

*Deepak Sood*

Secretary General

30 April 2024

Dear Mr. Singh

**ASSOCHAM Suggestions on TRAI Consultation Paper on “National Broadcast Policy”**

We, the Associated Chambers of Commerce and Industry of India (“ASSOCHAM”), are a not-for-profit industry body with an aim to strengthen India’s business and industry. We proactively work with policy makers and the civil society to strengthen India’s business and industry and thereby impact the economic and social development of the country.

We commend the Telecom Regulatory Authority of India (TRAI) for its proactive approach in initiating a consultation on the "National Broadcast Policy" on April 2nd, 2024. This initiative, built upon the foundational pre-consultation informed by the Ministry of Information and Broadcasting (MIB)'s reference, marks a significant milestone in fostering a comprehensive dialogue on this pivotal subject. We celebrate the synergy between TRAI and the MIB in their efforts to conceive a robust policy framework that will undoubtedly sculpt the broadcast sector's trajectory.

Broadcasting is the key constituent of India’s dynamic Media & Entertainment (M&E) sector and holds immense potential for growth. An enabling policy framework can provide the needed incentive for the broadcasting industry to capitalize on this potential and position India as a global leader in broadcasting. The National Broadcasting Policy (NBP) can be an important tool for this growth, by bringing forth policy principles to guide the development of the sector and increase its contributions to the Indian economy.

Before we outline our recommendations and suggestions for the NBP on a limited set of questions raised in the consultation paper, we would like to highlight few key principles that we request while drafting the policy.

**I. The NBP should ensure regulatory parity by between DD Free Dish and private DPOs:**

- Private DTH Operators have to follow the complex Regulatory framework of TRAI, but DD Free Dish operating on the same technology as a DTH operator, is not subject to similar regulations being a public broadcaster. The differential regulatory approach can be elaborated as under:
  1. DD Free Dish carries several channels that are pay channels for subscribers of other DPOs, whereas such channels are free for DD free Dish customers.
  2. There is no regulatory capping on carriage fee earned by DD Free Dish; it earns carriage fee as per the rate determined through the auction of its capacity.
  3. DD Free Dish boxes are open and use no encryption, hence are outside the purview of TRAI Interconnection Regulation
- These anomalies in the Licensing and Regulatory treatment have created an anti-competitive environment and a non-level playing field.
- **In order to ensure level playing field for all service providers, we request that mandates of extant regulatory regime on the DTH should be removed and private DTH operators should be allowed to operate on a business model akin to DD Free dish to address market needs and making television services more accessible and affordable.**

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## II. The NBP must facilitate the Ease of Doing Business by Promoting pricing forbearance:

To fuel the next phase of growth in the broadcasting sector, we recommend that the **NBP should focus on the regulatory principle of forbearance and simplification of regulatory framework.**

Forbearance is a key foundational principle in regulation. ‘**Regulatory forbearance**’ is not the absence of any regulation, but an evidence-driven approach. It refers to the regulator’s decision to forgo direct intervention if the operation of market forces can achieve desired outcomes and there is no evidence of market failure.

The TRAI’s NTO (i.e. New Tariff Order) framework regulates almost every aspect of broadcasting services. The NTO has caused widespread unrest, with prices going up for customers and choices of channels they could view- going down. The NTO, NTO 2.0 and NTO 3.0 have evidently failed to meet intended goals and have resulted in legal disputes within the sector.

There is an urgent and immediate need to revamp the whole regulatory framework. The DTH industry is operating in a highly complex and unsustainable environment and, therefore, the Authority should allow the market forces to play.

We urge TRAI to introduce forbearance in the Broadcasting industry to revamp this sector. It was also evident from the TRAI’s recent OHD on “*Review of Regulatory Framework for Broadcasting and Cable Services*” where none of the stakeholders were in favor of the current Regulatory framework of TRAI and rather recommended for forbearance.

Thus, NTO needs to be replaced by a new regulatory framework, based on forbearance.

This is also in line with international practices e.g. most countries (Australia, Singapore, China, South Korea, Hong Kong, New Zealand, Thailand, etc.) have chosen to adopt a light touch regulatory approach to tariff regulations of channels and related market practices.

In order to promote growth in this sector, it is essential that Regulators follow the same light touch regime for the broadcasting sector as was applied in the Telecom sector, thereby leading to tremendous success and growth of that sector. The broadcasting segment will also witness beneficial outcomes if the TRAI opts for forbearance. It will enable orderly growth, reduce prices, improve quality of service, and will ultimately benefit the consumer.

## III. The NBP should incorporate Regulatory Impact Analysis (RIA)

RIA provides a structured and systematic approach to evaluating the potential impacts of proposed regulations. It helps regulatory authorities make informed decisions by assessing the likely consequences and benefits of regulatory changes. RIA promotes transparency in the regulatory process, by ensuring regulators document and communicate the rationale behind their decisions, including the evidence and analysis used to support regulatory changes. This transparency builds trust with stakeholders and the public. **Incorporating RIA into National Broadcast Policy underscores a commitment to effective, transparent, and well-informed policymaking.**

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**IV. The NBP must acknowledge the requirement of introducing new services like Direct to Mobile (D2M) on the principle of Level Playing field**

. Recently, there have been discussions around the introduction of Direct to Mobile (D2M) broadcasting services on the free spectrum assigned through MIB. D2M services act as direct substitute for services rendered by Telecom Service Providers (TSPs) and thus, it is imperative to maintain a level playing field between D2M services and TSP services. Thus, it needs to be ensured that spectrum for D2M services is assigned through transparent method of auctions. Once the service provider acquires this spectrum through auctions by paying auction determined price, it should be allowed to deploy it for any service (i.e. D2M or Cellular Mobile Services). This will protect revenue for National Exchequer, as well as ensure level playing field.

**We now submit our response to specific questions i.e. Q3 (TV Dark Homes), Q.9 (online gaming), and Q.16 (Audience Measurement) in subsequent paragraphs:**

**Q3. Please suggest the strategies to be adopted by the Government and industry for propelling the growth of broadcasting sector w.r.t. the following: i. Provisioning of affordable television services in ‘TV Dark’ households; ii. Augmenting R&D capabilities and promoting indigenous manufacturing of broadcasting equipment; iii. Employment generation with emphasis on skill development; iv. Promotion of innovation led Start-ups and SMEs; v. Any other related area/strategy Please elaborate with detailed reasoning.**

**RESPONSE:**

**i. Provisioning of affordable television services in ‘TV Dark’ households:**

To tackle the challenge of television dark households, currently numbering at 100 million homes, we propose a holistic approach aligned with the overarching goal of achieving nationwide connectivity.

However, the regulatory imbalance between public service broadcaster and Private DPOs adversely affects the business viability of Private DPOs. DD free dish, which operates outside the regulatory framework, enjoys regulatory advantages over other DPOs and operates as Free to Air Platform. Several pay channels, which are paid channels on Private DPOs, are available at free of cost in DD Free Dish. Further, DD Free Dish earns astronomically higher carriage charges as compared to private DPOs since it assigns its channel capacity through auctions, whereas Private DPOs are mandated under the regulatory framework to on-board channels on first come first serve basis and by charging miniscule carriage fee.

Due to its free to air services, DD free dish is attracting customers of other DPOs and has grown astronomically whereas Private DPOs have lost customers. Thus, it is important that Public service broadcaster (DD free Dish) and Private DPOs are subject to same regulatory framework.

Alternatively, we recommend that private DPOs should be empowered to introduce innovative services, akin to DD Free Dish. This would help in creating a conducive environment for all stakeholders leading more competitive and affordable services to the customers that would ultimately help in connecting the TV dark households as well.

This strategic initiative not only aims to foster a more inclusive television ecosystem in underserved regions but also seeks to rejuvenate the private DPO industry within a timeframe of three to five years. By enabling private

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entities to cater to these segments, we envision a future where television access is more widespread, bridging coverage gaps and enriching the viewing experience for all.

In addition to the above, the following strategies will also foster a more inclusive television landscape:

- The DPOs should be allowed full forbearance from TRA’s NTO to offer affordable Free-To-Air (FTA) package options to make television services more accessible to a wider demographic.
- Implementing market based tailored pricing and bundling strategies for rural markets can help narrow the accessibility gap in these regions.
- Encouraging the reactivation of inactive set-top boxes through incentive schemes can also help expanding television access. By leveraging dormant resources, we can effectively extend the reach of television services without significant infrastructure investments.
- Developing curated content bundles specifically tailored for underpenetrated markets will ensure that programming aligns with the diverse preferences and requirements of these communities.

**Recommendations from our online gaming members pertaining to Question 9**, raised under sub-section ‘Issues for Consultation’ in the consultation paper that reads: Online gaming being a rising sector holds potential for contributing to economy, what policy and regulatory aspects should be adopted for the orderly growth of online gaming in India? Further, suggest measures to support local game developers to compete and grow. Also suggest safeguards to protect the general public (especially underage players) from negative and psychological side effects, while promoting healthy gaming.

For clarity in response, we have divided the question number 9 formulated under the following three heads:-

- A. What policy and regulatory aspects should be adapted for the orderly growth of online gaming in India
- B. Suggest measures to support local game developers to compete and grow
- C. Suggest safeguards to protect general public (especially under age players) from negative and psychological side effects while promoting healthy gaming

Before we delve into responding to the above question in detail, it is imperative to note the economic contributions of online gaming to the country, as also mentioned in the question

Gaming in India has changed from a niche domain to a global phenomenon and is no longer limited to arcade and strategy games. The Indian gaming industry experienced a significant transformation in 2023, marked by a newfound regulatory stability that had long been anticipated. According to a comprehensive industry analysis conducted by Lumikai, the Indian gaming sector boasted a value of USD 3.1 billion in 2023, with projections indicating a substantial growth trajectory to reach USD 7.5 billion by 2028. This burgeoning sector is supported by a vast audience of 568 million gamers within the country, with a notable 25% comprising paying users. As per an analysis by MoEngage, the trajectory of mobile games in India is poised to soar to a staggering \$8.7 billion by 2027. Notably, the industry’s appeal is driven by a diverse range of offerings including real money skill games, casual and social games, as well as e-sports, among other engaging experiences.

Further, the gaming audience is evolving. The biggest trends include cloud gaming, casual gaming, mobile gaming, VR/AR, diversity in gaming, Esports, play to earn games, web3.0 etc.

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According to an EY report titled “New Frontiers: Navigating the Evolving Landscape for Online Gaming in India”, the online gaming market grew at 28% CAGR from FY 2020-23 to rupees 16428 crores. The industry is projected to maintain a 15% CAGR till FY 28. RMG accounts for 83% of the online gaming market share..

The country has also seen over the last few years the mobile momentum where in India ranks as the top mobile apps downloads in the world showing the digital engagement of the nation. This meteoric growth is primarily catalysed by the digital upsurge, characterised by the proliferation of affordable smart phones and data plans, enabling millions to possess a gaming device. This trend not only positions India as a burgeoning gaming epicentre but also underscores its evolution into a veritable gaming haven.

In the realm of casual and social gaming, the Indian market continues to exhibit robust growth. The industry's expansion is predominantly fueled by an increase in in-app purchases within casual games, alongside burgeoning revenue streams from in-game advertising. Social games, characterized by their absence of entry fees and the non-provision of monetary or valuable prizes, do not fall under the gambling category as per the Gaming Enactments, thereby enjoying widespread appeal across the country.

The gaming industry is seeing more tech changes that are changing the way players play in virtual worlds. Cloud gaming, VR, AR, ray tracing, cross platform games and the E-sports scene are all changing the gaming experience. Plus, mobile gaming is taking off, especially for online slot fans.

Further the introduction of 5G technology has a potential to revolutionise online gaming by removing connectivity barriers. High speed connectivity and low latency are particularly advantageous for cloud gaming and VR/AR. The combination of 5G and VR/AR has a potential to make gaming accessible to a wide range of users regardless of their hardware level. The gamers in tier2 and tier3 cities would also be able to enjoy now a new level of virtual adventure. The gaming landscape of the future is a dynamic combination of technology and creativity where players are transported to infinite virtual worlds. Clearly, the gaming landscape is undergoing a transformative renaissance, catalyzed by a mélange of cutting-edge technologies that are redefining the very essence of virtual interaction.

Simultaneously, artificial intelligence (AI) and machine learning (ML) are orchestrating a quiet revolution from within the industry's core. Game developers wield these tools with masterful precision, sculpting intricate worlds and tailoring the gaming journey to the individual. AI breathes life into Non-Player Characters (NPCs), endowing them with a semblance of cognition that challenges and adapts to the player's own strategy and skill. The advent of adaptive difficulty and intelligent support systems serves not only to bolster engagement but to craft a gaming narrative that is as unique as the player themselves.

As we peer into the horizon, it is clear that the gaming industry is not merely changing; it is ascending to new frontiers of possibility. The future of gaming is not just dynamic; it is a vivid tapestry of innovation, woven with the threads of human ingenuity and technological prowess.

#### **D. Policy and regulatory aspects should be adopted for the orderly growth of online gaming in India**

Unlocking the true potential of the sector and attracting investments hinges on the establishment of a uniform and stable regulatory framework. Such clarity is paramount to instilling confidence among investors and stakeholders, fostering an environment conducive to sustainable growth and innovation within the industry.

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It's important to highlight that the Central Government, in collaboration with multiple ministries, has been establishing measures to construct a robust regulatory framework for online gaming in India. These efforts underscore the government's commitment to creating a conducive and well-regulated environment for the online gaming industry in India.

a. Ministry of Electronics and Information Technology (MeitY)

In response to concerns expressed in various court cases regarding the regulation of online gaming, decisive action was taken by the Cabinet Secretary in May 2022. An Inter-Ministerial Task Force (IMTF) was convened, comprising a distinguished panel. This task force was charged with the responsibility of formulating regulatory frameworks for the online gaming industry and designating a nodal ministry to oversee its operations. After extensive stakeholder consultations, the IMTF submitted its comprehensive findings to the Cabinet Secretary. Based on the recommendations put forth by the IMTF, significant strides were made. On December 23, 2022, amendments to the Government of India (Allocation of Business) Rules, 1961 were enacted, officially appointing the Ministry of Electronics and Information Technology (MeitY) as the designated nodal ministry responsible for overseeing all matters concerning online gaming.

MeitY further issued a notification dated April 6, 2023, amending the IT Rules, thereby laying the groundwork for a regulatory framework tailored to online gaming intermediaries. This framework adopts a three-tiered approach:

- Tier 1 emphasizes self-compliance, due diligence, and grievance redressal by the online gaming intermediary itself.
- Tier 2 introduces Self-Regulatory Bodies (SRBs) designated by MeitY, aiming to strike a balance between industry autonomy and regulatory supervision.
- Tier 3 comprises MeitY and Grievance Appellate Committee, ensuring a structured mechanism for addressing grievances and appeals.

According to the IT Rules, MeitY will designate SRBs responsible for certifying and verifying online games as permissible online real money games. While the process of notifying SRBs is currently underway, their role will be pivotal in certifying games that adhere to responsible gaming standards and safeguard users from potential risks associated with online gaming. Although the formal establishment of SRBs is pending, MeitY's proactive approach signifies ongoing progress towards a comprehensive regulatory framework for the online gaming sector."

b. Ministry of Finance

In a significant legislative move, the Central Government, through The Finance Act of 2023, introduced amendments to the Income Tax Act of 1961, aimed at establishing a distinct treatment for online gaming separate from that of gambling and betting. These amendments encompass provisions for the deduction of Tax Deducted at Source (TDS) and Income Tax on winnings derived from online gaming activities. Such measures underscore the government's steadfast commitment to fostering a structured and regulated environment for the online gaming industry, while concurrently ensuring the implementation of appropriate taxation protocols.

Furthermore, in a bid to streamline taxation procedures, the Ministry of Finance recently issued an amendment to the GST Law, effective from October 1<sup>st</sup>, 2023. This amendment mandates that all online gaming activities are subject to a GST rate of 28% on the face value of every deposit made. This proactive step by the Ministry of Finance reflects ongoing efforts to align taxation policies with the evolving landscape of the online gaming sector, thereby promoting fiscal transparency and accountability within the industry.

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Despite affirmative actions of the Government of India to promote and regulate online gaming and the settled legal position on games of skill, the tax authorities have issued several notices for GST dues to online gaming companies. As per the response to a Parliament question, notices have been issued to 71 online gaming companies so far, amounting to Rs 1.12 lakh crore. This sum would equate to approximately eight times the total annual revenue of the entire sector, estimated to be around Rs 20,000 crore, with the majority of the 400 skill gaming companies still in their growth phases that are already grappling with profitability challenges. Moreover, the claims against these companies surpass their combined enterprise value by a significant margin. Consequently, it is evident that the industry will be unable to meet the tax liabilities and penalties imposed by the authorities.

c. Ministry of Home Affairs

Empowered by Section 69A, the Central Government holds the authority to instruct any government agency or intermediary to restrict public access to any information within a computer resource. This directive is issued when deemed necessary to safeguard the sovereignty, integrity, and defense of India, ensure national security, foster friendly relations with foreign states, or maintain public order. Acting upon recommendations from the Ministry of Home Affairs ('MHA'), the Ministry of Electronics and Information Technology (MeitY) has invoked its powers under Section 69A to block over 230 illegal betting and gambling apps.

d. Ministry of Information and Broadcasting (MIB)

The Ministry of Information and Broadcasting has issued multiple advisories<sup>1</sup> to newspapers, digital news publishers, and private satellite TV channels, urging them to refrain from publishing advertisements promoting online betting and gambling platforms.

e. Ministry of Consumer Affairs

The Ministry of Consumer Affairs also recently issued an advisory<sup>2</sup> stating that any advertisement or endorsement, whether directly or indirectly, of activities which are otherwise prohibited by law, including but not limited to betting or gambling, through advertisements or promotions, shall be subject to rigorous scrutiny.

f. Advertising Standards Council of India (ASCI)

ASCI's Guidelines for 'Online Gaming for Real Money Winnings' advocate for the inclusion of clear and prominent disclaimers in advertisements for online real money games, aimed at informing consumers about the financial risks associated with such activities. Although ASCI functions as a self-regulatory body, advertisements for online real money games that fail to comply with ASCI's guidelines may still face thorough scrutiny from MIB based on ASCI's recommendations.

Certain key points to be taken into consideration while drafting National Broadcasting Policy – 2024.

- MeitY has been designated as the nodal Ministry for Online Gaming by virtue of amendments to the Government of India (Allocation of Business Rules) 1961. Further to this, MeitY issued amendments to IT Rules 2021 for regulating online gaming including online real money gaming, however the rules are yet to be operationalised.

<sup>1</sup> <https://mib.gov.in/sites/default/files/Advisory%20dated%2025.08.2023%20with%20enclosures.pdf>;  
<https://mib.gov.in/sites/default/files/Advisory%20dated%2021.03.2021%20%281%29.pdf>;  
<https://mib.gov.in/sites/default/files/06.04.2023%20Advisory%20on%20Betting%20Advertisements.pdf>;  
<https://mib.gov.in/sites/default/files/Advisory%20on%20online%20betting%20advertisements%2013.06.2022.pdf>

<sup>2</sup> <https://mib.gov.in/sites/default/files/Advisory%20dated%2021.03.2021%20%281%29.pdf>

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- Online real money gaming is only available to play for adults. It is important to emphasise that online real money gaming is strictly limited to adults and all online real money gaming intermediaries have universally implemented age gating practices prioritizing consumer protection and regulatory compliance
- Legitimate Indian online gaming intermediaries have adopted voluntary measures for enhancing user protection. The voluntary code of ethics has been drafted taking into account international best practices around responsible gaming practices, protection of minors, fair gaming policies, financial safeguards, responsible advertising, and other measures aimed at ensuring the delivery of safe, secure, and reliable gaming services.
- Online gaming is at the core of the Animation, Visual, Gaming and Comics Sector as highlighted by MIB in their Draft Model State Policy for Animation, Visual, Gaming and Comics (AVGC)<sup>3</sup> Therefore, although gaming contributes to the expansion of the broader Media and Entertainment sector, it stands as a distinct category as part of the AVGC sector. As per EY report<sup>4</sup>, online real money gaming sub-segment constitutes a substantial part of the online gaming ecosystem, comprising 82.8% of the market share in FY23.
- Involvement of money does not change the nature of online game. It is important to note that online gaming can be games played with or without money as also identified in the IT Rules. It is imperative to underscore that the presence of money does not fundamentally change the nature of the game or the elements of skill and/or chance involved in it.
- IT Rules provide for detailed framework for responsible gaming. Further, the IT Rules also obligate Self Regulatory Bodies to develop a framework addressing issues pertaining to, *inter alia*, user harm, addiction and financial loss.

Bearing in mind the existing state of regulations, it is imperative to ensure balanced growth while prioritizing user protection. **Thus, we propose that MeitY considers the following recommendation:**

- Implementing Amended IT Rules** to establish robust governance, administration, and regulation of the online gaming industry. These rules have been meticulously crafted through extensive consultations with stakeholders, embodying principles aimed at fostering an environment of openness, safety, transparency, and accountability within the online gaming sphere. In the event of any overarching concerns regarding the regulatory framework, prompt amendments should be considered to address them and eliminate any regulatory ambiguities.

In addition to the existing three-tier regulatory structure delineated in the IT Rules, MeitY may notify SRBs under the IT Rules on an urgent basis. In addition to the existing regulatory structure, the government can explore the adoption of an alternative three tier regulatory model akin to OTT platforms to further bolster oversight and independence of the regulatory framework.

- Or any other appropriate framework as MeitY may deem fit
- Introduction of a Registration Mechanism mandating all online gaming intermediaries to register with MeitY could ensure that only legitimate platforms operate within India. This would promote transparency, accountability, and consumer protection within the online gaming ecosystem.

<sup>3</sup>[https://mib.gov.in/sites/default/files/Annexure%20D\\_Draft%20Model%20State%20Policy%20for%20AVGC-XR%20Sector.pdf](https://mib.gov.in/sites/default/files/Annexure%20D_Draft%20Model%20State%20Policy%20for%20AVGC-XR%20Sector.pdf)

<sup>4</sup>[https://assets.ey.com/content/dam/ey-sites/ey-com/en\\_in/topics/media-and-entertainment/2023/12/ey-new-frontier-online-gaming-report.pdf](https://assets.ey.com/content/dam/ey-sites/ey-com/en_in/topics/media-and-entertainment/2023/12/ey-new-frontier-online-gaming-report.pdf)

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To fortify the regulatory framework's resilience, MeitY should conduct periodic reviews of the effectiveness of the IT Rules and introduce additional safeguards as necessary.

- b. **Formalise advisories by MIB and the Ministry of Consumer Affairs into enforceable regulations** to limit the advertisement and endorsements of betting and gambling platforms. Further, stringent and consistent action could be taken against such illicit platforms. Thus, MeitY may consider adding specific obligations pertaining to advertisements under Code of Ethics in Part III of the IT Rules to prohibit publishers of news and current affairs and publishers of online curated content from running any advertisements, surrogate or otherwise with respect to online betting and gambling platforms.
- c. **Issuance of a clarification to levy GST on "as-is" basis for the time period between July 2017 to September 2023:** If show cause notices and demands are enforced, the online gaming sector, being considered as a sunrise sector of the Indian digital economy will cease to exist, resulting in severe repercussions including job losses, diminished foreign direct investments (FDIs), and decreased tax revenues. Hence, Ministry of Finance should intervene in this matter and issue a clarification to levy GST on "as-is" basis for the time period between July 2017 to September 2023.

## **B. Promoting indigenous game development in India**

Gaming offers an immersive platform for preserving heritage and sharing it with the world in contemporary formats. Besides its potential for development of indigenous content and IP, it can also contribute to a nation's GDP and economic growth through employment generation, investments and revenue to the exchequer.

The Ministry of Information & Broadcasting (MIB) has initiated various efforts, including the draft national promotion policy for Animation, Visual Effects, Gaming, and Comics (AVGC), to position India as a global gaming and AVGC hub. Many states (Karnataka<sup>5</sup>, Kerala<sup>6</sup>) have also introduced or are developing AVGC policies to support local game development. These initiatives, along with the proposed establishment of Centers of Excellence (CoEs) and the creation of a nodal agency under MIB, underscore the government's commitment to fostering the growth of the gaming industry.

### **Recommendations:**

- a. Finalizing and promptly notifying the national AVGC policy is crucial, with dedicated oversight and coordination between state and central governments to foster comprehensive development and regulation of online gaming in India.
- b. Enhancing synergy between state and central governments is vital for holistic development and regulation of online games in India. Through policy alignment, sharing of best practices, and coordinated efforts, both levels of government can collaboratively nurture a dynamic and sustainable gaming ecosystem.

- E. **Safeguards to protect the general public (especially underage players) from negative and psychological side effects, while promoting healthy gaming.**

<sup>5</sup> <https://itbtst.karnataka.gov.in/storage/pdf-files/DraftAVGCPolicy.pdf>

<sup>6</sup> <https://avgcpolicy.startupmission.in/>

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As previously noted, participation in online real money gaming is exclusively restricted to adults, with industry operators universally adopting age gating practices. Through these measures, operators prioritize consumer protection and regulatory compliance, guaranteeing that only individuals aged 18 and above can access online real money gaming platforms. Moreover, operators are placing greater emphasis on promoting responsible and healthy gaming practices. For example, they are setting single transaction limits, regularly notifying users of their accrued losses or gaming duration, and advising users to take regular breaks or timeouts from gaming activities.

Additionally, IT Rules prescribe a comprehensive set of responsible gaming measures, including restrictions on hosting and advertising for non-permissible online real money games. Some of the other obligations imposed on online gaming intermediaries under IT Rules are as follows:

- a. Online gaming intermediaries are required to prominently display a mark of registration on all games approved by the Self-Regulatory Bodies (SRBs);
- b. Similar to entities regulated by the Reserve Bank of India (RBI), online gaming intermediaries must adhere to Know Your Customer (KYC) requirements to verify the identity of users;
- c. Intermediaries are mandated to provide users with comprehensive information regarding online games, potential financial risks, KYC requirements, and the registration process with SRBs, all of which must be outlined in the terms and conditions;
- d. Online gaming intermediaries are obligated to appoint a Grievance Officer, Chief Compliance Officer, and Nodal Officer, all of whom must be employees of the organization and residents of India;
- e. Online gaming intermediaries are responsible for ensuring timely grievance redressal and publishing monthly compliance reports;
- f. Online gaming intermediaries are prohibited from extending financial services, such as credit, and from facilitating financing offered by third parties.

Until the appointment of Self-Regulatory Bodies (SRBs) by MeitY, industry federations have collaboratively implemented a voluntary code of ethics. This code, endorsed by associations such as AIGF, EGF, and FIFS, encompasses responsible gaming practices, protection of minors, fair gaming policies, financial safeguards, and responsible advertising. Compliance with this voluntary code demonstrates the industry's commitment to upholding ethical standards and ensuring consumer trust.

**Recommendation:** While the safeguards to protect the general public are already, prompt enforcement of the IT Rules is crucial to ensuring user safety and fostering the industry's orderly growth.

#### **To summarise, we make the following submissions**

1. There is a pressing need to operationalize Amended IT Rules 2021, laid out by MeitY to ensure responsible growth of the industry while safeguarding consumer interests and safety; Also, this will enable the relevant stakeholders to clearly identify and differentiate between what is legitimate and what is not.
2. MIB, Ministry of Consumer Affairs and ASCI have time and again issued guidelines to prevent advertisement of online betting and gambling platforms, yet there remains a need for stronger legal enforcement. For this purpose, MeitY may consider inserting specific obligations under Code of Ethics in Part III of the IT Rules to prohibit publishers from running such advertisements, surrogate or otherwise.
3. Online gaming is at the heart of the AVGC sector. For holistic development and regulation, the prompt finalisation and notification of a national AVGC policy is essential, accompanied by dedicated oversight and coordination between state and central governments.

### **THE ASSOCIATED CHAMBERS OF COMMERCE AND INDUSTRY OF INDIA**

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4. The GST Council could consider issuing clarification in accordance with Section 11 of the CGST Act or Section 6 of the IGST Act, along with parallel provisions in the state GST Acts. This clarification would pertain to the period before October 2023 (specifically, from July 2017 to September 2023), indicating that the GST for online gaming shall remain on an “as-is basis,” having been applied at 18% on the platform fees collected.

**Q16. How the strategies with respect to audience measurement and rating system in National Broadcasting Policy can ensure, address and encourage: i. Establishment of a transparent, credible, and technologically equipped television audience measurement system that accurately reflects viewer preferences and behaviour ii. Expansion of the sample size to adequately represent the diverse landscape of television viewership, considering the anticipated growth in TV households iii. Integration of data from non-linear sources from digital media to cover cross-platform content consumption habits iv. Establishing a policy framework for conducting radio audience measurement in India v. Encouraging multiple agencies to ensure healthy competition and enhancing service quality of measurement and methodologies vi. Adoption and utilization of modern technologies**

#### RESPONSE

One of the Goals envisaged in the NBP include ‘Encouraging Robust Audience Measurement towards Greater Transparency and Hygiene in TV and Radio Broadcasting’. National Broadcasting Policy should thus, include steps to encourage competition within the audience measurement space by removing any invisible barriers.

- Accordingly, the NBP should recommend specific measures necessary for making the audience measurement system robust, transparent and accountable to all stakeholders and only prescribe light touch regulation with simple registration in the audience measurement system and tools by which prices are determined in this market.
- Any registered distribution platform by virtue of his relationship with the customers should be allowed to gather insights and share it with interested stakeholders, as long as it is in compliance with the prevalent Data protection laws. The regulator / MIB may prescribe a guidance-based approach to ensure fairness, neutrality and transparency.

Thank you for considering our perspectives and recommendations. We stand ready to contribute further to the ongoing dialogue and collaborate towards the realization of a robust National Broadcast Policy that reflects the aspirations of all stakeholders.

With regards,



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