

## CUTS Submission to MeitY on Online Gaming Regulations

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### About CUTS

In its 39 years of existence, CUTS has come a long way from being a grassroots consumer-centric organisation based in Jaipur to opening overseas Resource Centres in Africa,<sup>1</sup> Switzerland,<sup>2</sup> Vietnam,<sup>3</sup> and most recently in the United States of America.<sup>4</sup> It continues to remain an independent, nonpartisan, and non-profit economic policy think tank while opening various programme centres. It has been working towards enhancing the regulatory environment through evidence-backed policy and governance-related interventions across various sectors and national boundaries. Further details about CUTS are available [here](#).

Being a consumer organisation, CUTS keeps a close watch on concerns relating to the digital economy including online gaming<sup>5</sup> and continuously engages with the government to highlight the views of consumers.<sup>6</sup> CUTS had also submitted comments on the recent Rajasthan Virtual Online Sports (Regulation) Bill, 2022<sup>7</sup>, Niti Aayog's Draft Guiding Principle for the Uniform National-Level Regulation of Online Fantasy Sports Platforms in India<sup>8</sup> and highlighted the regulatory uncertainty persisting the online gaming sector.<sup>9</sup>

### Submissions on Online Gaming

#### a. Legality of Online Gaming Platforms:

There is a need that regulations that concern the Online Gaming Industry clearly define games of skill and games of chance, based upon the several judgements given by various High Courts and the Supreme Court and lay down the conditionalities for an online game being qualified as a game of skill. The regulations need to include all forms of skill-based pay to play online games so that regulatory uncertainty can be avoided.<sup>10</sup>

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<sup>1</sup> <http://www.cuts-international.org/ARC/>

<sup>2</sup> <http://www.cuts-geneva.org/>

<sup>3</sup> <http://www.cuts-hrc.org/>

<sup>4</sup> <http://www.cuts-wdc.org/>

<sup>5</sup> CUTS work on Digital Economy, <https://cuts-ccier.org/digital-economy/>

<sup>6</sup> CUTS Advocacy efforts, <https://cuts-ccier.org/advocacy/>

<sup>7</sup> CUTS Comments on Rajasthan Virtual Online Sports (Regulation) Bill, 2022

<https://cuts-ccier.org/pdf/comments-on-rajasthan-virtual-online-sports-regulation-2022-bill.pdf>

<sup>8</sup> CUTS Response to Niti Aayog's Draft Guiding Principle for the Uniform National-Level Regulation of Online Fantasy Sports Platforms in India <https://cuts-ccier.org/pdf/comments-on-principles-for-online-fantasy-sports-platforms.pdf>

<sup>9</sup> CUTS Discussion Paper Impact of Regulatory Uncertainty on Ease of Doing Digital Business. [https://cuts-ccier.org/pdf/dp-impact\\_of\\_regulatory\\_uncertainty\\_on\\_ease\\_of\\_doing\\_digital\\_business.pdf](https://cuts-ccier.org/pdf/dp-impact_of_regulatory_uncertainty_on_ease_of_doing_digital_business.pdf)

<sup>10</sup> *Ibid.*

## **b. Provisions for Consumer Protection and Grievance Redressal:**

Online gaming platforms are growing in popularity as a greater number of consumers (in this case, the gamers/players) are joining different sports engagement platforms. Creating a regulatory framework for the online gaming industry will encourage consumers to actively participate and help the industry grow. While most of the SROs provide for grievance redressal and player protection, these are not enforceable. There is a need to protect the rights of consumers. Thus, regulations should have provisions for consumer grievance redressal and consumer protection. In this regard, an appeals mechanism to the consumers, in case their grievances are not addressed should be provided.

CUTS recommends a tiered mechanism for grievance redressal of consumers which should be mandated through statutory provisions in regulations. At the first step, grievances should be solved by the online game platform. If it fails, consumers should have the right to appeal to the Self Regulatory Organisations (SROs) which should have an Ombudsperson to address the grievances. If grievances still remain unaddressed, consumers should have the opportunity to go to the Independent Board.<sup>11</sup> In this regard, credible consumer organisations may also be engaged by the SROs for redressal of consumer grievances.

Further, SROs should also be mandated to carry out awareness generation and capacity building campaigns for consumers, guidelines for which may be prescribed by the regulations. Such campaigns should include making consumers aware about how to play games safely, and how to ensure grievance redressal, among others. These may be included in the SRO's charter, code of ethics and governance. In this regard, SROs may also collaborate with consumer groups to create awareness.<sup>12</sup>

## **c. Setting up an Independent Board to Monitor SROs**

In the guise of light touch regulation, complete outsourcing and delegation of regulation making power to SROs should be avoided. It is essential that any regulation that regulates the industry, constitutes and defines the composition of an independent board. This independent board should act as a bridge between the government and the industry.

Further, this independent board should include representation from stakeholders in the online gaming industry, player bodies, academia and the government. The independent board needs to function in a co-regulatory model, where the independent board provides broader guiding principles to SROs which they may use for performing day to day functions like jointly designing the code of conduct with online gaming platforms, player representation bodies etc., before issuing to sports engagement platforms, etc.

Further, the independent board should be required to keep a close watch on the working of the SROs. In this regard, mandating submission of periodic reports by the SROs on their working which will bring in transparency and accountability should be explored.

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<sup>11</sup> CUTS Comments on Rajasthan Virtual Online Sports (Regulation) Bill, 2022

<https://cuts-ccier.org/pdf/comments-on-rajasthan-virtual-online-sports-regulation-2022-bill.pdf>

<sup>12</sup> CUTS Response to Niti Aayog's Draft Guiding Principle for the Uniform National-Level Regulation of Online Fantasy Sports Platforms in India <https://cuts-ccier.org/pdf/comments-on-principles-for-online-fantasy-sports-platforms.pdf>

#### **d. Co-regulation of the Industry by Centre and State Governments**

The subject of online gaming falls under the ambit of the state governments under the State list of Schedule VII of the Indian Constitution<sup>13</sup>; several states have taken steps to regulate or ban online games.<sup>14</sup> Further, there have also been calls for a unifying central legislation to bring in uniformity. The Government of India has also set up a seven member panel to study the possibility of a central regulation for the industry.<sup>15</sup>

In order to promote ease of doing digital business, regulation of the online gaming industry must have uniformity with other future legislations in other jurisdictions/states. Therefore, the central government must provide for a model law or an enabling legislation in order to co-regulate with the state governments and SROs for optimal regulation of the emerging industry. Such model law needs to be designed after conducting due Regulatory Impact Assessment (RIA) and Cost - Benefit Analysis (CBA) for all beneficiaries of the regulation.

### **Conclusion**

Being a consumer facing organisation, CUTS is committed towards raising awareness and optimal regulations leading to transparent and accountable regulation of the industry with player protection at its core.

In this regard, CUTS intends to undertake awareness generation, capacity building and advocacy for protection of players through regulations. We intend to conduct a consumer perception study to understand consumer understanding, level of awareness, engagement and consumer expectations going forward from the industry, platforms and the regulations. We will continue to call for optimal regulation of the industry, with players protection at its epicentre.

In case of any clarifications, please feel free to contact Prince Gupta ([prg@cuts.org](mailto:prg@cuts.org)) or Neelanjana Sharma ([njs@cuts.org](mailto:njs@cuts.org)).

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<sup>13</sup> Entry 34, List II, Schedule VII.

<sup>14</sup> Md Sruti, 'Online Gaming and the Struggles of the State Governments', January 2022 <https://www.newsclick.in/Online-Gaming-Struggles-the-State-Governments>

<sup>15</sup> Online Gaming: Government Panel Seeks to Regulate Chaotic Industry, available at: [Online Gaming: Government Panel Seeks to Regulate Chaotic Industry](#)