UK INDIA
BUSINESS COUNCIL

GAMING FOR GROWTH – INDIA'S SPORTS AND GAMING MARKET POTENTIAL

APRIL 2022

CONTENTS

INTRODUCTION

The gaming industry is one of the fastest growing, most dynamic, yet least understood sectors in the Indian economy. Depending on what game, and in which State, different aspects of the industry, such as betting on sports, are regulated, banned, legal, flourishing, volatile, or prone to drastic policy changes.

In the past decade, however, legislative and judicial decisions present the opportunity to redefine gaming governance. There is now real potential to introduce clear and intuitive central regulation, as recommended by India's Law Commission in 2018, that will increase investment, create jobs, generate Government revenue, reduce corruption, and support responsible playing.

A recent report by KPMG[1] estimates that Indian gamers in FY 21 totaled 433 million people. At the same time, revenue from the gaming sector was estimated at INR 136 billion (approximately GBP 1.3 billion). In FY 2020, it was estimated that revenue generated from online fantasy sports alone was INR 247 million (GBP 2.4 million).

Put simply, gaming is growing at a phenomenal pace. This is particularly the result of technological advancements putting greater access to information and entertainment at the fingertips of every online Indian.

In a Niti Aayog report[2] on Fantasy sports, the Government of India think tank have taken cognisance of the following important facets pertaining to online fantasy sports:

- To identify the landscape and potential of fantasy sports sector, so as to make India a global leader;
- India is the leading fantasy sports market in India, having overtaken the United States market pertaining to user base;
- The critical issue identified was that while the online fantasy sports providers operated pan-India, the regulation of gaming is undertaken state-wise, which poses as a risk for users pertaining to transparency, certainty, integrity and fairness. It will also increase cost of compliance on the operators and would lead to divergent dispute resolution mechanism;
- A principle led governance model for fantasy sports would facilitate Indian operators to focus on innovation and achieve scale; and
- A policy is also needed to also stop dubious games, which are operating in the guise of 'games of skill'.

Sources

1. Business of Fantasy Sports, KPMG July 2020.
2. Regulation of Online Fantasy Sports Platforms in India, 2020

In short, India, Indian citizens, and the wider gaming sector stands on the verge of reaching a new settlement that could significantly benefit all and bring greater alignment between States.

Total investment in the gaming sector in FY 20 was approximately GBP 260 million with more than 20 deals in that time[4]. Since, the pandemic has contributed to further growth in the gaming sector, particularly online. KPMG's 2020 report referenced earlier estimates the fantasy sports industry to have the potential to generate approximately 1.5 billion transactions by 2023 as well as the potential to attract FDI of more than INR 10,000 crore (approximately GBP 1 billion) over the next few years. It has also been estimated that the online gaming market in FY25 shall comprise of approximately 657 million users, with revenues of around INR 290 billion (approximately GBP 2.9 billion).

UK India Business Council, through this report, seeks to provide an understanding of the Indian gaming market and the opportunities for the country to benefit from the sector's growth. After contextualising the market, and highlighting discrepancies between States in India, we reveal how the complex web of regulation currently restrains the opportunity to not only attract FDI and create jobs and growth, but also to stifle corruption, enhance the integrity of sport, and increase the tax revenue across India.

As such, we hope this report and its findings contribute towards India's economic growth, proud sporting accomplishments, and the UK and India's ever closer relationship.

Sources

3. Datalabs, The Game is on for Indian Gaming Startups, May 2019.
4. 'Gaming-India Story', Maple Capital Advisors, May 2020.

RESEARCH METHODOLOGY

This report analyses seven key areas within the gaming industry:

A. LOTTERY

B. RUMMY

C. POKER

D. HORSE RACING

E. FANTASY SPORTS

F. SPORTS BETTING

G. CASINO

In 2019, the UKIBC undertook a primary study of the gaming market. UKIBC did this through questionnaires intended to understand how operators and players alike engage with the industry. The questions were carefully selected to derive data that could map and anticipate the present and future of gaming in India.

A total of 2,100 questionnaires were distributed to operators and users across the States of:

ASSAM	MADHYA PRADESH	SIKKIM
GOA	MAHARASHTRA	TAMIL NADU
GUJARAT	MEGHALAYA	TRIPURA
HARYANA	NEW DELHI	UTTAR PRADESH
KARNATAKA	PUNJAB	WEST BENGAL

Each questionnaire sought to investigate intrinsic factors from player profiles, habits, and operator's revenue and commission. The questionnaires also covered user-based questions on user satisfaction and preferences. Their responses form the basis of this report.

REGULATORY OVERVIEW OF THE GAMING INDUSTRY

The extent to which gaming is permitted and regulated differs from State to State depending on which game we are referring to. India's gaming industry is broadly split into 'games of skill' and 'games of chance'.

GAMES OF SKILL

Most States permit games of skill, which are excluded from the remit of gambling. Without a legislative definition, the Supreme Court has established, in several cases, that games of skill are quite simply where the element of skill dominates the element of chance, and vice-versa for games of chance.[5 6]

As such, games including rummy, bridge, chess, and sports such as golf have since been classified as games of skill across India. The Karnataka High Court goes further to classify poker, and darts among others, as games of skill.[7]

Fantasy League Sports (FLS), whereby players construct and contest their fantasy teams comprised of their own selection of real sports people (usually online) are also classified as games of skill. Punjab, Haryana, Rajasthan, and Maharashtra all hold FLSs as games of skill.[8910]. In fact, to an extent, this issue now stands settled, as the Supreme Court, while dismissing a special leave petition, held through a speaking order that FLS was a game of skill[11]. Nagaland and Meghalaya adopt a similar definition, allowing sudoku, quizzes, nap, virtual sports, virtual games like monopoly or racing, and fantasy league sports as games of skill.

As a result of regulatory clarity for games of skill, the overall user base for Games of Skill in India increased by more than 200% in 2017-18[12].

GAMES OF CHANCE

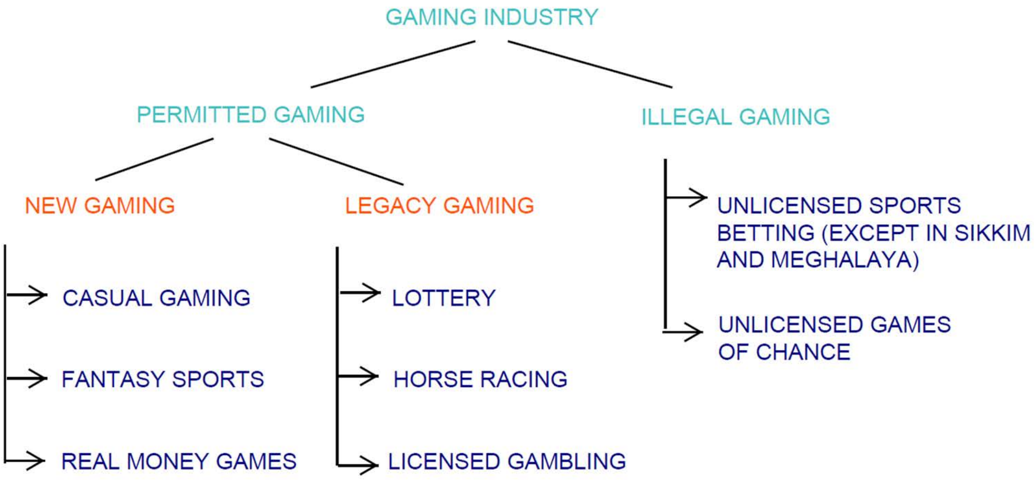
Games of chance for stakes, however, do fall within the remit of State gambling acts and are largely prohibited (with the exception of the lottery in nine States). Some States, such as Goa and Sikkim, have created exceptions within their gambling acts for authorised gaming, issuing licenses for games of chance in casinos on land and offshore. The Sikkim Casino Games Act 2004 also allows casino operations. In 2021, Meghalaya has enacted the Meghalaya Regulation of Gaming Act 2021, wherein licenses pertaining to games of chance mentioned in its schedule are allowed under a license. It is expected in 2022 that licenses for it would be issued.

Sources

5. State of Andhra Pradesh v. K. Satyanarayana (1968) 2 SCR 387, AIR 1968 SC 825.
6. State of Bombay v. R.M.D. Chamarbaugwala AIR 1957 SC 699.
7. R. Shankar Creation Association v. State of Karnataka, WP No. 16622/2012, decision dated 4th June, 2012.
8. Varun Gumber v. Union territory of Chandigarh and Ors., CWP No. 7559 of 2017.
9. Gurdeep Singh Sachar v. Union of India & Ors., Cr. PIL No. 22 of 2019 (Bom. HC) decided on 30th April, 2019.
10. Chandresh Sankla vs State of Rajasthan decided on 14.02.2020 and Ravinder Singh Chaudhary vs Union of India decided on 16.10.2020.
11. Avinash Mehrotra vs State of Rajasthan decided on 30.07.2021.
12. Deloitte, Skill Gaming in India: The Changing Landscape, July 2018.

The gaming industry has seen an influx of new games and gaming models for stakes across India, whilst others form part of a State or city's culture.

Each game operates with varying levels of skills and chance, opening the door to a complex regulatory environment. To assess how to improve this environment, we categorise the gaming industry below:



LOTTERIES

Lotteries are governed by the Central Government according to the Constitution.[13] However, there was no law regulating lotteries until the Lotteries Act 1998, extended in 2010 to further cover the number of draws and minimum prize pay-out. Under the Act, State Governments can organise, conduct, and promote lotteries, appointing private agents to carry this out on their behalf.

HORSE RACING

Most States have amended the Public Gambling Act 1867 to allow for horse racing within licensed premises (racetracks) and some States allow for online betting. The Supreme Court of India recognises horse racing as a game of skill that requires players to judge the form of the horse, the jockey, and the nature of the race.[14]

PRIZE COMPETITIONS

Prize Competitions (such as entering a company's promotion competition to be entered into a prize draw), according to the Prize Competition Act 1955, are permitted subject to licenses which restrict participation to 2000 and the prize money to one thousand rupees. However it may be noted that due to restrictions on the number of player and the prize money, this mode of gaming is not popular.

Sources

13. Entry 40 of List 1 of the Constitution
14. Dr KR Lakshmanan v. State of Tamil Nadu (1996) 2 SCC 226.

SPORTS BETTING

There is no clarity in India on whether sports betting is considered a game of chance or skill, leaving a grey area surrounding its legal status.

To address the status of sports betting nationally, the Supreme Court directed the Law Commission to consider whether betting on sports can be regulated.

The Government subsequently published its report 'Gambling and Sports Betting including Cricket in India'[16] recommending the legalisation and regulation of betting and gambling, including an effective regulatory framework for the thriving, yet currently illegal industry.

NEW GAMING

With the exception existing for games of skill, international recognition of some aspects of gaming as an e-sport and due to lockdowns and advent of mobile technology in India, gaming being used as a source of entertainment and a tool to learn, has led to a growth of new gaming. New gaming can essentially be broken into four large zones:

E-SPORTS

Gaming competitively under a set of rules, in certain recognised games, can loosely be termed as 'e-sports'. With e-sports forming a part of Asian games and set to feature as a test event in the 2022 Commonwealth Games, e-sports are no more limited to gamers, but is getting increasing recognition as a sport. With multiple e-sports events happening in India and the intention of the government to promote it as a potential sport, e-sports in India is set to grow exponentially;

CASUAL GAMING

Games played for entertainment and without money, could be termed as casual gaming. Typical casual games popular in India are PUBG, Ludo, Solitaire, Candy Crush, Angry Birds.

REAL MONEY GAMING

These are games of skill which are essentially played for a participation fee or stake. Games such as rummy, poker, hearts, virtual sports, bridge amongst others fall in this category; and

FANTASY SPORTS

These are fan engagement cum entertainment games, where typically a user is required to build a team, based on certain parameters. With increasing judicial certainty on fantasy sports not being gambling, India is set to become the world's largest fantasy sports market.

Sources:

15. Issued under Section 14A of the Meghalaya Amusement and Betting Tax (Amendment) Act 1982
16. Law Commission Report No. 276, 05.07.2018

UKIBC'S STATE GAMING LEGALISATION INDEX

To illustrate the complexity of gaming regulation across India, we have devised an index that measures (on a scale of 0 to 100 where 100 is fully legalised) the extent to which each State has legalised gaming and betting based on their stance on seven different games.

STATE	LOTTERY	P=PHYISCAL V=VIRTUAL HORSE RACING	SPORTS BETTING	POKER	RUMMY	CASINO	FANTASY SPORTS	UKIBC GAMING LEGALISATION INDEX
MEGHALAYA	YES	YES [P]	YES (VIA LICENCE)	YES (VIA LICENCE)	YES (VIA LICENCE)	YES (VIA LICENCE)	YES (VIA LICENCE)	92.85
SIKKIM	YES	YES [V] (VIA LICENCE)	YES (VIA LICENCE)	YES (VIA LICENCE)	YES (VIA LICENCE)	YES (VIA LICENCE)	YES (VIA LICENCE)	85.71
GOA	YES	NO	NO	YES	YES	YES (VIA LICENCE)	YES	71.43
NAGALAND	YES	YES [V] (VIA LICENCE)	YES (VIA LICENCE)	YES (VIA LICENCE)	YES (VIA LICENCE)	NO	YES (VIA LICENCE)	71.43
WEST BENGAL	YES	YES [VP]	NO	YES	YES	NO	YES	71.43
PUNJAB	YES	YES [P]	NO	YES	YES	NO	YES	64.29
KERALA	YES	NO	NO	YES	YES	NO	YES	57.14
MADHYA PRADESH	YES	NO	NO	YES	YES	NO	YES	57.14
MAHARASHTRA	YES	YES [VP]	NO	YES	YES	NO	YES	57.14
MIZORAM	YES	NO	NO	YES	YES	NO	YES	57.14
TAMIL NADU	NO	YES [VP]	NO	YES	YES	NO	YES	57.14
HARYANA	NO	YES [P]	NO	YES	YES	NO	YES	50.00
UTTAR PRADESH	NO	YES [P]	NO	YES	YES	NO	YES	50.00
UTTARAKHAND	NO	YES [P]	NO	YES	YES	NO	YES	50.00
KARNATAKA	NO	YES [P]	NO	YES	YES	NO	YES	50.00
CHHATISGARH	NO	NO	NO	YES	YES	NO	YES	42.86
HIMACHAL PRADESH	NO	NO	NO	YES	YES	NO	YES	42.86
JAMMU AND KASHMIR (TO 31 OCTOBER 2019)	NO	NO	NO	YES	YES	NO	YES	42.86
JHARKHAND	NO	NO	NO	YES	YES	NO	YES	42.86
MANIPUR	NO	NO	NO	YES	YES	NO	YES	42.86
RAJASTHAN	NO	NO	NO	YES	YES	NO	YES	42.86
TRIPURA	NO	NO	NO	YES	YES	NO	YES	42.86
BIHAR	NO	NO	NO	YES	YES	NO	YES	28.57
GUJARAT	NO	NO	NO	NO	YES	NO	YES	28.57
ASSAM	YES	YES [P]	NO	NO	NO	NO	NO	21.43
ODISHA	YES	NO	NO	NO	NO	NO	NO	14.29
ARUNACHAL PRADESH	YES	NO	NO	NO	NO	NO	NO	14.29
TELANGANA	NO	YES [VP]	NO	NO	NO	NO	NO	14.29
ANDHRA PRADESH	NO	YES [P]	NO	NO	NO	NO	NO	7.14
UNION TERRITORY								
DADRA AND NAGAR HAVELI AND DAMAN AND DIU	NO	NO	NO	YES	YES	YES (VIA LICENCE)	YES	57.14
DELHI	NO	YES [P]	NO	YES	YES	NO	YES	57.14
ANDAMAN AND NICOBAR ISLANDS	NO	NO	NO	YES	YES	NO	YES	42.86
JAMMU AND KASHMIR (FROM 31 OCTOBER 2019)	NO	NO	NO	YES	YES	NO	YES	42.86
LADAKH (FROM 31 OCTOBER 2019)	NO	NO	NO	YES	YES	NO	YES	42.86
LAKSHADWEEP	NO	NO	NO	YES	YES	NO	YES	42.86
PUDUCHERRY	NO	NO	NO	YES	YES	NO	YES	42.86
CHANDIGARH	NO	NO	NO	YES	YES	NO	YES	28.57

The index reveals Sikkim and Meghalaya to be the most gaming friendly State in India.

PROFILE OF A GAMER

The prevalence of mobile phones throughout India has dramatically increased in recent years, bringing millions online. Mobile gaming downloads in India were 2.9 billion in Q3 2020[17].

A majority of gaming market users participate regularly and for extended periods of time. Our findings reveal the profile of the average player in each type of game.

The average age of a player is 32.4 years old.

GAME	AVERAGE PLAYER AGE
LOTTERY	36.4
RUMMY	34.5
POKER	31.6
HORSE RACING	40.5
FANTASY SPORTS	24.5
SPORTS BETTING	27.2

Sources:

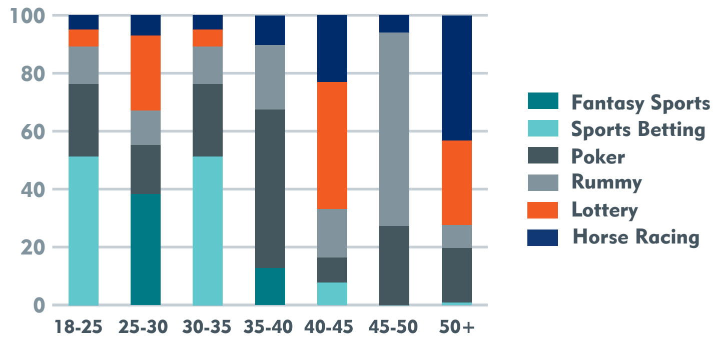
17. Business of Fantasy Sports, KPMG July 2020.

HORSE RACING – DID YOU KNOW?

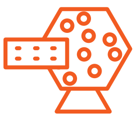
A sport that was until recently largely dominated by the wealthy in society, horse racing is among the more equal sports in gender participation with 1.7 men betting for every woman.

The prevalence of Rummy, Poker, and Fantasy League Sports indicate that despite clear age-based preferences, online gaming is popular across all ages:

WHAT GAMES ARE MOST POPULAR WITH EACH AGE CATEGORY?



The age breakdown shows millennials are digitally engaging with new forms of gaming, while those over 36 years continue to engage in premises-based gaming. This is important as the Government of India seeks to appropriately regulate gaming and support young people at risk.



LOTTERIES – DID YOU KNOW?

65% of lottery players prefer paper lotteries and only 35% prefer digital.

RUMMY – DID YOU KNOW?

Rummy players are usually online playing between 18:15-19:15 hrs with 47% playing cash-bet games and 53% playing free games.

How much does a player typically bet per month?

GAME	AMOUNT PER MONTH
RUMMY	INR 3467/GBP 34
POKER	INR 5638/GBP 56
HIGH-STAKES POKER	INR 11,550/GBP 114
LOW-STAKES POKER	INR 869/GBP 86
HORSE RACING	INR 10,926/GBP 107
FANTASY SPORTS	INR 890/GBP 9
SPORTS BETTING	INR 8526/GBP 84

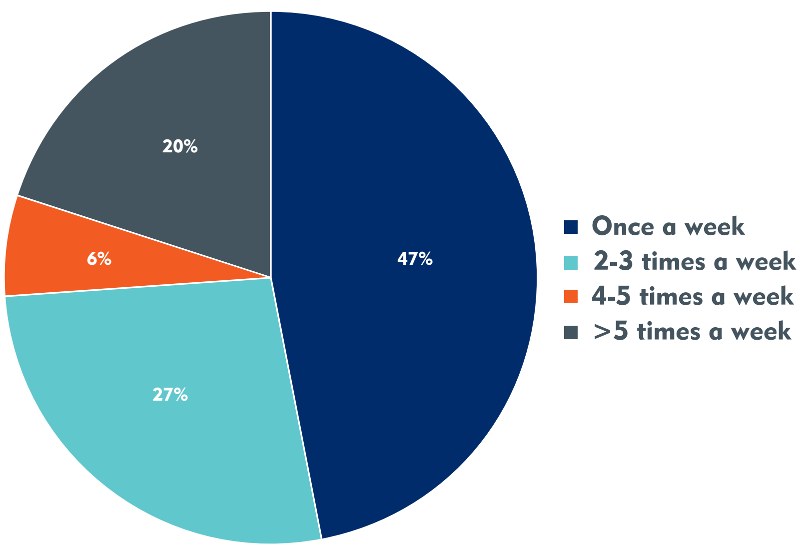
How much does a player typically bet per game?

GAMING AREA	AMOUNT PER GAME/BET
RUMMY	INR 634/GBP 6
POKER	INR 753/GBP 7
HIGH-STAKES POKER	INR 1753/GBP 17
LOW-STAKES POKER	INR 193/GBP 2
SPORTS BETTING	INR 4120/GBP 40
CASINO [17]	INR 30,476/GBP 300

POKER - DID YOU KNOW?
Between 20:00-21:00 hrs is the most popular time of day for online poker sites.

FANTASY LEAGUE SPORTS – DID YOU KNOW? 74% of users play 1-3 times a week:[18]

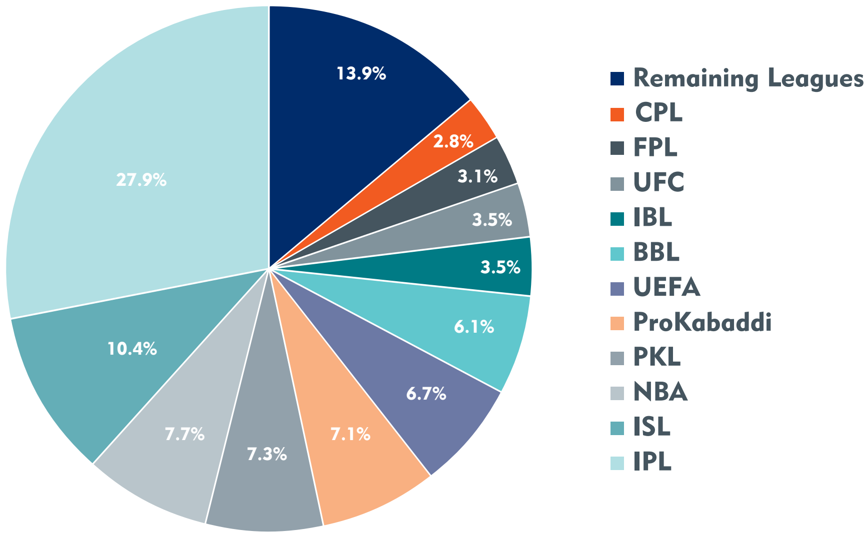
FANTASY SPORTS FREQUENCY OF ENGAGEMENT*



Sources
18. FSG KPMG, The Evolving Landscape of Sports Gaming in India, March 2019

Fantasy League sports allow players to bet on fantasy team's performances. The Indian Premier League (IPL) and Indian Super League (ISL) are the most popular leagues in the industry, with the IPL receiving the most mentions by surveyed respondents by some distance when asked about sporting interests.

FANTASY LEAGUES POPULARITY



Cricket continues to be the main focus for Fantasy Sports and likely the sports betting market, but gamers have started developing interest in other sports leagues such as the Indian Super League (football), NBA (basketball), and others. The Government of India should consider that regulating sports betting would make all sports more transparent, not just cricket.

SPORTS BETTING – DID YOU KNOW?
The average commission rate is 9%

PROFILE OF THE MARKET AND OPERATORS

Casinos and Fantasy Sports operators gross the biggest revenue[19]:

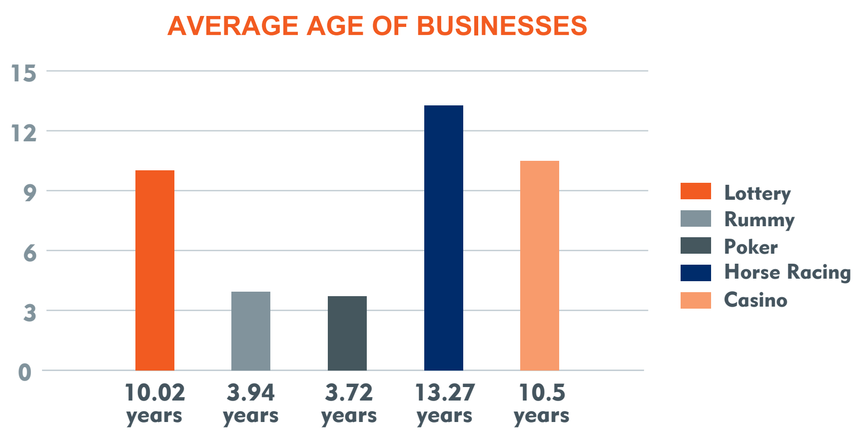
GAMING AREA	GROSS REVENUE PER OPERATOR/YEAR
RUMMY	INR 687,000/GBP 6770
POKER	INR 18.6 million/GBP 183,000
HORSE RACING	INR 16.5 million/GBP 163,000
FANTASY SPORTS	INR 107 million/GBP 1.06 million
SPORTS BETTING	INR 43.2 million/GBP 426,000
CASINO[20]	INR 448 million/GBP 4.4 million

There has been steady growth in poker, rummy, and the Fantasy sports markets due to consumer expectations, regulatory, and judicial nudges. Government and the industry stand to benefit from policy which regulates, licenses, and taxes.

Games businesses grow as their online presence grows:

GAMING AREA	AVERAGE GROWTH OF BUSINESSES
RUMMY	13.83%
POKER	41.77%
FANTASY SPORTS	30.77%

Rummy and Poker are the new games on the block[21]:



GOODS AND SERVICES TAX (GST) – DID YOU KNOW?

A gaming operator's average revenue prior to the introduction of the GST in 2017 was approximately INR18,000,000 (GBP180,000). This fell to INR 7,200,000 (GBP 72,000) after the GST, almost 2.5 times lower.

Sources
19. The value of average revenue used here refers to the gross gaming revenue of operators interviewed. Gross Gaming Revenue (GGR) is the amount wagered minus the winnings returned to players. GGR is the figure used to determine what a casino or other gaming operation earns before taxes, salaries and other expenses are paid. GGR is the equivalent of "sales" not "profit".
20. Our student representatives faced challenges collecting Casino data in attempting to gain access to officers
21. As perceived by players and operators

HORSE RACING – DID YOU KNOW?

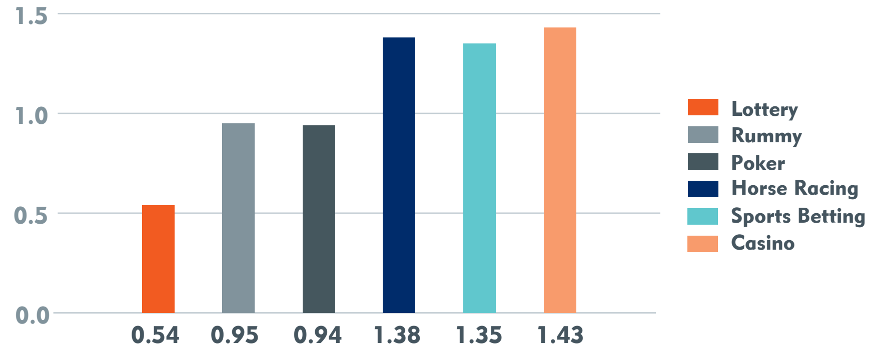
Betting on horse racing has been allowed in India for the past century. However, it was previously restricted to the elite and only recently opened to the wider population in the last decade.

LOTTERY – DID YOU KNOW?

A lottery bookkeeper's average commission rate is 9.5%, whilst 14.9% of the lottery market is digital.

There is room for a lot more competition in the lottery market:

LEVEL OF COMPETITIVENESS[22]

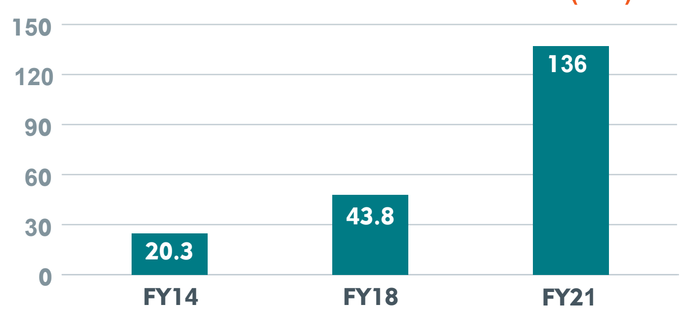


Digital gaming markets, where revenues are reported and taxes paid, are less competitive than games based on cash transactions.

ONLINE GAMING – DID YOU KNOW?

The online gaming market was valued at INR 136 billion (GBP 1.3 billion) in 2021. The casual gaming segment is the most significant one, currently accounting for INR 60 billion (GBP 600 million) (44 percent of total online gaming revenues but 97 percent of the 433 million gaming users in India).[23]

ONLINE GAMING INDUSTRY REVENUE (INR)



In FY21, there were 433 million gaming users in India. Projections by KPMG predict that by FY25, that figure will be 657 million, thanks to increasing proliferation of smart phones and internet. This increase in users will also lead to increased revenue, from INR 136 billion (GBP 1.3 billion) in FY21 to INR 290 billion (GBP 2.9 billion) in FY25, representing more than 100% growth in four years.

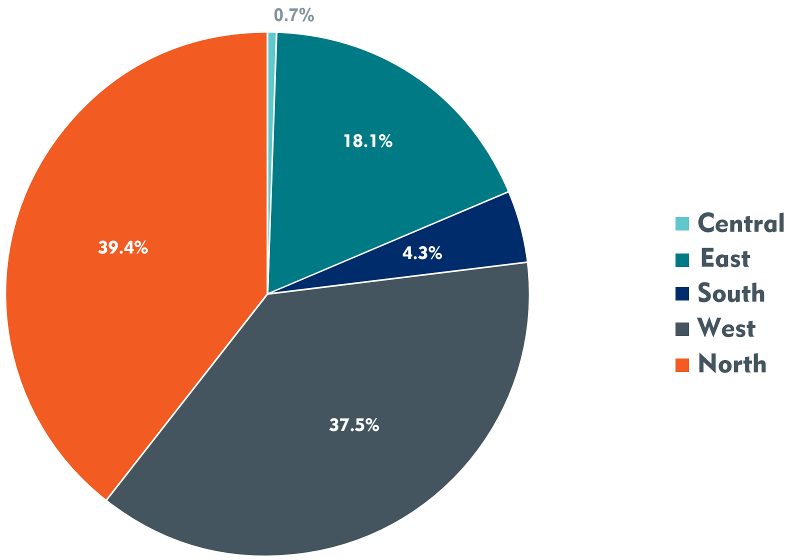
Sources

22. Competitiveness is assessed via judgement of the age of businesses, regulatory overview and number of businesses in each gaming the market, to which we accord weights enabling us to compare the level of competition across markets.
23. IFSG KPMG, The Evolving Landscape of Sports Gaming in India, March 2019

WHERE IN INDIA?

Our research shows that Delhi, Mumbai, and Kolkata dominate the sports betting market, with betting more prevalent in the North and West regions of India, as evidenced by the graph below.

SPORTS BETTING REGIONAL BREAK DOWN



A CLOSER LOOK AT SIKKIM

Sikkim, one of the most progressive States in India, recently legalised sports betting. The outcomes illustrate the substantial potential economic benefits operators can generate in terms of investment, and the subsequent revenue that could be secured by State and Central Governments.

The annual Gross Gaming Revenue between April 2018 - March 2019 for sports betting operators in Sikkim was approximately INR 230 million (GBP 2.3 million), realising a gross gaming yield of around INR 23 million (GBP 230,000).

These activities resulted in INR 50 million (GBP 500,000) annually in license fees and INR 65 million (GBP 650,000) in GST revenue in Sikkim alone.

It should be noted that the legalisation of Sports Betting has considerable knock-on effects in the wider economy, generating an estimated further revenue from operators allied activities of INR 3.4 billion (GBP 34 million) in Sikkim.

To put this in context, Sikkim is the third smallest state in India by GDP, generating INR 222 billion (GBP 2.2 billion) in FY 2018-19, making Sports Betting a considerable contribution to the economy. If Maharashtra, for instance, were to legalise Sports Betting, this could generate INR 124 billion (GBP 1.2 billion) in extra license fees and GST revenues based on Sikkim's experience.

It is clear, therefore, that legalisation generates investment, jobs, and more than enough Government revenue to properly enforce the law and provide support for vulnerable users.

NORTH INDIA

Average player age: 31.3 years old

67.3% prefer paper lotteries compared to 32.7% who prefer digital

Approximate Gross Gaming Revenue for a North Indian business[24]:
Lottery: INR 24,250,000 (GBP 242,000)
Rummy: INR 766,000 (GBP 7600)
Poker: INR 26,336,000 (GBP 263,000)
Horse Racing: INR 16,853,000 (GBP 170,000)
Fantasy Sports: INR 3,799,000 (GBP 37,800)
Sports Betting: INR 40,156,000 (GBP 401,000)

Average commission rate for lottery business: 9.91%

Average commission rate for Sports Betting business: 8.37%

CENTRAL INDIA

Average player age: 31.6 years old

22.9% prefer paper lotteries compared to 77.1% who prefer digital

Approximate Gross Gaming Revenue for a Central Indian business:

Lottery: INR 20,000,000 (GBP 200,000)
Rummy: INR 750,000 (GBP 7500)
Poker: INR 5,000,000 (GBP 50,000)

Average commission rate for lottery business: 5.38%

WESTERN INDIA

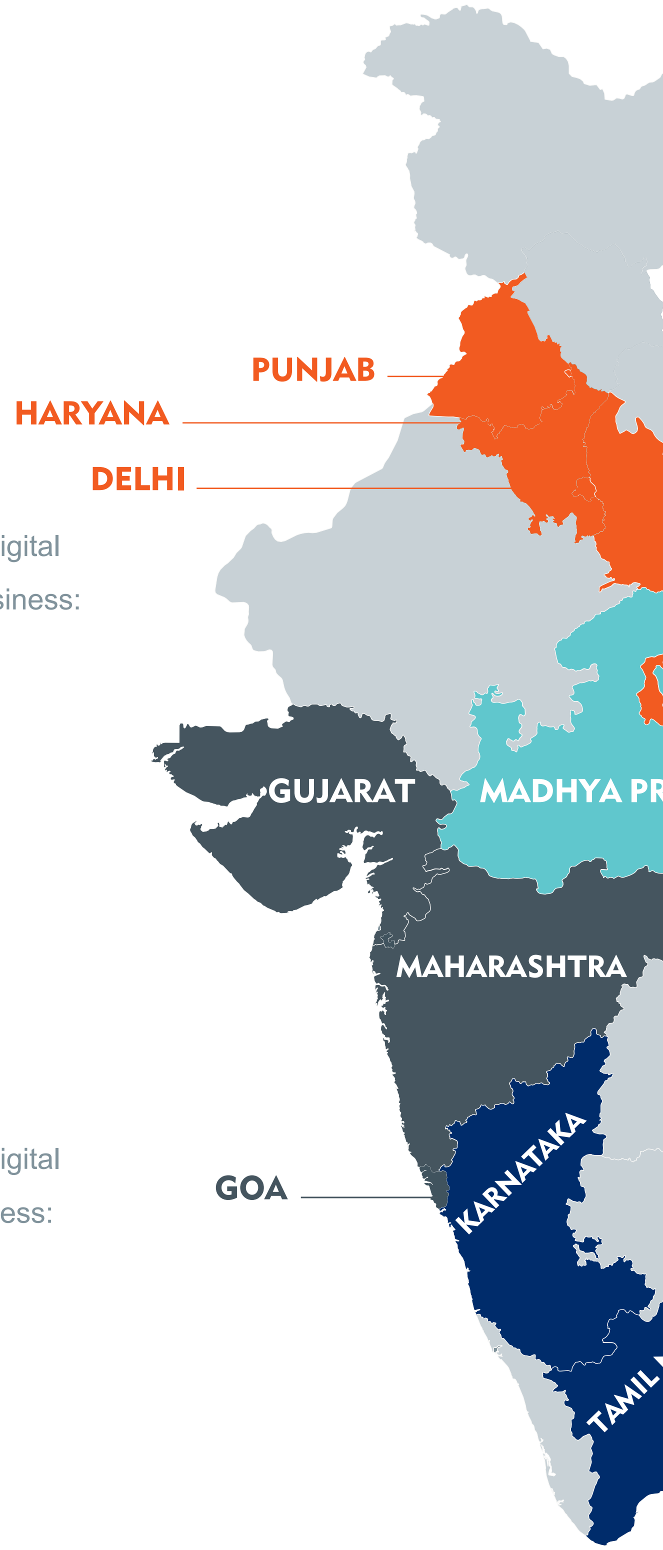
Average player age: 32.5 years old

12.5% prefer paper lotteries compared to 87.5% who prefer digital

Approximate Gross Gaming Revenue for a West Indian business:

Lottery: INR 19,790,000 (GBP 197,000)
Rummy: INR 795,000 (GBP 7900)
Poker: INR 2,227,000 (GBP 22,000)
Horse Racing: INR 15,653,000 (GBP 156,000)
Fantasy Sports: INR 7,383,000 (GBP 73,000)
Sports Betting: INR 49,086,000 (GBP 490,000)

Average commission rate for Sports Betting business: 3.23%



Sources
24. All figures are annual.

EASTERN INDIA

Average player age: 31.7 years old

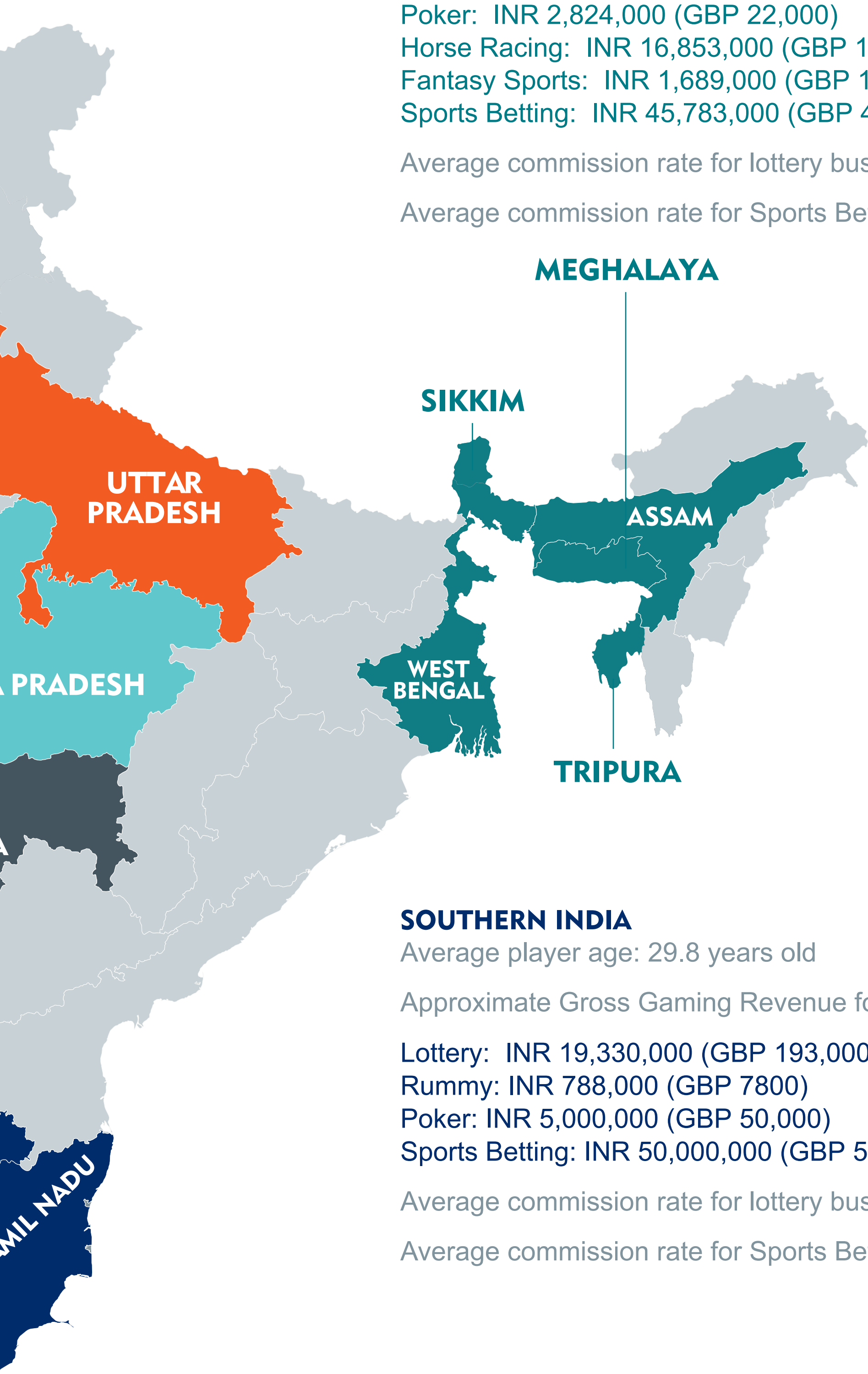
84.3% prefer paper lotteries compared to 15.7% who prefer digital

Approximate Gross Gaming Revenue for an East Indian business:

Lottery: INR 17,510,000 (GBP 175,000)
Rummy: INR 607,000 (GBP 6000)
Poker: INR 2,824,000 (GBP 22,000)
Horse Racing: INR 16,853,000 (GBP 168,000
Fantasy Sports: INR 1,689,000 (GBP 16,700)
Sports Betting: INR 45,783,000 (GBP 453,000)

Average commission rate for lottery business: 12.08%

Average commission rate for Sports Betting business: 12.08%



SOUTHERN INDIA

Average player age: 29.8 years old

Approximate Gross Gaming Revenue for a South Indian business:

Lottery: INR 19,330,000 (GBP 193,000)
Rummy: INR 788,000 (GBP 7800)
Poker: INR 5,000,000 (GBP 50,000)
Sports Betting: INR 50,000,000 (GBP 500,000)

Average commission rate for lottery business: 7%

Average commission rate for Sports Betting business: 3.5%

There is a large disparity in average commission rates across India with values in Eastern India almost four times the value in Western and Southern India.

STATE TRENDS

Meghalaya: The Government of Meghalaya in 2021 has enacted a legislation: Meghalaya Regulation of Gaming Act 2021. Under the act, licenses would be issued to 'Games of skill' and 'Games of chance' operators. Sports betting has been classified as a game of skill and licenses for the same are likely to be issued in 2022.

Telangana: Under the Telangana Gaming (Amendment) Act 2017, all gaming, including games of skill for stakes has been banned. The Government of Telangana has, however, set-up a committee under the principal secretary, Mr. Priyesh Ranjan, to consider future regulation of the industry. We anticipate that regulation could come as early as 2022.

Karnataka: On 5 October 2021, the Karnataka Government had promulgated the Karnataka Police (Amendment) Act 2021, prohibiting gaming/gambling, betting (except betting and wagering on horse racing), games of chance and games of skill (with stakes), including online, in the State of Karnataka. The vires of the Karnataka Police (Amendment) Act 2021 was challenged before the High Court of Karnataka by the self-regulating federation of gaming companies in India in the case of All India Gaming Federation vs. State of Karnataka & Anr.

The High Court of Karnataka, through its judgment dated 14 February 2022, struck down the provisions of Section 2, 3, 6, 8 and 9 of the Karnataka Police (Amendment) Act 2021, declaring the same to be ultra vires the Constitution of India in their entirety. The High Court of Karnataka did not bar the state government of Karnataka from bringing in appropriate legislation concerning the subject of 'Betting & gambling' in accordance with the provisions of the Constitution of India. However, the High Court of Karnataka inter alia observed that the impugned legislative action had clamped an absolute embargo on all games of skill, defying the principle of proportionality and was far excessive in nature and was therefore in violation of Article 14 of the Constitution of India on the ground of 'manifest arbitrariness'. The High Court of Karnataka also directed the state government of Karnataka and the police authorities not to interfere with online gaming business and allied activities. There is likely to be a SLP filed from this judgement in the Supreme Court in 2022.

Tamil Nadu: Similar to Karnataka, the Government of Tamil Nadu had earlier enacted a legislation to ban online games of skill with stakes. The Madras High Court struck the legislation down as being beyond its power, as under the constitution of India in the Junglee Games vs State of Tamil Nadu case. A Special Leave Petition has been filed by the Government of Tamil Nadu against the High Court's order in the Supreme Court. This is likely to come up in 2022.

Uttar Pradesh: The Uttar Pradesh state law commission has recommended to the State Government to amend its Public Gambling Act by considering regulation of online gaming through 'the Uttar Pradesh Public Gambling Bill 2021'. It may be noted that online games of skill and staking on them is sought to be excluded from the ambit of the draft UP Bill of 2021.

Maharashtra: The State Government of Maharashtra has been considering two fairly large projects pertaining to gaming. The first a designated area near Mumbai to serve as an entertainment zone, wherein Integrated Resorts and casinos would be permitted. The other project that the Government of Maharashtra considered was legalisation of sports betting. However, neither of the projects have gathered momentum to date.

Delhi: A public interest litigation is pending before the Delhi High Court (Avinash Mehrotra vs Union of India). In the PIL, the Delhi Police put in an affidavit that in their opinion, the Delhi Public Gambling Act of 1955 only covers gambling in physical spaces and not online gambling. The Delhi Police has also taken a stand that certain online games of skill are not designated within the ambit of gambling, including poker, besides rummy and fantasy sports, which have been classified as games of skill by the Supreme Court of India.

Goa: Goa remains one of the most liberalised states pertaining to gaming and gambling in India. The Government of Goa has issued a tender for a lottery centralised management system, so that a control and monitoring mechanism for sale of online lottery can be created. This is the first step by a state government in India to create a system for online lotteries and is likely to pave the way for the other states of India to follow suit.

RECOMMENDATIONS

The disparate regulation and legalisation of sports betting and online gaming across states in India leads to substantial costs on operators to comply with the pertinent state regulation, while restricting growth of the gaming sector.

We propose that a draft model regulation to serve as a foundation for State Governments to modify and adopt would be beneficial to operators, State Governments, and to consumers. Modifications would be based on each state's requirement and vision of the nature of operations.

GST AND GAMING IN INDIA

Lottery, horse racing, casino and the gaming industry at large has contributed substantially towards state reserves in India in the past decade.

In states where gaming is licensed, such as Goa and Sikkim, the imposition of tax at a rate of 28% on the face value of the lottery ticket or the amount bet (vis-à-vis horse racing and casinos) is one of the highest in the world. This has led to two blatant outcomes, the first being the revenue of the states where gaming is regulated has declined substantially; second, a thriving unregulated and illegal industry has emerged, and thus does not make any contributions to the state government's revenues and risks an increase in financial crime. For instance, the horse racing industry has experienced a near 50% fall in total turnover since 2016, from INR 3954 crores (GBP 3.95 million) in FY 2016-17, to INR 1100 crores (GBP 1.1 million) in FY 2020-21. This was recognised by the GST Council in the Detailed Agenda Note for the 37th GST Council Meeting.

It is therefore a welcome step that the Ministry of Finance, Government of India took the decision on 24th May 2021, to deliberate on this issue through a Group of senior ministers, stalwarts from the state governments of Gujarat, Maharashtra, Arunachal Pradesh, Goa, Karnataka, Tamil Nadu and West Bengal. Their terms of reference indicate that they would consider:

1. the valuation of services provided by the casino, race courses and online gaming portals;
2. if a better mode of valuation could be arrived at; and
3. administration of such a valuation provision.

CALCULATION OF BETTING ODDS:
GST ON FACE VALUE V GST ON OPERATOR's COMMISSION/RAKE FEE

Taxing on Bet Value

PARTICULARS	AMOUNT
Bet Value	INR 200 (GBP 2)
Operator's Commission/Rake Fee	INR 10 (GBP 0.10)
GST @ 28% on Bet Value	INR 56 (GBP 0.56)
Payout	200-10-56 = INR 134 (GBP 1.34)
Odds [(Payout – Operator's Commission)/10]	1.34

Taxing on Rake Fee

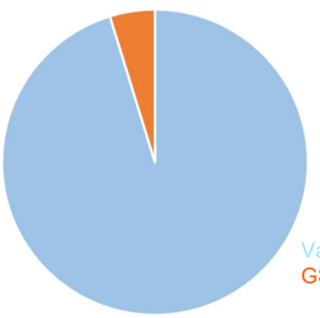
PARTICULARS	AMOUNT
Bet Value	INR 200 (GBP 2)
Operator's Commission/Rake Fee	INR 10 (GBP 0.10)
GST @ 28% on Rake Fee	INR 2.8 (GBP 0.028)
Payout	200-10-2.8 = INR 187.2 (GBP 1.87)
Odds [(Payout – Operator's Commission)/10]	1.87

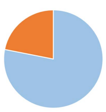
Currently in India, the lack of regulation of sports betting stands in the way of a functioning legal market providing tax to the State. Moreover, where betting does exist, customers are indirectly pushed to use 'grey' or unregulated channels due to the better odds they can access. This is because the current application of GST of 28 percent on the bet value is difficult for regulated tellers to compete with versus those not paying taxation.

To reduce this problem, we propose that GST (at 28 percent) is calculated on the rake fee, which is common practice globally and results in a greater channeling rate. For example, in Greece, where tax is placed at 35% on the rake fee, the channeling rate is 72%, considerably higher than in India. This is because, as the tables above show, taxing on rake fee will generate improved odds for the customer. As a result, regulated tellers will be able to compete more easily with unregulated channels in terms of the odds they can offer.

When faced with disparate odds, the customer is highly likely to select those which would result in a greater win, whether through a regulated or unregulated channel. In contrast, if the odds through regulated and unregulated channels are comparable, the rational to use a regulated channel is much greater.

So, in short, taxing on the Rake Fee would bring India more in line with global practice and help to shift the population to use regulated routes for betting, and thereby contribute to State revenue. That is, a rational rate of taxation will channel more participants to the regulated gaming ecosystem, rather than leaving them to the mercies of the unregulated sector. Thus, the rate of GST might be lower comparatively on a bet-by-bet basis, but the total value will be larger, namely a slightly smaller slice of a much larger pie.





*Hypothetical calculation based on application of tax across countries

UKIBC RECOMMENDATIONS

Our recommendations, on behalf of industry, for the application of GST on gaming are as follows:

- GST should be levied based on gross gaming revenue (i.e. the total gross takings less the cash payouts to winners) by the operator of the game for a tax period and should not be levied on the gross collections or on face value, as per the current regime;
- Where cash payouts are more than the gross collection in a tax period, the excess amount should be allowed to be carried forward to any subsequent tax period for set off against the gross collections of such tax period;
- In a gaming transaction (whether a table game or online games) the user pays for the service (stakes) up front, and the value added by the casino/gaming activity cannot be calculated until the winners are determined and winnings are paid out. Under GST, tax should only be imposed on the price charged for the gaming service; and
- The valuation rules being deliberated should also consider avoiding GST levy on every single gaming transaction and instead be calculated on a retention basis for each tax period.

If GST is levied only on the commission or gross gaming revenue (as opposed to bet value), it will support employment opportunities within the semi-skilled sectors and importantly multiply revenue earnings for the government.

GST on commission would be consistent with global practice too. For instance, in the United Kingdom, the current rate of tax on wagering is 15% on the Gross Gaming Revenue; as a result, it is estimated that 95% of the consumers bet through regulated platforms/channels.

When the rate of tax is higher, like in Greece as highlighted, where tax on wagering is 35% on the Gross Gaming Revenue, it is estimated that 72% of consumers bet through the regulated platforms. When a tax is imposed on turnover (similar to GST on face value being imposed in India), for example in Poland the rate of tax being 12% on the turnover (less than 50% of the tax rate of India), it is estimated that only 40% of consumers use regulated platforms to wager.

This suggests that if India levied 28% GST on the Gross Gaming Revenue it would lead to more consumers using regulated platforms, simultaneously bringing it in line with global practice, and ensuring that the state benefits from tax collected through regulated platforms.

CONCLUSION

It is clear that both the unregulated and regulated gaming sector in India will continue to grow significantly.

There are therefore strong reasons to work towards this growth taking place under regulations. To do so, we recommend the Government of India to adopt the Law Commission's 2018 recommendation that sports betting be regulated. Not least because it will attract FDI, stimulate domestic investment, create jobs, generate government revenue, tackle corruption, and enable responsible playing.

To achieve these positive outcomes, we make five recommendations, which are based on our findings above and extensive consultation with Indian and international businesses, gamers, parliamentarians, the legal profession and international regulators:

1. Legalise and regulate the gaming market across India, particularly sports betting, in line with the Law Commission's 2018 recommendations;
2. The gaming market spans the entirety of India, it therefore needs to be regulated centrally, rather than at the State-level. Model guidelines and draft can be put forth at a central level, similar to lotteries in India. Each state can decide, whether it wants to be a state to allow gaming and to what extent, they want to allow gaming. This will maintain the autonomy of the state on entry 34, whilst also bringing in uniformity;
3. Draft and enforce clear, intuitive, and effective responsible gambling and gaming regulations. These should draw from international best practice to prevent underage gambling, addictive, and financial difficulties;
4. Regulation should be game-neutral – applying to the wide variety of gaming that existing online and across the sporting world.
5. Legislature needs to take into account that legislations seeking to ban 'online games of skill' have been held to be unconstitutional by High Courts, as they have been held to be a business activity. The legislation should be an enabling one going forward rather than imposing prohibition.

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UK INDIA
BUSINESS COUNCIL

WHO ARE WE?

The UK India Business Council believes passionately that the UK-India business partnership creates jobs and growth in both countries. Through our insights, networks, and policy advocacy, we support businesses to succeed.

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