

# THE RECAP

A ROUND-UP OF MEDIA,  
ENTERTAINMENT & GAMING  
INDUSTRIES' LEGAL UPDATES

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**AUTHORS:** RANJANA ADHIKARI | SARTHAK DOSHI | SRIJA RAY | SHASHI SHEKHAR MISRA  
ARJUN KHANNA | RUHI KANAKIA

## INTRODUCTION

Every two months, as our team goes about handpicking updates that we want to discuss in the next volume of *The Recap*, one of the criteria that we keep in mind is whether a development is expected to have a long arc, and more importantly, whether it is likely to become an important backstory for future events. This helps each update serve a dual purpose: recapping for the present and highlighting for the future. To judge whether an update may become a backstory, we derive our understanding of a 'backstory' from what bestselling American author Stephen King has to say about it.

*"The most important things to remember about a backstory are that (a) everyone has a history and (b) most of it isn't very interesting. Stick to the parts that are, and don't get carried away with the rest."*<sup>1</sup>

Keeping this wisdom in mind, we bring to you a new volume of *The Recap*, your bi-monthly dose of not only what's important and unmissable from the legal point of view for India's media & entertainment (M&E) and gaming industries, but also an indication of what we feel will become important backstories to developments in the foreseeable future. This volume covers legal updates from the months of September and October 2022 and like all its predecessors, is an eclectic mix of legal tussles, court orders, new laws, and vital insights.

For any queries whatsoever (or for bouquets and brickbats) please write to us at [therecap.queries@induslaw.com](mailto:therecap.queries@induslaw.com).

1. Stephen King, *On Writing: A Memoir of the Craft* (2000).



### MIB issues advisories to broadcasters and digital media publishers against offshore online betting operators

The Ministry of Information & Broadcasting (“MIB”) issued another set of advisories on advertisements of ‘online betting platforms’ (“Advisories”) to publishers of news and current affairs on digital media, publishers of online curated content and private satellite television channels. These Advisories come in the backdrop of their earlier advisory in June 2022 seeking publishers to refrain from advertising these platforms over the internet. However, the MIB observed that their advisory was not being adhered to.

Stating that betting and gambling is illegal across most parts of India, the MIB relied on the recently notified misleading advertisements guidelines under the Consumer Protection Act, 2019 and the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 (“IT Rules, 2021”) to highlight that the advertising of prohibited activities is not permitted in India. The MIB has also noted that betting platforms are indulging in surrogate advertising by using news websites and sports blogs whose logos are strikingly similar to the online betting platform, which is not in conformity with Indian laws.

The MIB has strongly advised digital media publishers against displaying advertisements of online betting platforms and/or their surrogate news websites, with private satellite television channels under the threat of penal action, if they fail to adhere to the Advisories.

*You may access an official copy of the MIB advisory to publishers of news and current affairs on digital media and publishers of online curated content, as well as private satellite television channels [here](#) and [here](#).*

*You may access an official copy of the June 2022 MIB advisory [here](#).*

### Films that found themselves in controversy:

#### Adipurush

A plea was filed before Delhi’s Tis Hazari Court (“Court”) seeking a stay on the release of the upcoming movie ‘Adipurush’ (“Film”) on the grounds that the promotional video (“Teaser”) released by the producers of the Film hurt religious sentiments of Hindus by depicting Hindu gods in an ‘inaccurate manner’.<sup>2</sup>

The plea sought directions against the Film’s producer and director to remove the alleged objectionable portion from the Teaser from all social media platforms and contended

that the act of the defendants was against morality, having the capacity to hurt the religious sentiments of Hindus. It further alleged that the Film distorted the images of Hindu gods, and if the defendants were not stopped from ‘propagating hate’ towards Hindus, it may lead to a furor amongst the public at large. The producer of the Film sought to challenge the maintainability of the suit and prayed for an opportunity to appear at the pre-summons stage of the proceedings.

The Court observed that any order passed by the Court would affect the rights of the defendant and therefore, denying him the opportunity to argue on maintainability of the suit, would amount to travesty of justice. The Court has listed the matter for arguments on November 05, 2022.

*You may read more about this development as reported by the Economic Times [here](#).*

Additionally, another plea against the Film has been filed in the Delhi High Court (“Delhi HC”) by an organization named ‘Hindu Sena’ against the makers and actors of the Film. The plea seeks the removal of allegedly ‘objectionable content’ related to the portrayal of gods and goddesses in the Film, contending that the inaccurate depiction hurt the sentiments of the Hindu community.

*You may read more about this development as reported by the Indian Express [here](#).*

#### Thank God

A plea was filed by Azure Entertainment Pvt. Ltd. (“Azure”) in the Bombay High Court (“Bombay HC”), alleging breach of contract by the co-producer of the film ‘Thank God’ (“Film”), Maruti Enterprises, and seeking directions for the stay of the release of the Film.

Azure obtained exclusive rights to produce a movie in Hindi based on a Danish film, and was thereafter approached by Maruti Enterprises to jointly produce the Film. They then executed an agreement with Super Cassettes Industries Pvt. Ltd. (“T-series”) assigning intellectual property and exploitation rights in perpetuity to T-series. Thereafter, Azure agreed to no longer participate in the production of the Film and to not be entitled to any other amounts. However, Azure thereafter alleged that it had been induced to give up multiple rights in the Film without getting counter benefits, and thus approached the Bombay HC for relief.

<sup>2</sup> Raj Gaurav v. Bhushan Kumar & Anr., Civil Suit No. 1564/2022.

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The Bombay HC refused to stay the release of the Film and observed that the application for urgent relief was filed only on October 18, 2022, even though the release date of the Film was announced on September 09, 2022.<sup>3</sup>

You may access the Bombay High Court order [here](#).

Additionally, a petition was also filed by the 'Shri Chitragupta Welfare Trust' in the Supreme Court of India ("**Supreme Court**") against the Film, which sought directions that the trailers and posters of the Film be removed from Youtube and other platforms, and that the release of the Film in theatres and over-the-top ("**OTT**") platforms be stayed.<sup>4</sup> The petition alleged that the release of the movie will be in violation of the Constitution of India, 1950 ("**Constitution**") and the Cinematograph Act, 1952. The petition claimed that there are derogatory expressions, statements, dialogues and insulting images, and videos in and around the character of God Chitragupta, played by the actor Ajay Devgn.

The petitioner sought an urgent hearing in the matter, stating that the movie is slated for release on October 25, 2022 and the matter would become infructuous, if not heard urgently. However, the Supreme Court declined to list the matter urgently, and is likely to hear the matter on November 21, 2022.

You may read more about this development as reported by the Indian Express [here](#).

## Courts restrain rouge websites from copyright infringement:

### Vikram Vedha

In a suit filed by Reliance Entertainment Studio Pvt. Ltd., the Madras High Court ("**Madras HC**") has ordered the blocking of over thirteen thousand websites to prevent the piracy of the film 'Vikram Vedha' ("**Film**")<sup>5</sup>. The petitioners submitted that the producers of the Film had invested substantial sums of money in its production, and that as a co-producer, the petitioner also had exploitation rights in the Film. Submitting a list of thirteen thousand four hundred and forty five websites to the Madras HC, the petitioner contended that these websites were non-compliant, having no reporting and take-down mechanisms in place, and were infringing the copyright of the petitioner in the Film.

The Madras HC, while observing that ordering a notice will entail a delay and defeat the object of granting an interim order, passed two separate ex-parte injunctive orders for a period of six weeks. Firstly, it restrained the defendants from infringing the producers' copyright in the Film to prevent the transmission, communication, display, and exhibition of the Film, and ordered blocking of websites/web-pages (as submitted by the petitioner) if necessary. Secondly, the Madras HC also restrained the defendants from recording, reproducing, camera recording, or allowing others to

transmit, upload, download or exhibit in any manner, the communication of the Film without a proper license.

You may access the Madras HC order [here](#).

### Ram Setu

The Delhi HC recently restrained twenty three 'rogue websites' from illegally hosting or streaming the Akshay Kumar-starrer 'Ram Setu' ("**Film**"), which was released on October 25, 2022.<sup>6</sup>

The plea filed by Cape of Good Films LLP, argued that they have invested a huge sum in producing and promoting the Film and have the copyright to the same under the Copyright Act, 1957. It prayed for a restraining order to be issued against the rogue websites from hosting, streaming, distributing, and/or communicating the Film to the public or facilitating the same on any platform without their authorization, as the same would amount to copyright infringement.

The Delhi HC agreed with the petitioner, observing that the petitioner's interest would be severely impacted if rogue websites communicate the Film in any manner simultaneously or in close proximity with the theatrical release of the Film. Therefore, the Delhi HC issued an order against the rogue websites, restraining them from streaming, or hosting, or providing access to, or communicating the Film on their websites, through the internet, or any other platform, till the next date of hearing which is set for February 20, 2023. It further directed the proprietors of the websites to suspend/block the domain name registrations of the twenty three websites mentioned by the petitioner in his complaint.

You may access the Delhi HC order [here](#).

### Warner Bros. original cinematographic films

A plea was filed in the Delhi HC by Warner Bros. Entertainment Limited ("**Warner Bros**") seeking a permanent injunction against [www.uwatchfree.st](#) and other rogue websites from infringing the plaintiff's exclusive rights in its cinematographic films by hosting, streaming, reproducing, facilitating, making available or communicating to the public, the cinematograph works of the plaintiff.<sup>7</sup>

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3. Azure Entertainment Pvt. Ltd. v. Maruti International & Ors., 2-IA (L) 33390 of 2022 in Commercial Suit 33386/2022.

4. Shri Chitragupta Welfare Trust v. Central Board of Film Certification and Ors., Writ Petition (Civil) No. 877/2022.

5. Reliance Entertainment Studios Pvt. Ltd. v. Bharat Sanchar Nigam Limited, Civil Suit (Commercial Division) No.210/2022

6. Cape of Good Films LLP v. Hitmovies4u.Live & Ors., Civil Suit (COMM) 726/2022.

7. Warner Bros. Entertainment Inc. v. [www.uwatchfree.st](#), Civil Suit (Comm) No. 402/2019.

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The plaintiff submitted that the illegal transmission of their content by such rogue websites infringes their copyright, and contended that since their works qualify as cinematographic films under the Copyright Act, 1957 and such films also release in India, therefore, the Delhi HC has the jurisdiction to protect the plaintiff's rights.

The Delhi HC, while observing that most of the defendants were rogue websites and without any defense, declared the case fit for summary judgement as per Order XIII A of the Code of Civil Procedure, 1908. The Delhi HC issued injunctions against [www.uwatchfree.st](#) and other rogue websites from infringing the rights of the plaintiff. Furthermore, it also discussed the concept of dynamic injunctions and their applicability on the permitted subsequent impleadment of mirror/redirect/alphanumeric websites, and thereafter permitted the plaintiff to implead mirror/redirect/alphanumeric websites. Thereafter, the Delhi HC disposed of the matter.

You may read more about this development as reported by the Supreme Court Cases Online reporter [here](#).

## CBFC directs film advertisements to carry film certification

The Central Board of Film Certification ("CBFC"), issued a press release, directing film producers to carry the category of the certificate granted to their film, in all advertisements, after the date of certification. The press release also stated that the rating granted to the film, such as "U/A", "A" or "S" should appear in all advertisements, as provided under the Cinematograph (Certification) Rules, 1983.

Additionally, the press release mandated the producers to carry the category of certificate granted to a film in the film's advertisements in newspapers, wall posters, handbills, and other media as well, after the date of certification, and non-compliance of the same might invite action.

You may access the press release by the CBFC [here](#).

## Delhi HC holds NOC of trademark office mandatory for claiming copyright registration of artistic work in respect of goods and services

The Delhi HC has held, that in order for any person to obtain copyright registration of an artistic work, which is being used or is capable of being used in respect of any goods and services, a No Objection Certificate ("NOC") is mandatorily to be obtained under the proviso of section 45(1) of the Copyright Act, 1957. The Delhi HC was dealing with a plea whereby a sole proprietorship firm was seeking the rectification of the artistic work titled, 'Asli Kesri Chai'. The proviso of Section 45 of the Copyright Act, 1957 states

that the application for entering particulars of the copyright work in the Register of Copyrights shall be accompanied by a certificate from the Registrar of Trademarks to the effect that no trademark identical with or deceptively similar to such artistic work has been registered or that no application has been made for such registration by any person other than the applicant.<sup>8</sup>

The single judge observed that the purpose behind the concerned provision is to ensure that there is no conflict between labels, packaging, etc., that is registered or used by the trademark owners, and registrations granted under the Trademarks Act, 1999. The judge further remarked that the registration of copyright in respect of artistic works is, thus, founded on the basis of the NOC issued by the Trademark Office.

You may access the Delhi HC order [here](#).

## Single-window clearance likely for theatres in upcoming model policy

The MIB has announced that it is working on a model theatre policy, in consultation with all state governments, to roll out a pan-India single-window clearance system, to help revive the sector.

The Union Secretary for Information and Broadcasting, Apurva Chandra, has stated that the MIB has asked the Film Facilitation Office to work in conjunction with Invest India, to come up with a single-window portal for the opening of theatres, so that a larger number of theatres can be opened for public benefit and enjoyment. The MIB also stated that the Central Government will work with the states to create a model theatre policy for states to adopt. Mr. Chandra further added that the government is considering different models, such as all-encompassing entertainment hubs comprising a food court, sports facility and multiscreen cinemas under one roof, which have become popular in parts of India.

You may read more about this development as reported by LiveMint [here](#).

## Digital media not part of new press bill

The Information and Broadcasting Minister, Anurag Thakur, has stated that the government has not yet decided to include digital media under the upcoming draft legislation on press and periodicals. He further added that clarity on the same will only emerge once the bill is introduced, and the major focus of the new bill would be on increasing the ease of doing business, and the decriminalization of earlier provisions.

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8. Mohd. Ershad Sole Proprietor EK Agencies v. Registrar of Copyrights & Ors. C.O. (COMM.IPD-CR) 17/2021.

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The Registration of Press and Periodicals Bill was first introduced in 2019. This bill was followed by Registration of Press and Periodicals Bill, 2022, which was listed during the monsoon session of Parliament in 2022, but was not tabled. The new bill, after coming into force, will replace the Press and Registration of Books (PRB) Act, 1867.

You may read more about this development as reported by the Hindustan Times [here](#).

## Delhi HC stays TDSAT order asking broadcasters for OTT content

The Delhi HC has stayed an order of the Telecom Disputes Settlement and Appellate Tribunal (“TDSAT”), that directed broadcasters such as Star, Sony, and Sun TV to provide information about content provided on their OTT platforms to the Telecom Regulatory Authority of India (“TRAI”).<sup>9</sup>

Earlier, the TRAI had directed these broadcasters to furnish information regarding streaming of live linear channels by them on their OTT platforms. The appellants claimed that the TRAI has no jurisdiction over OTT services and that these services are beyond the scope, power, and authority of the TRAI Act, 1997. The TDSAT had initially granted them protection against any coercive action, however, thereafter, it passed the order directing them to furnish the information sought by the TRAI.

The Delhi HC questioned the jurisdiction of the TRAI to regulate OTT firms and passed an order of stay against the TDSAT order and has issued notice to the TRAI. The matter will be heard on March 03, 2023.

You may access the Delhi HC order [here](#).

## Broadcasting services included within the ambit of Draft Indian Telecom Bill 2022

On September 21, 2022, the Department of Telecommunications (“DoT”) issued the draft Indian Telecommunication Bill, 2022 (“Draft Bill”) for public comments. The Draft Bill proposes to bring in sweeping changes to the governance of the telecommunication sector and to replace three colonial-era legislations which still govern the sector, namely the Indian Telegraph Act, 1885, the Indian Wireless Telegraphy Act, 1933, and the Telegraph Wires (Unlawful Possession) Act, 1950.

The Draft Bill includes broadcasting services<sup>10</sup> within its ambit and also lists in Schedule 2, the different kinds of broadcasting services which will require a license to operate.<sup>11</sup> The definition of broadcasting services is vague and does not tie to Schedule 2 but refers back to the main definition of “telecommunication services”<sup>12</sup> which itself is extremely broad. There is also a lack of clarity on whether OTT streaming apps are intended to be included within the ambit of the Draft Bill – the reference to ‘OTT communication services’ has been interpreted by various stakeholders in different ways. The deadline for public comments was extended to November 20, 2022.

The Draft Bill and other accompanying documents can be viewed [here](#).

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9. Star India Private Limited v. Telecom Regulatory Authority of India Writ Petition (C) No. 14039/2022.

10. “broadcasting services” means a telecommunication service intended to be received by the general public either directly or indirectly.

11. Direct to Home (DTH) Services, Community Radio Stations, FM Radio Broadcasting Services through Private Agencies, Internet Protocol Television (IPTV) Services, Downlinking of Television Channels, Uplinking of Television Channels.

12. “telecommunication services” means service of any description (including broadcasting services, electronic mail, voice mail, voice, video and data communication services, audiotex services, videotex services, fixed and mobile services, internet and broadband services, satellite based communication services, internet based communication services, in-flight and maritime connectivity services, interpersonal communications services, machine to machine communication services, over-the-top (OTT) communication services) which is made available to users by telecommunication, and includes any other service that the Central Government may notify to be telecommunication services.

## The Central Government notifies the amendments to the IT Rules, 2021 for social media intermediaries

On October 28, 2022, Ministry of Electronics and Information Technology (“MeitY”) released the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Amendment Rules, 2022 (“Amendment Rules”).

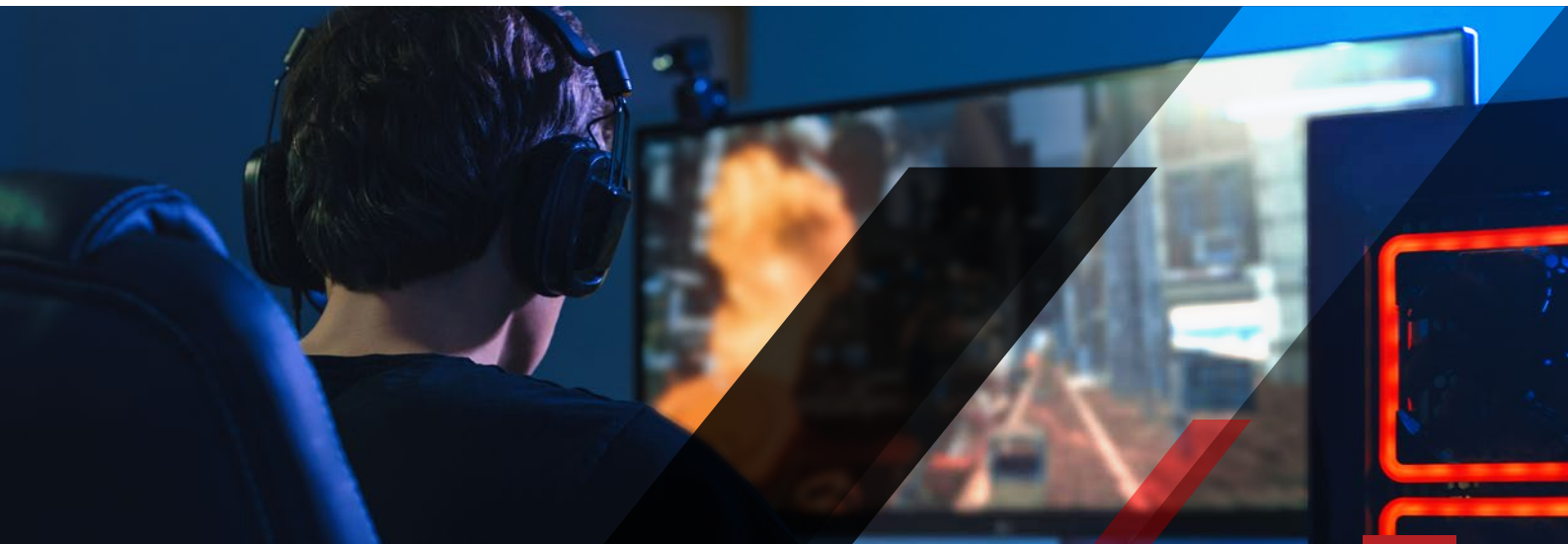
The Amendment Rules, *inter alia*, make the following changes to the IT Rules, 2021:

1. The obligation on the intermediary to prominently publish on its website or mobile based application the rules and regulations, privacy policy and user agreement of the intermediary, has been extended to making such documents available in “English or any language specified in the Eighth Schedule to the Constitution” for access or usage of its computer resource, by any person, “in the language of his choice”, and to ensure compliance of the same.<sup>13</sup>
2. While the IT Rules, 2021 mandated that social media intermediaries would be responsible for informing users not to host, display, upload, modify, publish, transmit, store, update or share any information not permitted under the law, the Amendment Rules only provide that intermediaries should take ‘all reasonable measures’ to inform users of the provisions of the IT Rules, 2021.
3. The Amendment Rules mandate that one or more grievance appellate committees (“GACs”) are to be established within three months of the Amendment Rules coming into force. Each GAC shall consist of a chairperson, two whole time members appointed by the Central Government, one of which shall be an ex-officio member, and two independent members.
4. Any person aggrieved by a decision of the grievance officer may prefer an appeal to the GAC within a period of thirty days from the date of receipt of communication from the grievance officer. While dealing with the appeal, if the GAC thinks it necessary, it may seek assistance from any person having requisite qualification, experience, and expertise in the subject matter, and will aim to resolve the appeal within thirty days. Additionally, the GAC shall adopt an online dispute resolution mechanism wherein the entire appeal process, from filing of the appeal to the decision thereof, shall be conducted digitally. It is also prescribed that every order passed by the GAC shall be complied with by the intermediary concerned and a report to that effect shall be uploaded on its website.
5. The grievance officer appointed under the IT Rules, 2021, is now mandated to resolve any complaint in the nature of request for removal of information or communication link under Rule 3(1)(b) of the IT Rules, 2021, except sub-clauses (i), (iv) and (ix), as expeditiously as possible, and within seventy two hours of such reporting, in contrast to other complaints which are mandated to be resolved within fifteen days of receipt of the complaint.
6. The Amendment Rules also provide a shorter timeline of twenty four hours to act on sensitive content and require significant social media intermediaries to “respect all the rights accorded to the citizens under the Constitution, including in Articles 14, 19 and 21.”<sup>14</sup>

You may access the official copy of the Amendment Rules as published by the MeitY [here](#).

13. Rule 3(a)(i) of the Amendment Rules.

14. Rule 3(a)(iii) of the Amendment Rules.



## Tamil Nadu government passes a new law on online gaming

Owing to the increased political pressure for a law on online games, the Tamil Nadu government introduced the Tamil Nadu Prohibition of Online Gambling and Regulation of Online Games Ordinance, 2022 (“**TN Online Gaming Law**”).

The TN Online Gaming Law has broadly categorized games as ‘online gambling’ and ‘online games of chance’. It prohibits online gambling and real-money online games of chance. The TN Online Gaming Law has also specifically deemed rummy and poker, if offered for real-money or stakes, to be games of chance and prohibited them. Playing or offering online gambling or real-money games of chance to residents of the state has been made punishable criminal offences. Advertisements of online gambling and real-money games of chance have been prohibited across all types of media, with banks, financial institutions, and payment gateways prohibited from processing the transfer of funds for online gambling and real-money games of chance in the state of Tamil Nadu (“**State**”).

The Tamil Nadu Online Gaming Authority (“**Online Gaming Authority**”), consisting of a chairperson and four members, is empowered to perform the following functions:

- regulate online games, including imposing time and monetary limits through regulations.
- issue certificate of registration to local online game providers.<sup>15</sup>
- identify online games of chance and recommend its inclusion to the existing list of rummy and poker.
- oversee the functioning of online game providers in the state and obtain and maintain information on their activities.
- resolve grievances or complaints received against any online game provider.

The TN Online Gaming Law has categorized online gaming operators into two categories, i.e., Local Online Games Providers (“**LOGP**”), and Non-Local Online Games Providers (“**NLOGP**”). LOGP are those game providers, whose operations and servers through which they offer their game products, are located within the state, and such LOGPs must procure a certificate of registration from the Online Gaming Authority before operating in the state. NLOGP are those who operate from outside the State and are prohibited from offering online gambling and real-money online games of chance in the State. To achieve this effect, the NLOGPs must either geo-block their services to customers of the state or conduct due diligence activities to verify that customers are not accessing their games from the State.

## Supreme Court accepts appeals by Tamil Nadu government and Karnataka government against High Court judgements on online gaming; Kerala government appeals 2021 rummy judgement

**Appeal by Tamil Nadu government and Karnataka government:** The Supreme Court admitted separate appeals filed by the Tamil Nadu government and Karnataka government against their August, 2021 and February, 2022 High Court judgements<sup>16</sup> which struck down amendments banning online games of skill for stakes in their respective states. The appeals have been filed because the states believe that they have legislative competence to adopt the quashed amendments. The state governments claim that the amendments differentiate between online games played for stakes and other games which meets the objective of curbing suicides and socio-economic issues arising out of gambling addiction amongst the state residents. The Supreme Court, admitting the appeals, has crucially tagged them to be heard together with no fixed date for the next hearing.

**Appeal by Kerala:** The High Court of Kerala (“**Kerala HC**”) is hearing an appeal<sup>17</sup> filed by the Kerala government against the judgment passed in September 2021<sup>18</sup> by a single judge of the Kerala HC. The judgement quashed a state government notification banning online rummy for stakes. The matter has been listed for hearing on November 03, 2022.

You can read the Supreme Court orders [here](#) and [here](#).

You can read the Madras HC, Karnataka HC and Kerala HC order [here](#), [here](#) and [here](#) respectively.

15. An online games provider whose central management and control of the service is in the State; or whose service that is available for access by the customers, is hosted in the State.

16. *Junglee Games India Pvt Ltd & Anr v State of Tamil Nadu & Ors*, Writ Petition No. 18022/2020, and *All India Gaming Federation & Ors v State of Karnataka & Ors*, Writ Petition No. 18703/2021.

17. *State of Kerala & Ors. v Gameskraft Technologies Pvt Ltd & Ors.*, Writ Appeal No. 714/2022.

18. *Head Digital Works Pvt Ltd & Anr v State of Kerala & Ors*. Writ Petition (C) No. 7785/2021.



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## Central committee issues recommendations on central law for online gaming

A seven member committee (“**Committee**”) had been set up by the Central Government comprising of secretaries of various ministries, to formulate a central gaming law. The Committee has submitted a report of over hundred pages of their recommendations to the central government.

The Committee has suggested that the proposed law should apply to games of skill including fantasy sports, card games, esports and casual games whether free to play or for real money and regulations for games of chance should be left to the discretion of each state government.<sup>19</sup> MeitY will be the central ministry for online gaming except for esports and games of chance. MeitY is to set-up a regulatory body to evaluate game formats and determine if they are games of skill or chance. While the introduction of a new law is a long-term solution, as an interim measure, the online gaming industry can be regulated through rules drafted under the Information Technology Act, 2000.

The Committee also proposed the law to have powers to punish and block game formats prohibited under the proposed central gaming law. After analyzing international best practices, the Committee has suggested introducing de-addiction measures like deposit and withdrawal limits, periodic warning and advisories on responsible gaming to assist players with their engagement with the game. Along with due diligence requirements and Know-Your-Customer norms, gaming platforms will be required to have a robust three-tier dispute redressal mechanism consisting of the gaming platforms, a self-regulatory organization of the gaming platform and an oversight committee led by an appropriate ministry. MeitY will finalise the report after receiving further comments from the Committee which will then be sent to the cabinet secretariat for approval, though there is no timeline for its finalization.

You can read more on this development as reported by Reuters [here](#) and [here](#).

## Google Play Store launch pilot program for fantasy sports and online rummy in India

In a surprising move, Google launched a pilot program on the Google Play Store (“**Play Store**”) in India for Daily Fantasy Sports (“**DFS**”) and rummy applications. Up to this point, Google permitted real-money games on the Play Store in select countries outside India making this pilot launch a marked shift to their existing policies.

In the pilot program, Google has defined DFS<sup>20</sup> and Rummy<sup>21</sup>, has required operators to be incorporated in India with an application targeting users in India, has required operators to be free to download from the Play Store, and to not use Google’s native in-app billing mechanism. The application cannot be offered in states where the game is

prohibited or requires a license to offer which the developer has not procured. The application cannot be offered in states where the game is prohibited or requires a license to offer which the developer has not procured. Developers must conduct age verification to ensure minors cannot play, provide users with information on responsible gaming, and set-up effective customer redressal mechanisms. The pilot proposes to run from September 28, 2022, to September 28, 2023, and explore possible updates to their existing real-money gaming policies for the Play Store.

You can read Google’s official announcement [here](#).

You can read the application form for developers to fill [here](#).

## Meghalaya Regulation of Gaming Act, 2021 to be scrapped

Following months of criticism and opposition, the Meghalaya government has decided to repeal the Meghalaya Regulation of Gaming Act, 2021 (“**Meghalaya Gaming Act**”) which regulated online gaming in the state under a licensing regime. Religious organizations, youth councils and political parties have been vocal against the Meghalaya Gaming Act as they believed its existence has moral consequences to the detriment of the residents and that the government should look at alternate solutions towards increasing state revenues.

While the Meghalaya Gaming Act was introduced to boost tourism, generate local employment and revenues for the state, the government stated that they have taken into consideration the apprehensions of those opposing the law and have decided to scrap it. An ordinance will be placed before the state assembly for repealing the Meghalaya Gaming Act. Till then it will be in force and once the procedure is complete the Meghalaya Prevention of Gambling Act, 1970 will remain as the principal gaming legislation in the state.

You can read more on this development as reported by The Print [here](#).

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19. Entry 34, list II, Schedule VII of the Constitution of India 1950 i.e. Betting and Gambling.

20. contestants use their knowledge of athletic events and athletes to select or manage rosters of simulated athletes whose performance directly corresponds with the actual performance of human athletes on sports teams or in sports events. The outcome of the game depends on how the performances of participants’ fantasy roster choices compare to the performance of others’ roster choices.

21. a set of card games available in which a player must strategize, memorize the fall of cards, and arrange valid card sets and/or sequences by picking and discarding cards from a closed deck and an open deck, offered in either 10, 13, 21, 27 card formats, and in accordance with the rules followed for the offline versions of the same formats conventionally played in India.

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## Gaming company receives tax demand for 21,000 crores, biggest ever show cause in indirect taxation

Online gaming operator Gameskraft Technologies Pvt Ltd ("**Gameskraft**") received a Goods and Service Tax ("**GST**") demand of close to INR 21,000 crores plus interest from the period of August, 2017 to June, 2022, the biggest ever show cause notice in indirect taxation history. Aggrieved with the order, Gameskraft approached the Karnataka High Court ("**Kar HC**") seeking a stay against the notice received.<sup>22</sup> The GST officials contend that Gameskraft, an online real-money rummy operator, is a game of chance involved in betting activities and believe a twenty eight percent tax slab on hundred percent of the face value<sup>23</sup> on the alleged betting amounts should be levied. Counsels for Gameskraft have argued that there are a catena of Supreme Court and High Court judgements stating that rummy is a game of

skill, offering it for real money does not make it a game of chance and it is a constitutionally protected legitimate business activity permitted to be offered in the country.<sup>24</sup>

While hearing the matter the Kar HC observed that experts must decide the nature of a game as skill or chance and not a GST officer and the excess GST claim will not stand if it is proved that the games in contention are games of skill as previously decided by the courts. The matter is currently being heard and is listed next for November 08, 2022.

You can read more on this development as reported by *The Tribune* [here](#).

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22. Gameskraft Technologies Pvt Ltd v Director General of Goods and Services Tax Intelligence (Writ Petition No. 19561/2022).

23. Rule 31A (3) of CSGT Rules, 2017.

24. Article 19(1)(g) of the Constitution of India, 1950.



## OUR OFFICES

### BENGALURU

101, 1st Floor, "Embassy Classic" # 11  
Vittal Mallya Road  
Bengaluru 560 001  
T: +91 80 4072 6600  
F: +91 80 4072 6666  
E: bangalore@induslaw.com

### DELHI

2nd Floor, Block D  
The MIRA, Mathura Road,  
Ishwar Nagar  
New Delhi 110 065  
T: +91 11 4782 1000  
F: +91 11 4782 1097  
E: delhi@induslaw.com

### HYDERABAD

306, Ashoka Capitol, Road No. 2  
Banjara Hills  
Hyderabad 500 034  
T: +91 40 4026 4624  
F: +91 40 4004 0979  
E: hyderabad@induslaw.com

### MUMBAI

1502B, 15th Floor  
Tower – 1C, One World Centre  
Senapati Bapat Marg, Lower Parel  
Mumbai 400 013  
T: +91 22 4920 7200  
F: +91 22 4920 7299  
E: mumbai@induslaw.com

### CHENNAI

#11, Venkatraman Street  
T Nagar, Chennai 600 017  
T: +91 44 4354 6600  
F: +91 44 4353 6600  
E: chennai@induslaw.com