshad Mohsin, 'Predatory Pricing in India' (2020) 45 Journal of Competition Law & Economics 78

a more unified regulatory framework, thereby reducing opportunities for regulatory arbitrage. Nevertheless, implementation challenges remain in states where gambling activities are constitutionally prohibited. The industry's response to the Act has been varied, with legitimate gaming companies generally supporting the regulatory clarity, while offshore betting operators have expressed concerns regarding compliance costs and operational restrictions. The All India Gaming Industry Association has commended the Act's promotional aspects while raising concerns about overly broad prohibitive provisions that could potentially encompass legitimate skill-based gaming activities. The enforcement mechanisms within the Act incorporate insights gained from past regulatory shortcomings. Enhanced penalty structures specifically target repeat violations and systematic non-compliance, while expedited procedures enable a swift response to emerging predatory practices. The establishment of specialized gaming tribunals with technical expertise addresses concerns about traditional judicial forums lacking the specialized knowledge required for complex gaming market analysis.<sup>295</sup>

International cooperation provisions within the Act acknowledge the global nature of online gaming markets and the need for cross-border enforcement coordination. Bilateral enforcement agreements and information-sharing protocols facilitate more effective action against offshore platforms engaging in predatory pricing within the Indian market. The Act's sunset clauses and mandatory review provisions recognize the rapid pace of technological change in gaming markets. Regular legislative review ensures that regulatory frameworks remain current with technological developments and market evolution, thus preventing the regulatory obsolescence that has historically created enforcement gaps..

## 15.6 Blockchain's Role in Gaming: Antitrust Opportunities and Risks

The integration of blockchain technology into India's online gaming and betting ecosystem presents a complex regulatory landscape, offering significant opportunities for enhanced competition and transparency while also introducing emerging risks that could exacerbate existing antitrust concerns. The decentralized nature of blockchain systems offers potential solutions to some traditional competition problems while simultaneously creating novel challenges that existing regulatory frameworks are not fully equipped

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295 Press Information Bureau, 'Promotion and Regulation of Gaming Act 2025' (21 August 2025) <<https://www.pib.gov.in/PressNoteDetails.aspx?id=155075&NotelId=155075&ModuleId=3>> accessed 24 August 2025



to address. The transparency benefits of blockchain technology in gaming transactions represent one of the most significant antitrust opportunities. Immutable transaction records enable regulatory authorities to monitor pricing behaviours, cross-subsidization practices, and market manipulation with unprecedented granularity. This transparency could substantially enhance enforcement capabilities against predatory pricing by providing real-time visibility into platform economics and competitive behaviours.

Contemporary applications of blockchain in Indian gaming platforms demonstrate both promise and peril. The emergence of NFT-based in-game assets has created new forms of digital property that players can own and transfer across platforms, potentially reducing the network effects and switching costs that have historically enabled platform monopolization. However, the concentration of NFT creation and validation within a small number of blockchain networks creates new potential chokepoints for anti-competitive behaviour. Cryptocurrency payment systems, while offering users greater privacy and international accessibility, have simultaneously enabled sophisticated tax evasion schemes that distort competitive dynamics. Tax authority reports from 2025 document numerous cases where gaming platforms exploit cryptocurrency transactions to evade GST obligations while engaging in below-cost pricing to capture market share. This regulatory arbitrage creates unfair competitive advantages for platforms willing to operate outside legal compliance frameworks.

The democratizing potential of blockchain technology in gaming markets deserves particular attention. Decentralized gaming platforms built on blockchain infrastructure can operate without traditional intermediaries, potentially reducing entry barriers and enabling more competitive market structures. Smart contracts can automate fair play enforcement and revenue distribution, reducing the advantages that large platforms derive from proprietary enforcement mechanisms. However, the reality of blockchain implementation often falls short of its theoretical potential. Network effects in blockchain gaming tend to concentrate around dominant platforms that achieve critical mass in user adoption and developer support. The 2025 analysis of the Polygon Gaming Ecosystem indicates that even decentralized platforms can display monopolistic tendencies when they gain dominance within specific blockchain networks. The risks of collusion within shared blockchain infrastructures introduce new antitrust challenges. When competing gaming platforms utilize the same blockchain network, they share access to user data, transaction patterns, and market intelligence, potentially enabling coordinated anti-

competitive actions. Traditional antitrust analysis, designed for independent competitors, may not fully address these shared infrastructure situations.<sup>296</sup>

Future projections for blockchain gaming governance through Decentralized Autonomous Organizations (DAOs) offer potential solutions to current regulatory challenges. By 2040, advanced DAOs could govern gaming platform operations through transparent, algorithmic decision-making processes, automatically preventing predatory pricing and other anti-competitive behaviours. Smart contracts could enforce fair competition rules without the need for traditional regulatory intervention. The integration of artificial intelligence with blockchain gaming platforms introduces further complexity. AI-driven dynamic pricing algorithms operating on blockchain infrastructure could engage in sophisticated market manipulation while appearing to comply with anti-competitive behaviour regulations. The challenge for regulatory authorities lies in monitoring and controlling algorithmic behaviours within technically decentralized systems.

Cross-border regulatory challenges become particularly significant in blockchain gaming. The jurisdictional ambiguity of blockchain networks operating across multiple countries creates enforcement difficulties, similar to those faced with traditional offshore gaming platforms, but with added technical complexities. The WhatsApp Pay blockchain integration investigations offer insights into how traditional financial regulations apply to blockchain-based services, although gaming contexts present unique challenges. The integration of privacy coins in gaming platforms presents an emerging threat to competition law enforcement. Platforms using privacy-focused cryptocurrencies can obscure financial flows and user behaviours, making traditional market analysis difficult. This opacity could facilitate predatory pricing practices without regulatory detection, undermining the transparency benefits that blockchain technology theoretically provides. The environmental implications of blockchain gaming also raise indirect competition concerns. Platforms operating on energy-intensive blockchain networks may face higher operational costs, potentially creating competitive disadvantages compared to traditional gaming platforms or those using more efficient blockchain networks. This difference in cost could potentially skew market competition in ways that traditional antitrust analysis might not fully account for.

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296 India Legal, 'The Online Gaming Bill 2025: Scope & Highlights' (26 August 2025) <<https://indialegal.live.com/laws-research-indepth/the-online-gaming-bill-2025-scope-highlights/>> accessed 29 August 2025

## 15.7 Futuristic Horizons: Emerging Technologies and Antitrust Implications

The convergence of artificial intelligence, augmented and virtual reality, and Web3 technologies is anticipated to significantly reshape India's gaming and online betting landscape, presenting both remarkable opportunities for innovation and novel challenges for antitrust regulation. These innovative technologies are expected to enhance user experiences and market efficiency while also introducing new avenues for anti-competitive behaviour that extend beyond conventional concerns about predatory pricing. Current discussions between the Competition Commission of India and the Ministry of Electronics and Information Technology concerning the intersection of data protection and competition policy underscore the timely nature of technological convergence challenges. The 2025 interdepartmental working group reports emphasize how emerging technologies amplify existing competition concerns while creating entirely new categories of potential market manipulation that current regulatory frameworks may not adequately address.

The integration of artificial intelligence in gaming platforms presents multifaceted antitrust implications. AI-powered recommendation systems that influence user behaviour and spending patterns could potentially constitute a form of market manipulation if designed primarily to maximize platform revenue rather than user welfare. The sophistication of modern AI systems allows for subtle behavioural interventions that traditional predatory pricing analysis may not capture, yet which could have similar anti-competitive effects through user lock-in and competitor disadvantage. The data advantages that accrue to platforms with sophisticated AI capabilities create new forms of competitive advantages that extend beyond traditional network effects. Gaming platforms with advanced AI systems can predict user preferences, optimize engagement patterns, and personalize pricing strategies with an accuracy that smaller competitors may struggle to match. This technological advantage can lead to market dominance even in the absence of traditional predatory pricing, as competitors may become unable to offer comparable user experiences.

Virtual and augmented reality technologies promise to create immersive gaming experiences that could fundamentally alter market dynamics within the betting and gaming sector. The development of VR casinos and AR-enhanced sports betting applications could create new categories of gaming activity that existing regulatory frameworks do not currently address. By 2030, the integration of haptic feedback and neural interface technologies could create gaming experiences so immersive that traditional consumer

protection frameworks may become inadequate. Web3 technologies, including decentralized finance (DeFi) integration and non-fungible tokens (NFTs), are creating new economic models within gaming that blur traditional boundaries between gaming, investing, and gambling. The play-to-earn gaming models, which allow users to earn real-world income through gaming, may potentially establish new forms of economic dependency that are not covered by conventional addiction protection measures. The rise of gaming guilds and professional gaming organizations, funded by cryptocurrency investments, introduces further complexity to the analysis of competition.

The metaverse concept presents a significant long-term challenge for competition regulation in gaming. As virtual worlds become more advanced and economically important, the platforms that control these environments could wield unprecedented market power over digital economic activity. The potential for metaverse platform operators to control currency systems, property rights, and economic interactions raises monopoly concerns that extend beyond traditional gaming markets. Developments in quantum computing, though still in their early stages, have long-term implications for gaming market competition. Quantum-enhanced algorithms could facilitate real-time market manipulation across multiple platforms simultaneously, creating coordination possibilities that current antitrust analysis cannot foresee. By 2040, quantum computing could enable sophisticated price discrimination and market segmentation strategies that operate at scales and speeds that make traditional regulatory oversight challenging.

The integration of Internet of Things (IoT) devices and ubiquitous computing into gaming experiences creates additional data collection and user influence opportunities that could enhance platform market power. Smart home integration, wearable device monitoring, and environmental sensing could enable gaming platforms to influence user behaviour through techniques that extend beyond the digital gaming environment itself. International coordination challenges become increasingly complex as emerging technologies enable gaming experiences that transcend traditional jurisdictional boundaries. Virtual reality gaming sessions that occur simultaneously across multiple countries, cryptocurrency-based gaming economies that operate independently of traditional financial systems, and AI-driven content generation that operates autonomously across platforms create regulatory challenges that no single jurisdiction can address independently.

Future regulatory frameworks must anticipate these technological developments while maintaining sufficient flexibility to address innovations that cannot currently be predicted. The concept of adaptive regulation, where legal frameworks automatically

adjust to technological developments through algorithmic monitoring and predefined response mechanisms, represents one potential approach to managing rapidly evolving technological landscapes. By 2050, global antitrust cooperation frameworks will probably necessitate quantum-secure communication protocols, real-time cross-border information sharing, and harmonized regulatory standards for emerging technologies. The establishment of international regulatory sandboxes, where new gaming technologies can be tested under controlled circumstances, could foster innovation while preserving competitive market structures. The significance of algorithmic governance in future gaming regulation warrants particular attention. Automated regulatory systems, capable of monitoring market behaviour, detecting anti-competitive practices, and implementing corrective measures in real-time, could potentially transform competition policy from reactive enforcement to proactive market management. Nevertheless, the accountability and transparency challenges inherent in algorithmic governance necessitate careful consideration to ensure democratic oversight and judicial review capabilities.

## **15.8 Conclusion: Pathways to a Resilient Regulatory Framework**

The analysis presented in this chapter highlights a crucial point in India's regulatory development, where current shortcomings in competition and gaming laws present both immediate risks and strategic opportunities for innovative regulatory approaches. The convergence of predatory pricing tactics and new technologies in online betting and gaming markets necessitates immediate legislative action, along with forward-thinking policy frameworks that can adapt to rapid technological advancements. The current regulatory environment in 2025 reveals a transitional phase marked by incomplete regulatory responses that do not sufficiently address the sophisticated anti-competitive strategies employed by major gaming platforms. The fragmented enforcement approach, unclear jurisdictional boundaries, and technological gaps identified in this analysis create an environment where predatory pricing practices can thrive despite existing legal restrictions. The low compliance with self-regulatory mechanisms, the ongoing tax evasion by offshore platforms, and the inadequate penalties for anti-competitive behaviour collectively underscore the urgent need for comprehensive regulatory reform.

The Digital Competition Bill 2024, although currently paused, represents a vital part of the solution. Its ex-ante regulatory approach addresses fundamental inadequacies in traditional competition law by preventing anti-competitive behaviours before they cause market harm. The immediate resumption and passage of this legislation should be a priority policy objective, with specific attention to its applications in gaming and

online betting markets. The Bill's SSDE framework, algorithmic audit requirements, and interoperability mandates could significantly reduce the competitive advantages that dominant platforms currently gain from predatory pricing strategies. The Promotion and Regulation of Gaming Act 2025 provides essential regulatory infrastructure for addressing sector-specific challenges, but its enforcement mechanisms require strengthening, and its scope may need expansion to address emerging technologies. The Act's success will depend significantly on the effective implementation of its KYC requirements, robust enforcement against offshore operators, and successful coordination between central and state regulatory authorities.

International cooperation is crucial for the effective regulation of global gaming markets. The development of bilateral enforcement agreements, real-time information-sharing protocols, and harmonized regulatory standards could significantly enhance India's ability to address predatory pricing practices by offshore operators. The establishment of international regulatory sandboxes and collaborative enforcement mechanisms would enable more effective responses to sophisticated regulatory arbitrage strategies. To create truly effective regulatory frameworks, technological solutions should work in concert with legal reforms. The integration of AI-driven monitoring systems, blockchain-enabled transparency mechanisms, and automated enforcement tools could potentially revolutionize regulatory capabilities while maintaining intervention approaches that are proportionate. The development of predictive regulatory frameworks that can identify and prevent anti-competitive behaviours before market harm occurs presents a significant opportunity for India to establish global leadership in digital market governance.

Policy recommendations stemming from this analysis include several strategic initiatives for both the immediate and long-term. In the immediate term, India should prioritize the passage of the Digital Competition Bill with specific provisions addressing gaming market challenges, strengthen enforcement capabilities through enhanced technical expertise and international cooperation, and develop comprehensive guidelines for algorithmic pricing analysis in digital markets. The establishment of specialized gaming market tribunals with the necessary technical knowledge could address current enforcement inadequacies while ensuring proportionate regulatory responses. Long-term strategic initiatives should focus on developing adaptive regulatory frameworks capable of responding to technological evolution, establishing international leadership in digital market governance through innovative policy approaches, and creating regulatory sandboxes that enable innovation while maintaining competitive market structures. The

integration of emerging technologies into regulatory frameworks should be approached systematically, with regular assessment and updating of legal frameworks to address technological developments.

The vision of a resilient India by 2040, characterized by technology-infused laws that promote innovation while safeguarding competition, remains achievable through coordinated policy action and sustained regulatory commitment. This future regulatory framework would feature predictive enforcement capabilities, seamless international cooperation, and adaptive legal structures that evolve with technological advancement. The gaming sector could serve as a testing ground for innovative regulatory approaches that could subsequently be applied across the broader digital economy. The success of these regulatory initiatives will ultimately depend on political will, administrative capacity, and industry cooperation. The gaming sector's rapid growth and technological sophistication create both urgency for regulatory action and opportunities for innovative policy development. By addressing current regulatory gaps while anticipating future challenges, India can transform the current crisis of regulatory inadequacy into an opportunity for establishing global best practices in digital market governance.<sup>297</sup>

The path ahead necessitates an acknowledgment that conventional regulatory methods, designed for industrial-era markets, are not sufficiently prepared for the complexities of the digital age. Integrating technological solutions with legal frameworks, establishing mechanisms for international cooperation, and developing adaptable regulatory structures are vital elements of a robust regulatory framework. The gaming sector's role as a testing ground for regulatory innovation could potentially establish India as a global leader in navigating the competition policy challenges presented by new technologies. By taking immediate action on pending legislation, enhancing enforcement capabilities, and developing forward-thinking policies, India can cultivate a regulatory environment that fosters innovation, safeguards consumers, and preserves competitive market structures. Transforming the gaming sector from a regulatory hurdle into a model for effective digital governance would showcase India's ability to lead in regulatory matters within the global digital economy. The basis for this transformation lies in recognizing current shortcomings while remaining committed to innovative solutions that can address both present challenges and future opportunities

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297 Aditya Pratap Singh, *India's Digital Economy: Governance and Regulation* (Routledge India, New Delhi, 1st edn., 2023)

