

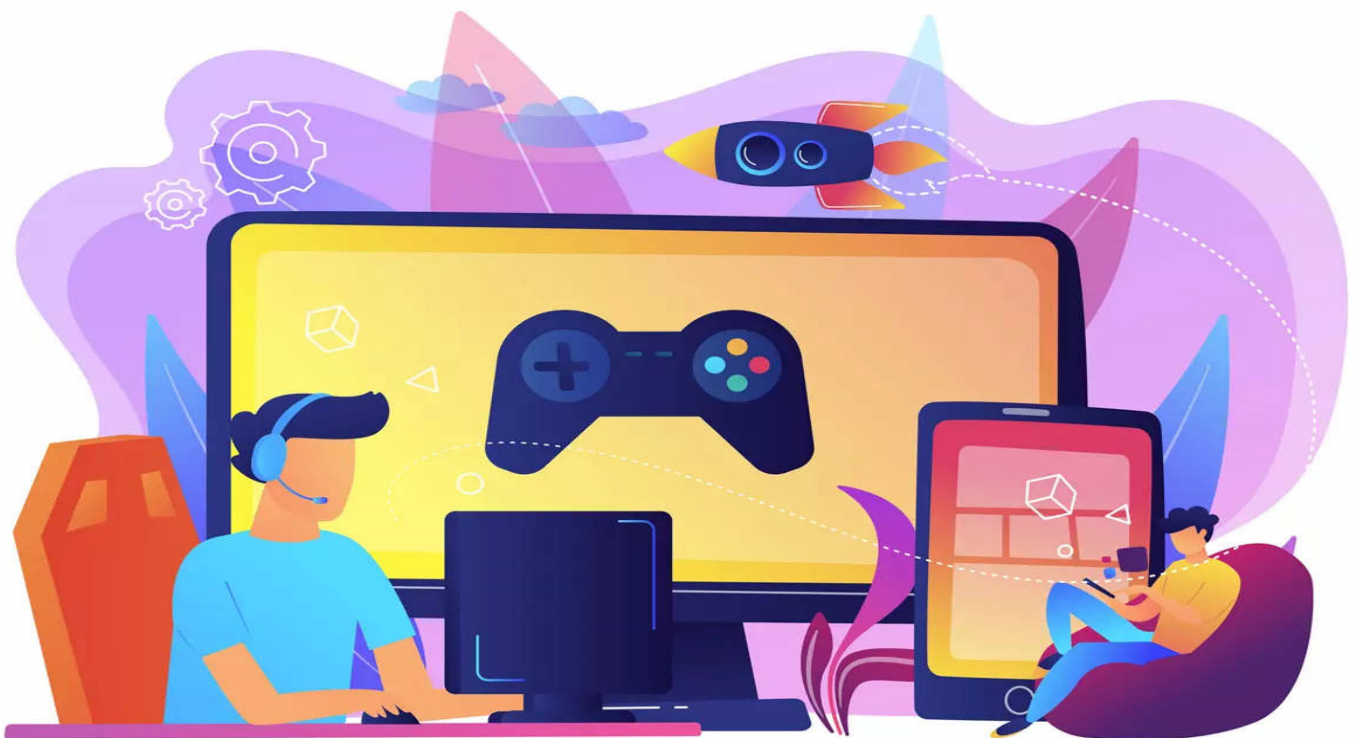
Law for Online gaming (GS Paper 2, Governance)

Context:

- Online gaming has swiftly emerged as the most engaging form of entertainment in India owing to **younger demographics, increased internet penetration** and **affordable smartphones**.

Disrupting conventional forms of entertainment:

- Evolving technologies resulting in immersive experiences have led more people to adopt this new form of entertainment instead of the passive ones.
- The popularity of online gaming including **e-sports, online casual games and real money gaming** can be gauged readily with the industry growing at a rate of about 35 per cent in 2019-20, outpacing OTT, television, and social media platforms.
- Propelled by the mobile-first phenomenon and around 420 million gamers already active, online gaming is disrupting conventional forms of entertainment.



Question of Legality:

- Like any social change and most new technologies, the industry has been functioning under the weight of societal complexity and perceptual ambiguity, online real money gaming is **often confused with gambling**.
- Whilst **games of skill (fantasy chess, bridge, rummy, and poker)** are legal and protected under the Constitution, games of chance (roulette, teen patti, and dice) are essentially about gambling and hence deemed illegal.

Gambling under Indian Constitution:

- As per the Indian Constitution, **gambling is classified under the State List**. States have the power to regulate or prohibit such activity.
- Failing to distinguish between online skill-based gaming and gambling, some states have either placed restrictions or buried the sunrise sector under regulatory ambivalence.

- This is unfortunate given that “**games of skill**” are legitimate business activities protected under **Article 19(1)(g) of the Indian Constitution** as per the rulings of the Supreme Court and several High Courts till date. These rulings have also emphasised a clear distinction between “games of skill” and “games of chance.”

Ban on online gaming in Tamil Nadu & afterwards:

- In 2021, the Tamil Nadu government amended the **Tamil Nadu Gaming and Police Laws, 1930** banning online games. The ordinance banned all forms of online gaming and stated that “games of mere skill if played for wager, bet, money or other stakes” cannot be allowed in the state.
- The Madras High Court, however, struck down the law in August 2021 observing that a complete ban was unconstitutional.
- The Court also acknowledged that **a game involving substantial skill would not amount to gambling**. It also protected online gaming and the nuances surrounding it, thus, clearing the ambiguity between gaming and gambling as well as the legal status of online skill games in India.

Committee to examine:

- The government recently constituted a four-member committee to examine issues related to online gaming and make recommendations for the promulgation of an ordinance to regulate the sector.
- Constituted against the backdrop of reports on unfortunate instances of people indulging in irresponsible gaming, the committee will examine the ways to identify the online games which are addictive and suggest whether these games really involve skills or mere tricks. It will also study the algorithms of online games to ascertain whether they can be tweaked to the benefit of online gaming companies.
- This initiative is certainly a welcome one and demonstrates the government’s progressive intent to protect the interests of the players. However, to really protect players, the regulatory muddle needs a comprehensive review.
- Globally, gaming is a well-regulated industry, and many countries, including the UK, US, and EU, have regulations in place to ensure that players enjoy this form of entertainment responsibly.
- Studying these global best practices would help in creating a gaming law that protects players, encourages responsible gaming, and assists legitimate operators while weeding out those who break the law.

Way Forward:

- The way forward is to formulate a structured gaming law that allows players to enjoy the thrills of online gaming responsibly, safely, transparently and securely.
- For the players, the industry and government, the need of the hour is to acknowledge the significance of responsible gaming and **develop a regulatory framework defined by progressive policies** to monitor and mitigate the possibility of irresponsible gaming.
- Attempts to solve the potential issues with bans will only result in players migrating from legitimate online skill-based operators to fly-by-night operators and lead to uncontrolled illegal activities, inadvertently compounding the problem the government is seeking to address.
- Regulation and responsible gaming will provide players with a secure and trustworthy environment. Combining responsible gaming elements with effective policies and recommendation services would aid in defining a strategy centred on ensuring player protection and increasing stakeholders’ awareness and education.