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Advisor (B&CS),
Telecom Regulatory Authority of India,
Government of India

30th April 2024

Dear Sir,

Subject: Submission of Comments on TRAI's Consultation Paper on the National Broadcasting Policy 2024.

Greetings from IndiaTech.org!

By way of introduction, I represent IndiaTech.Org, an industry association set up by founders of Indian start-ups, unicorns and investors with an objective of building India as the world's largest and most successful internet commerce ecosystem in India. The organization serves as a collaborative platform for addressing key ecosystem related policy issues.

We are writing to you today to submit our comments on the Telecom Regulatory Authority of India's Consultation Paper on National Broadcasting Policy 2024. We sincerely hope the following recommendations will serve as a briefing note on the online gaming industry in India for the esteemed consultants involved in the development of the abovementioned policy and provide an overview of the sentiments of the stakeholders we represent as an industry association.

Preliminary Considerations

- 1. Alignment with the Existing Framework:** We propose that the definition of online gaming in paragraph 2.81 of the National Broadcasting Policy, 2024 should be harmonized with the established definition within the Information Technology (IT) Rules, 2021.
- 2. Regulatory Clarity:** Online gaming currently falls under the purview of the Ministry of Electronics and Information Technology. We advocate for continued regulation by MeitY to ensure consistency and avoid potential confusion.
- 3. Consumer Protection:** Paragraph 2.84 of the National Broadcasting Policy, 2024 necessitates further elaboration on consumer protection measures, particularly those safeguarding users from financial risks.
- 4. Industry Nuances:** Online gaming industry has distinct operators– pay-to-play and free-to-play. Age gating practices are strictly enforced for pay-to-play games to ensure responsible participation.
- 5. Industry Classification:** It is essential to recognize online gaming as part of the AVGC (Animation, Visual Effects, Gaming, and Comics) sector. While the AVGC sector contributes significantly to the Media & Entertainment (M&E) sector, it should not be considered its sub-segment.

The Online Gaming Industry in India

India boasts the world's second-largest gaming community, exceeding 42.5 crore gamers. Projections indicate that the online gaming industry would surpass the combined revenue of movies, music, and television within the next few years. Further, it is the fastest growing segment within India's media and entertainment landscape. The Hon'ble Prime Minister has highlighted the immense potential this sector holds to fuel the "Create in India" and "Brand India" initiatives of the government. His vision is to transform India into a global hub for game developers and gaming services.

The gaming sector is poised for exponential growth, with projections indicating a CAGR of 21% reaching INR 388 billion by 2026, where Real Money Gaming (RMG) is expected to command an 83% revenue share. The sector directly and indirectly employs 1 Lakh individuals with the prospect of expanding to 2.5 Lakh job opportunities by 2025. The sector has also attracted investments amounting to around INR 22,931Cr between FY 2020 & FY 2024 from both domestic and international sources. Furthermore, it is anticipated that the RMG sector will contribute an estimated Rs 6,500-6,800 crore in direct tax revenue and Rs 75,000-76,000 crore in indirect tax revenue (GST) to the government's coffers during the fiscal years spanning 2024 to 2028.

However, despite the large user base, India currently holds a mere 1% share of the global online gaming market. A uniform and well-defined framework is critical for fostering orderly growth within the online gaming industry. It will provide investors with the clarity they seek, ultimately leading to increased investment and innovation within the sector.

Current Regulatory Framework of Online Gaming by MeitY

The Ministry of Electronics and Information Technology has already initiated commendable measures towards establishing a comprehensive regulatory structure for online gaming–

- a. An Inter-Ministerial Task Force was constituted, which was composed of seven secretaries from various Ministries to analyze and provide recommendations on a regulatory framework for online gaming.
- b. After the IMTF report, the Cabinet Secretary amended the Allocation of Business Rules and allocated the subject matter of online gaming to the Ministry of Electronics and Information Technology, while e-sports came under the purview of the Ministry of Youth Affairs and Sports.
- c. The Ministry of Electronics and Information Technology introduced amendments to the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 to bring forth a regulatory framework for online gaming. The framework establishes a two-tier structure–
 - i. Tier 1 focuses on self-compliance, due diligence, and grievance redressal by the online gaming intermediary itself.

- ii. Tier 2 entails the creation of Self-Regulated Bodies (SRBs) designated by MeitY who shall function with limited government oversight.

The Rules apply only to permissible online real money games, i.e., games that are verified by the SRB as not wagering on any outcome and are offered by the online gaming intermediary complying with the due diligence requirements under the IT Rules. SRBs are also mandated to introduce a framework on protecting users from the risk of addiction, financial loss, etc. However, the creation of SRBs are yet to be notified by the Ministry of Electronics and Information Technology.

Online gaming is thus an occupied field and falls under the purview of the Ministry of Electronics and Information Technology and therefore, should continue to be regulated under the scheme of IT Rules.

- a. A Self-Regulatory Organization (SRO) is yet to be notified. Once SRO is notified, only online games that are registered with the SRBs shall be allowed to operate. Illegal offshore operators in the online gaming industry are the ones causing user harm and are not accountable to the consumers nor do they comply with the Indian regulations. The role of the SRO thus covers all aspects of regulation– from regulating game formats to adjudicating disputes, to introducing proper frameworks for safeguarding users from the risk of addiction, financial loss, etc.
- b. Further, there are content specific rules and regulations as well. The Ministry of Information and Broadcasting as well as the Advertising Standards Council of India have issued advisories with respect to advertisements of betting and gambling activities as well as advertisements of online games.
- c. The Ministry of Electronics and Information Technology in consultation with the Ministry of Home Affairs has recently banned some online gaming apps. However, the need of the hour is to bring IT Rules into effect for regulating the online gaming industry.

Potential Regulatory Models for the Online Gaming Industry

While the two-tier structure outlined in the IT Rules offers a solid foundation, the Ministry of Electronics and Information Technology can explore additional models to further strengthen the regulatory framework.

- a. A three-tier model, similar to the one governing Over-the-Top (OTT) platforms, could be considered.
- b. A single independent regulator could be an option; However, it is essential to acknowledge that a regulator operating in isolation from industry participation may hinder innovation and impede the growth of this emerging sector.
- c. Introducing a registration mechanism with the Ministry of Electronics and Information Technology for all online gaming intermediaries would enhance transparency and ensure that only legitimate platforms operate in India.

- d. Promoting indigenous game development in India–
- i. Gaming can bring life to Indian culture, art, and stories like no other medium can and help preserve our heritage and pass it to the world in contemporary formats. It can also increase India's exports by creating a global market for Indian-made intellectual property and products.
 - ii. The Ministry of Information and Broadcasting has already been taking various measures to accelerate India's transformation into a global gaming and AVGC Hub.
 1. This is evidenced by the creation of an AVGC Promotion Task Force in 2022 as well as a Draft National Policy for the Growth of AVGC.
 2. Online Gaming forms the core of the AVGC sector, and its contributions should be highlighted in the draft policy.
 - iii. Several states like Karnataka, Maharashtra, and Telangana already have AVGC policies in place and are in rapid pace of growth.
 - iv. Initiatives like these can help catalyze game development in the country and increase India's share at the global level. Therefore–
 1. The National AVGC Policy should be finalized and notified at the earliest.
 2. The proposed National Centre of Excellence and regional Centers of Excellence under the policy would be crucial to realize the government's vision for enabling local game development.
 3. The National AVGC Policy also proposes setting up a nodal agency under the Ministry of Information and Broadcasting to closely monitor the growth of this sector. It is recommended that a dedicated sub-group also be created for online gaming within the agency under the aegis of the Ministry of Electronics and Information Technology.

The Ministry of Electronics and Information Technology should suggest safeguards and measures to protect the general public, especially underage players, from negative and psychological side effects, while promoting healthy gaming.

- a. Age-gating measures should be recommended. It is important to note that real-money gaming is only available for users who are above the age of 18.
- b. The IT Rules already prescribe a comprehensive set of responsible gaming measures–
 - i. Any intermediary shall not host:
 1. Any online real money game that is not verified by a Self-Regulatory Body (SRB).
 2. Advertisements of online games which are not permissible.
 - ii. Online gaming intermediaries are obligated to display a visible mark of regulation on all games registered with the SRB.
 - iii. KYC obligations similar to those of RBI regulated entities should be complied to.
 - iv. Provide information regarding online games, risk of financial loss, KYC requirements, registration with SRB, to the users in the terms and conditions.
 - v. Requirement of appointment of a Grievance Officer, Chief Compliance Officer, and a Nodal Officer is compulsory– all of them have to be employees of the online gaming intermediary and residents of India.

- vi. The online gaming intermediary will need to ensure time bound grievance redressal and publish a monthly compliance report.
- vii. The online gaming intermediary shall not itself by way of credit or enable financing to be offered by a third party.

The appointment of Self-Regulatory Organizations (SROs), therefore can be expedited to bring these into force.

- c. IAMAI (Internet and Mobile Association of India)'s Voluntary Code of Ethics
 - i. Till the time the Ministry of Electronics and Information technology appoints SROs, the industry federations have come together and adopted a voluntary code of ethics to ensure uniform adoption of responsible gaming standards.
 - ii. These industry associations, namely AIGF (All India Gaming Federation), EGF (E-Gaming Federation), and FIFS (Federation of India Fantasy Sports) – collaborated to endorse this voluntary code of ethics. This code includes responsible gaming measures that all their members are expected to adhere to.
 - iii. It provides for measures to be taken by the members on responsible gaming, safeguards for minors, fair gaming policies, financial safeguards, responsible advertising to name a few– to ensure a safe, secure, and reliable gaming service.

IndiaTech.org offers to collaborate with the government on behalf of the online gaming industry, aiming for the incorporation of our recommendations to facilitate clarity and ease of doing business in this rising sector of the economy. Given the current engagement of numerous customers and the enthusiasm of investors, we kindly hope that our suggestions will be taken into account. We express gratitude in advance for your thoughtful consideration.

Yours Sincerely,



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