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Regulation, Not Bans, Can Protect Online Gamers

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INTERVIEW ANGLE



"Betting and gambling are State subjects under Entry 34 of List II; how does the Union government justify a central Online Gaming Act, and is the Centre's framework constitutionally vulnerable to a challenge from a State like Tamil Nadu?"

The Promotion and Regulation of Online Gaming Act, 2025, whose Rules became effective on May 1, 2026, treats real-money online games as inherently criminal. State-level bans in Tamil Nadu and Karnataka show that this approach is constitutionally vulnerable and operationally counter-productive: it drives users to unregulated offshore sites rather than safer Indian operators. A licensing framework with KYC, self-exclusion tools, risk-based taxation and a treatment fund is the regulatory architecture the Union should now build.

THE ACT AND ITS ARCHITECTURE

The Promotion and Regulation of Online Gaming (PROG) Act, 2025 — operationalised by Rules that came into force on May 1, 2026 — does three things:

- ❶ **Prohibits** “online money games” — any online game in which money or anything of monetary value is at stake.
- ❷ **Permits** “online social games” (no monetary stakes) and “online esports” (competitive skill-based formats).
- ❸ **Establishes** an Online Gaming Authority of India (OGAI), empowered to register, classify and monitor online games and intermediaries.

The framework supersedes — or sits alongside, depending on the eventual judicial reading — the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, which had earlier introduced self-regulatory bodies for online gaming intermediaries through 2023 amendments.

THE CONSTITUTIONAL QUESTION

Entry 34, List II — A State Subject

The Constitution places “betting and gambling” in Entry 34 of the State List. From colonial-era Public Gambling Acts to the Sikkim Online Gaming (Regulation) Act, 2008, regulation has historically been by State legislatures. The Union’s justification for the PROG Act draws on:

- **Entry 31, List I** — posts, telegraphs, telephones, wireless, broadcasting and “other like forms of communication”.
- The **Information Technology Act, 2000**, which already governs intermediaries.

The Union’s argument is that *online* games — by their very medium — fall within Union competence over communications. This is plausible but not settled. A State could credibly argue that whether one is playing rummy at a kitchen table or on a phone screen, the *subject matter* remains “betting and gambling” — and that the medium does not transfer the field to the Union List.

The Skill-Chance Doctrine

Indian courts have, for nearly six decades, drawn a line that the PROG Act blurs:

| CASE | YEAR | HOLDING |
|---|---------|---|
| State of Andhra Pradesh v K. Satyanarayana | 1968 | Rummy is preponderantly a game of skill |
| K.R. Lakshmanan v State of Tamil Nadu | 1996 | Horse racing is a game of skill |
| Karnataka HC — All India Gaming Federation v State of Karnataka | 2022 | Karnataka Online Gaming Act struck down to the extent it banned skill games |
| Madras HC | 2023 | Tamil Nadu Online Gambling Act partly struck down for over-breadth on skill games |
| Multiple HCs on fantasy sports | 2017-22 | Fantasy sports held games of skill |

The PROG Act, by treating all real-money online games as “money games”, folds together formats the courts have separated. That is the doctrinal weakness on which it will be tested.

WHAT THE MARKET ACTUALLY LOOKS LIKE

The Indian online gaming market — across fantasy sports, rummy, poker and casual gaming — has been estimated by FICCI-EY at roughly \$3-4 billion in FY2025, with projections of around \$9 billion by 2028. Direct employment in the sector is estimated at the tens of thousands of jobs, concentrated in technology, product, and customer support roles.

Two policy shocks have already hit this market:

- **GST at 28 per cent on full face value** of contest entry, effective October 2023 — a major reset of the unit economics.
- **PROG Rules, May 1, 2026** — converting the regulatory uncertainty into a near-prohibition.

The risk is not that the activity stops. The risk is that it migrates — to offshore betting sites such as 1xBet, Parimatch and Stake, which do no KYC, recognise no Indian self-exclusion request, pay no GST and provide no consumer redress. The Reserve Bank’s earlier advisories on payment flows to offshore betting and the Enforcement Directorate’s actions against money-laundering through cricket betting are evidence that this migration is already underway.

PUBLIC HEALTH — REAL, BUT MIS-DIAGNOSED

The public-health concerns motivating the PROG Act are not imaginary. Behavioural-addiction clinics at NIMHANS and similar centres have reported a rising case load of problematic online gaming. Young users, easy credit through digital wallets, in-game currencies and aggressive personalised marketing combine to produce a recognisable harm pattern. Match-fixing in cricket and a steady drumbeat of cases under the Prevention of Money Laundering Act add a financial-crime dimension.

But the remedy must match the diagnosis. Behavioural addiction is treated by exclusion and counselling, not by ban; financial ruin is prevented by deposit limits and KYC, not by prohibition; money laundering is checked by reporting obligations and banking-channel control, not by criminalisation of users.

WHAT INTERNATIONAL REGULATORS HAVE LEARNED

| JURISDICTION | REGULATOR / STATUTE | DESIGN |
|----------------|--|---|
| United Kingdom | Gambling Commission, Gambling Act 2005 | Licensing, KYC, advertising rules, GAMSTOP self-exclusion |
| Germany | <i>Gemeinsame Glücksspielbehörde</i> (GGL), 2021 | Federal regulator; State Treaty on Gambling, OASIS national exclusion |
| Singapore | Gambling Regulatory Authority (GRA), 2022 | Unified regulator across casinos, lotteries and remote gambling |
| Australia | Interactive Gambling Act, 2001; ACMA enforcement | Offshore site blocking; BetStop national self-exclusion |

The ideological starting points differ — Singapore is highly restrictive, the UK historically liberal — but the regulatory grammar has converged: licensing, KYC, deposit and loss limits, mandatory self-exclusion, and a treatment fund financed by industry levy. None of these regulators has chosen prohibition as the primary tool,

because prohibition creates a black market regulators cannot see.

A CALIBRATED INDIAN ARCHITECTURE

A workable Indian model could combine:

- **Licensing under OGAI** for skill-based real-money games, with classification (rummy, poker, fantasy sports, esports tournaments).
- **Mandatory KYC and age verification** at registration, linked to Aadhaar offline e-KYC or DigiLocker.
- **Deposit and loss limits**, with cooling-off periods on limit increases.
- **A national self-exclusion register** — an Indian GAMSTOP — across all licensed operators.
- **Risk-based taxation** that recognises platform commission as the value-add, not the full contest entry pool.
- **A problem-gambling treatment fund** financed by an industry levy, channelling resources to NIMHANS-type clinics and tele-counselling.
- **Strict enforcement against offshore platforms** via IT Rules, payment-channel disruption and ISP-level blocking.
- **Cooperative federalism** — a Union-State coordination mechanism so that State concerns (Tamil Nadu's social profile of harm differs from Goa's) are reflected in licensing conditions.

UPSC MAINS ANALYSIS

GS Paper 3 — Economy and Technology. The online gaming debate is a case study in regulating a digital sector with public-health externalities, federal complexity and significant economic stakes. It touches GST design (full face value vs platform commission), employment, FDI flows, and India's positioning as a digital services exporter.

GS Paper 2 — Polity and Governance. The constitutional contest between Entry 34 of List II and Entry 31 of List I, the federal balance, and the role of **judicial review** in policing over-breadth (Karnataka HC, Madras HC) make this a model question on Centre-State legislative competence.

Conceptual bridge. Regulation, when it is well-designed, expands the State's visibility into a sector; prohibition contracts it. For a digital activity that crosses borders at the speed of light, *visibility* — through licensing — is the precondition for *protection*.

A ban does not delete a market; it relocates it — usually offshore, beyond the reach of Indian KYC, Indian tax, and Indian courts. If the State is serious about protecting young Indians from problem gambling, it must first be willing to see them — and that requires a licence book, not a prohibition list.

Sources: [The Hindu](#), [PRS](#), [PIB](#)

• KEY ARGUMENTS AT A GLANCE

Prohibiting real-money online games — as the PROG Act, 2025 does under Rules effective May 1, 2026 — risks repeating the failed state-level experiments of Tamil Nadu and Karnataka by criminalising skill-based formats and pushing users to unregulated offshore platforms; a calibrated, licence-based regulatory architecture is a more effective public-health response.

✓ SUPPORTING

- Indian courts have consistently distinguished skill from chance — rummy (1968), horse racing (1996), fantasy sports (multiple HCs) — and bans that ignore this distinction have been struck down (Karnataka 2022; partial relief in Tamil Nadu).
- Betting and gambling are listed in Entry 34 of List II (State List); a sweeping central prohibition raises federal questions, even if the Union invokes Entry 31 of List I on communications and the IT Act, 2000.
- The 28 per cent GST on full face value of contest entry (effective October 2023) and a prohibition layered on top can hollow out a \$3-4 billion industry employing tens of thousands, without reducing user harm.
- International experience — UK Gambling Commission, Germany's GGL (2021), Singapore's GRA (2022) — shows that licensed regulation with KYC, deposit limits and self-exclusion outperforms prohibition.

⚠ COUNTER

Behavioural addiction, financial ruin among young users and money-laundering risks via offshore platforms are real; the Union argues that only a national prohibition can prevent state-level arbitrage and the social harm documented by NIMHANS and other centres.

→ WAY FORWARD

Amend the PROG Act to licence skill-based real-money games under an empowered Online Gaming Authority of India with mandatory KYC, deposit limits, self-exclusion (a

national GAMSTOP), risk-based taxation, and a problem-gambling treatment fund — while using IT Rules to block offshore betting sites.

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MAINS ANSWER FRAMEWORK

QUESTION

The Promotion and Regulation of Online Gaming Act, 2025 prohibits real-money online games while permitting esports and social games. Examine the constitutional, federal and public health implications of this approach. Suggest a regulatory architecture that protects users without driving them to offshore platforms. (250 words)

INTRODUCTION

The Promotion and Regulation of Online Gaming (PROG) Act, 2025, whose Rules came into force on May 1, 2026, marks the most ambitious attempt by the Union to govern a sector that until now had been the patchwork of State laws and judicial doctrines. The Act bans 'online money games', permits 'online social games' and 'online esports', and establishes an Online Gaming Authority of India. Each of these choices carries constitutional, federal and public-health consequences.

BODY

The constitutional architecture is contested. Entry 34 of List II places 'betting and gambling' on the State List.

The Union's reliance on Entry 31 of List I (communications) and the Information Technology Act, 2000 to regulate the *delivery channel* (the internet) is plausible but not unchallenged. State experiments offer a cautionary record: the Tamil Nadu Prohibition of Online Gambling and Regulation of Online Games Act, 2022 was partly struck down by the Madras High Court for its over-broad reach into skill games; the Karnataka Online Gaming Act, 2021 was struck down by the Karnataka High Court in 2022.

The Supreme Court has, since the *Satyannarayana* (1968) and *Lakshmanan* (1996) rulings, repeatedly distinguished games of skill from games of chance — most recently for fantasy sports. Layering a 28 per cent GST on full face value of contest entry (October 2023) and a near-prohibition on top of that creates a perfect environment for users to migrate to offshore betting platforms such as 1xBet, Parimatch and Stake — sites that ignore KYC, ignore Indian taxes and ignore Indian courts.

International regulators — the UK Gambling Commission under the Gambling Act, 2005, Germany's *Gemeinsame Glücksspielbehörde* (GGL) since 2021, and Singapore's Gambling Regulatory Authority

(GRA, 2022) — have, with different ideologies, all converged on the same answer: prohibition creates black markets; licensed regulation, with KYC, deposit limits, self-exclusion tools and a treatment fund, protects users better.

CONCLUSION

The PROG Act gets the diagnosis right — online money gaming carries real public-health risks — but its remedy of near-prohibition risks worsening the very harm it seeks to prevent. A calibrated licensing framework, harmonised with State concerns, with mandatory consumer-protection features and a dedicated problem-gambling fund, is the architecture that the Online Gaming Authority of India should now build.

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