

## EVENT REPORT

**Friday, 21st April | Bengaluru**

# **CONSILIENCE**

# **2023** //



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## INTRODUCTION

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The Law and Technology Society (“**L-Tech**”), in collaboration with the All India Game Developers’ Forum (“**AIGDF**”), organized its flagship academic conference- *Consilience 2022*- on April 21st, 2023. The theme of this year’s conference was Online Gaming in India. This became particularly relevant because of two reasons- *first*, the amendments to the Information Technology (Intermediary guidelines and digital media ethics) Rules 2021 were notified, and *second*, gaming companies were subject to a 28% Goods and Services Tax. These legislative changes to an emerging industry made it important to discuss the changes.

The Conference drew academics, lawyers as well as industrialists in an intense discussion on the regulatory, taxation, and the business perspectives of online gaming. The Conference was divided into the following four panels:

- I. Online gaming regulation in India
- II. Taxation in Online Gaming Industry
- III. Navigating the Gaming landscape: New Businesses & M&A Opportunities
- IV. Making India a Global Gaming Powerhouse

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## OPENING REMARKS

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**Dr Arul George Scaria, Associate Professor at the National Law School Of India University** delivered the opening statement to Consilience 2023. While extending a warm welcome to the panelists and the audience, he highlighted the significance of Gaming Law in a country like India, where a substantial percentage of the population was below the age of forty and witnessing escalating access to the internet. He expressed his hopes that through the four panel discussions, the event would catalyze the evolution of concrete solutions and facilitate critical analysis- given that the [Ministry of Electronics and Information Technology](#) ('MeitY') had come up with the [modified IT Rules](#). More importantly, he emphasized the relevance of the spirit propping up the title "Consilience"- a word indicating confluence of knowledge from different disciplines.

The opening remarks was succeeded by a Special Address furnished by **Mr Roland Landers, the CEO of the All India Game Developers' Forum**. Mr Landers extended a warm welcome to the audience on behalf of the All India Game Developers' Forum and expressed his gratitude to the Law and Technology Society of the National Law School Of India University for making the event possible. He introduced the audience to All India Game Developers' Forum, which is a not-for-profit organization working under the aegis of the [All India Gaming Federation](#). He expressed his belief that the event's discussion would shed light on some of the legal and regulatory requirements that had to be complied with to enable the gaming industry to reach its full potential. He asserted his belief in the gaming industry's potential to become an important contributor to India's technology ecosystem.

Mr Landers highlighted the industry's unparalleled growth, especially in the media entertainment sector where global gaming revenues for mobile and consoles had seen a 12% increase in Compound Annual Growth Rate (CAGR) between 2019 and 2023, while other segments within media and entertainment such as music, films and television have seen growth rates of 6%, 8% and 2% growth respectively. In the Indian Context, the [mobile first approach](#) has witnessed massive popularity which is being enabled by low cost smartphones and internet connections. He also highlighted that the [online](#) Indian gaming market is today a 2.5-billion-dollar industry with a CAGR of 30% for the last 5 years and is expected to double by 2025, making it a 5 billion dollar industry. The gaming industry is a key contributor to startup India with 950 online gaming companies and 3 startup unicorns and more than 15,000 game developers. Moreover, with the advent of 5G, the gaming industry has a promising future with uptake for e-sports in an emerging market like India. 5G and other tech developments will create a smoother gaming experience with low latency. Technologies like VR would also be made more accessible.

Mr Landers also went on to compare India's position with the world to observe that India still had a long way to go. Currently, India owns only 1% of the global gaming market compared to the United States and China which have 23% and 25% respectively. However, he opined that despite this

momentous gap, there was a promise of the number increasing to 10% over time. He also highlighted that there are hardly any Indian gaming titles in the top grossing gaming apps at popular app stores currently. India currently has 400 million gamers and 2.5 billion USD in revenue numbers out of which most of it is grossed by a single gaming title.

Nevertheless, he expressed his enduring faith in the Indian mobile gaming industry to be a market leader in the future. For this, he mentioned certain goals which the government had conceptualised, one of which was the [task force](#) announced by our Prime Minister during the previous budget proposal. A recent report in December 2022 from the task force demonstrates that it has precipitated a holistic development of India's gaming sector by increasing job creation, skill development, financial viability, access to technology, and so on. He also talked about the AVGC's vision and the state's role through draft policies at the state level, which AIGDF would work along with.

He concluded by highlighting a few issues which had to operate at the focal point of contemporary debate: *First*, how game development would prove to be integral towards the 1 trillion dollar digital economy envisioned by our Prime Minister for India. *Second*, the role of a stable regulatory and tax regime in functioning as the cornerstone of digital India. *Third*, the great strides achieved by our government at the regulatory and policy levels which has enabled it to place the gaming regulations before the House in a record time of 8 months from the first consultation.

He ended his note by expressing his hopes that the conference would relay efforts to make India a key player in the online gaming and game developer space.

## PANEL I: ONLINE GAMING REGULATION IN INDIA

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### Panel Members

1. Mr Arun Prabhu, Partner at Cyril Amarchand Mangaldas.
2. Mr Abhinav Srivastava, Partner at LawNK.
3. Ms Nehaa Chaudhari, Partner at Ikigai Law.
4. Ms Ritika Chatterjee, General Counsel at Mayhem Studios.

**Moderator:** Ms Betsy Rajasingh, Assistant Professor of Law, National Law School of India University, Bengaluru.

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### Executive Summary

The panel discussion began with reference to the aversion demonstrated by certain states to the online gaming regulations in light of the detrimental impact associated with online gaming. There was consensus amongst the panelists that instead of taking such a radical viewpoint, the states ought to give the new regulations a fair chance. Nevertheless, the discussion brought forth multiple concerns that persisted in the gaming industry. The fine distinction between games of skill and games of chance, the role of the self-regulatory bodies in demarcating between the two, the role of intermediaries in the whole process, the pertinent need to educate the consumer-base of the gaming industry and the risks of child safety were taken up as the focal points of discussion. While discussion saw varied viewpoints proffered by the panelists on these issues, all of them emphasised the beneficial tenor of the amended IT Rules.

**First**, the panel discussed the role of the Self-Regulatory Bodies (“SRBs”) in distinguishing between games of skill and games of chance, as defined by the Supreme Court in *RMD Chamarbaugwala*. Ms Neha Chaudhury noted that this exercise involved the use of highly sophisticated algorithms which would utilise advanced mathematical techniques to make such determinations. She therefore opined that the industry itself was best-situated to undertake this exercise and further commended the SRBs for facilitating it. Mr Arun Prabhu highlighted the composition of the SRBs, noting that it comprised experts from the field. Mr Abhinav Srivastava concurred with Ms Chaudhury’s views. He also opined that a “top-down” approach would not be feasible for our rapidly evolving gaming industry which required industry participation.

**Second**, the panel discussed the feasibility of effectuating the Centre’s amended IT Rules, given the inclusion of betting and gambling under the State List. Mr Srivastava dismissed this concern, observing that the ambit of state regulation only extended to regulating games of chance as against games of

skill. Therefore, he observed that the Centre was competent to enact regulations operative over games of skill. Mr Prabhu, while expressing his agreement with this observation, also highlighted judicial confusion surrounding terms like “wagering” and “gambling.” The discussion then centered around the anachronistic use of such terms by the judiciary, and the ineptness of these terms to capture the Indian scenario accurately. Ms Ritika Chatterjee consequently highlighted the need for a holistic approach by the SRBs and the judiciary.

**Third**, the panel moved on to discuss whether the regulatory powers vested in the SRBs were disproportionate, given the lack of governmental control over these bodies. Mr Prabhu noted that the mechanism under 69A of the IT Act would have been more appropriate, given the procedural and judicial constraints over the exercise of this mechanism. Mr Srivastava also noted that the amendments allowed the SRBs to undertake functions that traditionally belonged to the state- for instance, the maintenance of public order. He felt that these amendments allowed the SRBs to arrogate state responsibility. Further, certain interesting constitutional challenges to the validity of the amendments were also discussed.

**Fourth**, the panel deliberated upon the evolving nature of online intermediaries, and whether gaming apps functioning as intermediaries could avail safe-harbour under Section 79 of the IT Rules. Ms Chaudhury said that the answer to this question was fairly simple since the Minister of MeitY had said that safe-harbour could be availed if due diligence was fulfilled. Mr Prabhu observed that the distinction between games and intermediaries were being blurred by the evolution of novel gaming platforms and technologies. Ms Chatterjee supplemented the discussion by offering insights on the evolving roles of intermediaries.

**Lastly**, the panel conferred on the issue of tackling harm emanating from the gaming industry. Ms Chatterjee emphasised that the gaming industry held keen interest in minimising the addictive potential of games. Taking the conversation to a more abstract level, Mr Prabhu observed that terms like “harm” and “detiment” lacked concrete definition. Ms Chaudhury and Mr Srivastava opined that the SRBs would be well-situated in defining these terms, keeping in mind the specificities of different games. Ms Chaudhury further noted that the Government had to refrain from being overly-prescriptive in this arena, as that would hamper development. Mr Prabhu also highlighted various drawbacks accruing to a defined set of safety principles. Ultimately, all the panelists agreed upon the need for flexibility in addressing this issue.

The panel then answered questions from the audience, followed by the Moderator expressing her gratitude for the spirited participation by the panelists.

## **Panel Discussion**

**Dr Betsy Rajasingh** opened the discussion by referring to a [statement made by Justice Chandru](#), who leads the [four member committee](#) in Tamil Nadu for recommendations on gaming regulation. He had remarked that the recent rules do not change the stance of the Tamil Nadu government and the state does not see any other way than banning online gaming. The statement was made in light of seventeen gaming related suicides. The state is keen on regulating online gaming on its way.

**Ms Neha Chaudhary** expressed her opinion that the states should give the new framework a chance to see how it plays out and evolves. She highlighted that the primary concern of most state governments is [user harm](#) and the new rules provide mechanisms and safeguards which are built in the rules to address these issues. She mentioned that [the rules are a result of long standing demand of the industry](#) that the central government pick up the ball and bring about regulatory certainty. Otherwise, the industry had to battle uncertainty due to different positions across various states, which makes it really hard to do business.

She believes that there is a recognition of the fact that there needs to be responsible gaming practices and the larger players in the industry have already been adopting these. In this sense, the rules are also a validation and recognition of the industry's effort in adopting good practices etc., which has been recognized by the government which now seeks to balance and redress a lot of concerns. This is reflected in the role envisaged for the self regulatory bodies and organization which will involve assessments and on the basis of good practices and a lot of this will continue to evolve.

She ended by expressing her opinion that since the concerns such as user harm etc. are being addressed by the rules anyways, then there might not be a problem to solve across various states and the states should give the new rules a chance.

**Mr Arun Prabhu** started by quoting the [Justice Chandru Committee report](#) which mentioned that all random number generators have an element of bias and thus there is no such thing as game of skill. He criticized this observation on there being no games of skill as being patently wrong and expressed his displeasure at the fact that the basis of the call for ban is based on such a patently problematic statement. He highlighted that there has been a clear recognition across decisions ranging back to [RMD Chamarbaugwala](#) that there is a constitutionally protected right to conduct business and the conduct of skill games is a protected business. The states do have the right to regulate betting and gambling (under Entry 34 of the [State List](#)) but they [do not have the competence](#) to restrict a constitutionally protected conduct of skill games.

He noted that the [central government framework had constituted an expert group of people who specialize in evaluating gaming formats](#) and had taken a report from the group on the new regulations. The report clarified that *first*, online gaming qualifies as a game of skill; and *second*, that there are safeguards against concerns such as user harm, age restrictions, transparency. The regulations provide

industry standard state of the art mechanisms to protect users. In light of this, he emphasizes that when all these concerns are catered to by the regulations, it becomes very difficult for any state to ban online gaming because these are the markers on which games are banned. When MeitY itself is relying on this body which has done all its homework and the actions of the body are also open to questions, it becomes really difficult for any state to be an outlier.

Moreover, he also highlighted that banning is not a practical measure because a ban does not stop an activity. He went on to say that merely because there are suicides in a sector does not mean that the sector *in itself* is liable to be banned. The concerns such as user harm are caused mostly by lack of good practices or outliers, both of which get dealt with by regulation. He expressed that banning in any sector is largely a political statement and India cannot afford the luxury of such statements in an industry so [strategically important to the country and the economy](#).

It was then highlighted by **Mr Abhinav Srivastava** that the center-state tussle on rule making and legislative competence has been historic ever since *RMD Chamarbaugwala* where the Prize Competitions Act was read down to include only games of chance, which something that is state is competent to legislate on due to the public order concerns surrounding it (by virtue of Entry 1 of the [State List](#)). As far as games of skill are concerned, he reiterated that games of skill were a protected category under Article 19(1)(g). Hitherto all games of skill were working under an exception provided in state statutes. The frame of such exceptions have differed across states, there are outlier states and judgements which are causing a lot of confusion. What the central regulation, thus, does is that it tries to fill the vacuum by providing a policy framework. This framework employs self-regulatory bodies because it recognizes that the sector is evolving and it is not possible to adopt a top-down regulatory approach and there needs to be industry participation. He concurred with Neha's points of giving the framework a chance because self regulation has been promising in media regulation which is a sector that the states cannot touch. He explained that a ban should be the last resort especially when concerns like public safety and addiction can be addressed through responsible practices which is what the regulations envisage.

Carrying the discussion forward, **Ms Rajasingh** addressed the next question of how well do the new regulations distinguish between games of skill and games of chance, which is a significant distinction given that the latter is an area where the state has all the authority to make rules.

**Mr Srivastava** mentioned that there are a couple of things we need to look at: How have the rules been formulated and what is the role given to each participant in the framework. At the forefront, the rules are trying to ringfence the Indian digital market through intermediaries. He referenced the safeguards provided to intermediaries under [section 79](#) which provides immunity to the intermediaries who are only acting as conduits. Immunity is also given to intermediaries which comply with the takedown procedure.

Essentially, the intermediaries are responsible for ensuring that gambling is prohibited, which is a subject which continues to be banned. In order to access this market, the intermediary, albeit as an app store, etc. is acting as a gatekeeper and they are only allowed to permit permissible online games which may include permissible real money games that are not gambling.

**Ms Chaudhary** added by reiterating that one of the criteria that any self regulating body has to take into account when it has to decide on the distinction is the element of whether or not it involves wagering or not (as per Section 4B(5) of the [revised IT Rules, 2021](#)). They have to see it holistically and see what the legislation is trying to do here. The legislation is trying to recognize responsible gaming, good gaming practices and allow games of real money which involve skill to exist. They do not want to wash out an entire sector, in terms of purposive intent. She does not think there is any inconsistency and the Centre is trying to take a very nuanced position because it realizes that betting and gambling fall in the limits of the state government.

She explained the distinction between games of skill by describing it as a game where there is a preponderance of skill and it outweighs the role of chance. Historically, she noted, that gaming companies have highlighted that there needs to be a mathematical basis to make the distinction and gaming companies have employed sophisticated ways of identifying and hardcoding into their business model, what is the element of skill. Relevant inquiries for identifying include questions like measuring performance across different players, and possibility of improvement of performance with practice and watching tutorials etc. There are a lot of things that companies are doing which are grounded in industry practices and grounded with a mathematical basis.

She ended by expressing her agreement with the notion that it makes sense that such regulations come out of the industry especially when such technical understanding is involved which someone on the outside may not have. There is also a possibility in the future that the bodies will together hold each other accountable and all the regulators want only games of skill to flourish and would wipe out bad apples.

**Mr Prabhu** wanted to give his opinion on the issue as well. He opined that it was always tempting, while drafting, to go back to words that looked nice and to attach particular meanings to them. However, he felt that this exercise usually resulted in ambiguity. In a topic as contested and as heavily debated as this, he felt that such usage led to a lot of fodder for speculation.

He thought there were other relevant markers in this wagering question as well. He highlighted that the wagering was initially supposed to be called gambling. He implored the audience to consider the previous iterations of the draft, and gambling legislations other than Section 30 of the [Indian Contract Act](#) and certain sections of the Prize Competitions Act to emphasise his point. He pointed out that before this slew of legislations came into effect, people used the term “wager” to refer to these kinds of activities and that it was only later that it was assimilated under the broader, blanket term of “gambling.”

The significance of this difference, according to him, was that our judiciary was importing tests pertaining to wagering from England, and applying those tests to India where gambling was a prevalent phenomenon. He pointed out that we have encountered such instances multiple times. For instance, several Law Commission Reports have borrowed principles, outlines and cases from the United Kingdom, only to apply them to the Indian scenario which is profoundly different. In that vein, he also called upon the audience to acknowledge the fact that gambling did not violate our moral ethos and that Indians could gamble sustainably *via* fan engagement, merchandising, sports franchises and so on. Therefore, the law concerning wagering could not be imported into India unreflexively. Nevertheless, **Mr Prabhu** believed that the ultimate arbiters of this issue were the self-regulatory bodies, and consequently the courts. The burden would ultimately rest upon them to analyse and decide these nuanced issues. He thought that the Central Government's amendments set out a solid framework within which these issues could be decided.

**Mr Shrivastava** agreed with the principled distinction that Mr Prabhu drew between wagering and gambling. However, he moved on to emphasise the real issue at stake- the distinction between games of skill and games of chance. The moment a game tended towards determinism, an element of skill would be introduced, and staking money upon it would cease being an act of wagering. **Mr Prabhu** echoed this sentiment with a succinct restatement- “The real issue is whether you are putting your money where your mouth is. If you are investing money in your talent and skill, you are not wagering anymore.”

**Dr Rajasingh** proceeded to ask the panel whether the IT amendments gave the Self-Regulatory Bodies (SRBs) excessive autonomy in regulating online gaming, given that they could undertake significant decisions on whether a particular game was a game of skill or a game of chance.

**Ms Chatterjee** responded by expressing her disagreement with these assumptions. She opined that the amendments did not increase SRB autonomy significantly. This was because the SRBs comprised a homogenous body of people coming together in good faith from different walks of life to arrive at a comprehensive regulatory framework. She also stressed the advantages of having a proper regulatory and compliance system over merely taking shots in the dark. Further, she observed that Rules 3 and 4 posited compliance guidelines for the proper functioning of the SRBs. Consequently, she observed that the regulatory framework within which SRBs operated was robust.

**Dr Rajasingh** directed her next question at Ms Chatterjee. She highlighted that the Rules emphasised the prevention of addiction and the protection of users from sudden financial losses. She asked Ms Chatterjee what challenges game developers ordinarily faced while avoiding these problems, and whether they possessed the requisite expertise to make determinations on whether a game was addictive or bore the ability to inflict sudden financial loss on users.

**Ms Chatterjee**, while responding, recognised the subjectivity and pervasiveness of addiction. Therefore, she opined that it would be impossible to access the addictive nature of a game at the developing stage itself. Nevertheless, she stated that the entire gaming industry acknowledged the pernicious nature of the issue so as to introduce features which promoted responsible gaming. She tendered examples of a few such features- time-offs, parental controls, pop-ups, account freezing- to demonstrate the fact that the industry has undertaken responsibility towards the protection of its users, despite the lack of concrete central legislation. She also highlighted that the Central Government had recognised these measures, and had therefore prompted the SRBs to form a statute after thorough discussion amongst stakeholders in the gaming sector.

**Dr Rajasingh**'s next question was directed at Mr Prabhu. She asked him whether the Ministry's power to reclassify "free-to-play" games as "online" games to satisfy public order criteria possessed the potential to impact the creative growth of the gaming industry.

**Mr Prabhu** considered the exercise of this power- that is, the power to classify non-real money games (non-RMG) as real money games (RMG)- to be riddled with several drawbacks. This was because public order had a narrowly defined set of conditions having a large scale of application. A lack of public order affected the administration of justice in the country as a whole. According to him, it made no sense to subsume a non-RMG industry operating at a smaller scale into this larger public order framework. Additionally, he highlighted the fact that the non-RMG industry had completely different considerations- different challenges, risks and frameworks of responsibility. It made no sense to include this industry into the ambit of an already overburdened SRB framework.

He opined that an appropriate way to have dealt with this was to use the ban mechanism under Section 69A of the Rules. This was because the Committee under 69 A had representation from the MHA and various intergovernmental bodies. The judgement in *Shreya Singhal* had also upheld the legitimacy of this Committee. Therefore, he felt that this mechanism was more suited to dealing with the non-RMG industry than SRBs, which would have to evolve completely new methods.

**Mr Srivastava** wanted to follow up on Mr Prabhu's point. He expressed concerns about the Ministry vesting core regulatory powers over the industry with the SRBs. Having powers to regulate fees in the RMG industry, the SRBs were essentially performing functions of the State. For instance, the maintenance of public order was inextricably linked with state functioning. Therefore, he felt that the amendments allowed SRBs to arrogate state responsibility.

In this vein, **Mr Prabhu** also made an interesting constitutional observation. He observed that the powers for regulating non-RMG and online sports were allocated to the [Ministry of Sports](#), as against MeitY. This would prove to be an interesting constitutional challenge to MeitY promulgating rules on issues outside its regulatory ambit.

**Ms Chatterjee** objected to these concerns by highlighting the clear role envisaged by the Rules for the SRBs. She opined that the Rules define the ambit of operation for these bodies clearly. Rather, she felt that the ambiguity pertained to the term “harm” as against the role of the SRBs. Harm, according to her, was a vaguely defined term and this had resulted in several interpretational issues, with the burden incident on the SRBs to define it. Therefore, she concluded that the focal point of contention was not regarding the SRB-State hiatus but the role of the SRBs in ensuring clarity. **Ms Chaudhary** also noted various ambiguities that had cropped up during practice. That is, while the Government had created SRBs to facilitate self-regulation, it simultaneously expected these bodies to remain faithful to original requirements.

**Mr Prabhu** also agreed that there was a lot of contention on how “harm” could potentially be defined in the gaming industry. He emphasised the subjective nature of such definition by tendering an example of the [Data Protection Bill of 2022](#), where harm had been defined in light of the Bill’s particular requirements. He further noted that harm, in the gaming industry, could not mean “detrimental impact.” This was because it was difficult to use the term “detrimental” in a space where playing entailed both winning and losing. While losing indeed had a detrimental impact on players, such detriment could not be taken as an excuse to ban the game itself. Therefore, he felt that the word “harm” had to be read as harm which users are not cognizant or aware of. The SRBs could play a crucial role in threading this need by developing a contextual definition.

**Dr Rajasingh** moved on to the next question. She asked the panel whether the intermediary rules allowing gaming providers themselves to function as intermediaries were problematic. She also wanted to hear the panel’s views on whether such providers fell under the “safe harbour” principles mentioned under Section 79 of the IT Rules.

**Ms Chaudhary** said that the answer to this question was fairly simple since the Minister of MeitY had said that safe harbour could be availed if due diligence was fulfilled. Further, she highlighted the heterogeneous nature of gaming platforms assuming the role of intermediaries. For instance, a gaming provider could perhaps function like an App Store or a Play Store- a distributor where games made by different developers could be made accessible. Or a gaming provider could set up individual players against each other, with other publishers making content for them. Dealing with a versatile arena like this requires a lot of agility in lawmaking and creativity in interpretation. She observed that these issues would ultimately be resolved as questions of fact- whether a particular platform is a publisher or an intermediary, to what extent the platform was an intermediary, and so on. She concluded by expressing her sympathy for MeitY, given the difficulty of these factual determinations.

**Mr Prabhu** presented a more compelling stance in response to the query. He cited the case of Monopoly and other board games, which entail plotlines and gameplay contingent on the participants. The Gaming Board or platform is fashioned by Gaming firms, and though the game developer’s inputs are similar, the outcome differs. He opined that the potential permutations are vast, and envisioning all of them can prove daunting for developers.

**Ms Chatterjee** supplemented the discussion by offering insights on the evolving definition and interpretation of intermediaries. She elucidated that the increasing number of platforms would naturally lead to the proliferation of intermediary types.

However, **Mr Srivatava**, had a different take on this. He said that the idea of intermediaries is very crucial on the internet. Section 79, in this sense, only envisions certain kinds of intermediaries. **Ms Chatterjee** illuminated the absence of a clear demarcation between the roles of a pure game developer and a gaming platform. As an advocate for the game developer community, she stressed the necessity of establishing unambiguous guidelines for game developers.

**Dr Rajasingh** proceeded to the final question, inquiring whether the cost of compliance would dissuade medium and small developers, and how regulatory measures could be made cost-efficient while maintaining consumer protection.

In response to this query, **Mr Srivatava** emphasized that the costs associated with compliance are contingent on the type of game in question. He elucidated that Know Your Customer (KYC) regulations are exclusively applicable to online real money games or games that impact public order. In addition, he suggested that payment gateway partners could be delegated the responsibility of conducting KYC checks. By doing so, game developers could potentially circumvent the costs incurred in complying with KYC regulations.

**Dr Rajasingh** then opened the session for general questions from the audience.

### **Question and Answers**

The first query pertained to the Section 79 discussion and was related to Mr. Prabhu's analogy of chess, where players have the discretion to play and the platform functions as an intermediary. However, the enquirer cited games where a significant portion is pre-decided due to the presence of cut-scenes. As such, they questioned why such games should not be considered as publishers instead of intermediaries.

In response to the question, **Mr Prabhu** contended that the distinction between publishers and intermediaries is not always clear-cut and can be blended. He provided an example of YouTube, which functions both as an intermediary and a content creator on its own channel. He explained that in cases where a portion of a game is pre-determined due to cut-scenes, developers do not become publishers in totality, but only for that specific sequence. Furthermore, he argued that the definition of intermediaries is outdated and originated during the era of HTML programming. He suggested that whether a platform should be categorized as a publisher or an intermediary should depend on the specific aspect that is intended to be regulated. In essence, the distinction between publishers and intermediaries is context-specific and dependent on the intended regulation.

The second query inquired about why Indian platforms only cater to users who are aged 18 years and above.

In response to the question, **Mr Prabhu** expressed his criticism of Indian contract law, where parties are required to be of the age of majority to establish contractual relationships. He opined that certain jurisdictions have age restrictions in place, and the Indian law is outdated and lagging behind.

However, he remained optimistic about the future and cited the [Digital India Act and the SRB \(Self-Regulatory Body\) framework](#). He mentioned that both of these frameworks talk about implementing mechanisms to ensure appropriate age verification. With the help of these frameworks, he believed that it is possible to establish platforms that cater to users of all ages and provide them with a safe and secure environment for online activities.

The third query inquired about the impact of current regulations on platforms like MPL.

In response to the question, **Ms Chatterjee** addressed the issue of differentiating between games of skill and games of chance, which is currently a topic of debate in the gaming industry. She explained that the Ministry has previously stated that the judiciary has dealt with this subject, and thus, there is no need to include it in the statute.

**Mr Shrivastava** supplemented Ms. Chatterjee's response by stating that the regulatory impact ensures that the decisions made by the Self-Regulatory Bodies (SRBs) do not result in penal consequences. By providing a forum like this, developers are encouraged to test their games and ensure that they comply with the regulations in place. The existence of an SRB helps to build trust between the industry and regulators, leading to the creation of a more sustainable gaming ecosystem.

The fourth query stated that gaming companies are required to appoint [three Self-Regulatory Organizations \(SROs\)](#) to publish a framework on their website to protect users from the risks of gaming addiction, financial loss, and financial fraud. However, since each SRO will have a different parameter for assessing skill and chance gaming, there may be an element of ambiguity. The enquirer sought the views of the panellists on this ambiguity.

**Ms Chatterjee** commented that although the SROs may have their own distinct parameters for assessing skill and chance gaming, they will ultimately be guided by the same fundamental framework established by the principles of the industry. She emphasized that this is a positive step as it will bring more clarity to the compliance process.

Furthermore, **Ms Chaudhary** highlighted the significance of having multiple SROs. This will ensure that power is not centralized and will instead promote a more democratic approach to the regulatory

process. With multiple SROs in place, there will be a greater likelihood of diverse viewpoints and a more balanced representation of the industry's interests.

The last query related to whether it is necessary to have child safety standards integrated into the design of games, rather than assessing a developed game's suitability for children after its development.

**Mr Prabhu** expressed his opinion that implementing mandatory design principles for child safety in all kinds of games would be difficult as it would limit the creativity of developers. However, he believed that developers would become more cautious in creating games with potential child safety risks, given the scrutiny of certain games in recent times.

**Ms Chaudhary** emphasized that overly prescriptive regulations in the technology field would hinder innovation, making it impossible to keep up with the pace of developments. **Ms Chatterjee** acknowledged the importance of the concern raised and explained that the gaming industry is taking measures to address it. She highlighted the significance of creativity and innovation in the gaming industry, but also recognized the need for caution and responsibility towards child safety.

**Ms Rajasingh** concluded the discussion by expressing her gratitude to all the esteemed panel members for their valuable insights and participation.

## PANEL II : TAXATION IN ONLINE GAMING INDUSTRY

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### Panel Members

1. Mr Joyjyoti Misra, Group General Counsel, Gameskraft.
2. Mr Meyyappan Nagappan, Partner, Trilegal.
3. Mr Nikhil Suri, Partner, Ernst and Young.

**Moderator:** Ms. Sanyukta Chowdhury, Assistant Professor of Law, National Law School of India University

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### Executive Summary

The panellists began by noting recent constructive changes to taxation legislation of the country. **First**, the introduction of an obligation to deduct tax at source on the net winnings in the user account at the end of the financial year, **second**, the removal of the threshold limit within which this shall be applicable, and **third**, the taxation rate of 30% on net winnings. The panellists also noted the increasing recognition of the distinction between games of skill and chance by the legislature, visible through the recent amendments to the IT Rules.

The panellists agreed that these interventions bought in a much-needed clarity compared to the previous iterations, where there were threshold limits on the application of TDS that raised confusion during tax filings and litigations. This contention was raised by the industry on multiple occasions. Therefore, according to the panellists, the intervention and clarification on the threshold in the form of Section 194BA indicated a positive space for dialogue and understanding between the government and the industry. The panellists also agreed that these changes have been positively received by the industry as well, due to the reduction in compliance costs.

However, some panellists held that there still exists doubts and scope for re-evaluation in this tax structure – especially on the classification and calculation of net-winnings under the Income Tax Act. Mr. Suri also stressed on the need to re-evaluate the direct taxation policy for the online gaming industry, towards a more sustainable policy.

The panel then deliberated further on the direct taxation policy, stressing on the consideration of 28% tax slab for online games of skill. The panellists, *first*, highlighted the consequences of this slab which

they believed to be unsustainable for the industry and can negatively impact consumption as well as the routine functioning of companies. The panellists, *secondly*, debated that this consideration arises predominantly from the perception of online gaming as a demerit good. Mr. Meyappan argued that there is an impertinent need to change this perception since the judiciary and legislature has already accepted games of skill as a professional activity. However, Mr. Joyjyoti conceded that the burden of changing perception does not merely fall on the state but also the industry which has not done substantially to change the prevailing social mores. He pinned this perception to the identification of games of skill with card-based games which needs to be re-evaluated.

The panellists also agreed that there needs to be an acceptance of the distinction between games of skill and games of chance in the direct taxation policy. The panel then turned towards the public benefit attached to a better taxation policy for the online-gaming industry, in terms of FDI inflow, employment etc. The panellists agreed that public benefit attached to a better taxation policy is employment with better pay-scales. Mr. Joyjyoti highlighted that their interests are attached to the shares of the company – and increase in investor returns and scale of the company would translate to better returns to the employees as well. Further the panellists agreed the necessity of FDI inflow in the online gaming industry, since India occupies a small portion of the global market share and the present taxation structure fails to provide a comparative advantage to India.

The panel then ended the discussion with reflection on the negative developments within the taxation policy for online gaming, especially attachment of criminal liability for non-compliance with the tax requirements. The panellists discussed the need to move away from criminal liability to monetary and non-monetary penalties. However, the panellists also agreed that these might not necessarily be negative since they have not been mis-used against the industry as of yet and emphasis should be on building trust between the government and the industry. The discussion ended on an optimistic note, and moved towards a question-answer session between the panel and the audience, followed by a vote of thanks from the Convenor and Joint Convenor of the Law and Technology Committee.

## **Panel Discussion**

**Ms. Sanyukta Chowdhury** welcomed the panellists and invited them to make opening statements.

**Mr. Meyyappan Nagappan** began by stressing on the changes in taxation of online gaming in the past few years. He believes that highlighting this change becomes important since tax remains the key criterion for multiple companies that are entering in the market. Mr. Nagappan hypothesized the predominant reason for this change is the rise in revenues during the pandemic which bought the industry into the spotlight before tax and regulatory authorities, as well as quick monetisation and cash flow within the industry as compared to other digital industries.

He highlighted that the first concern was the threshold for applicability of TDS (Tax Deducted at Source of 30%) which was at ten-thousand rupees, which led to multiple interpretations on whether the obligation to deduct kicks in per-game, per-withdrawal, manually-decided or at an aggregate level. This led to confusion within the industry, which has always sought to be compliant to the laws. This led to an informal understanding within the industry where the deduction was done per-withdrawal, and was notified to the gamers. The government's clarification in this regard by the introduction of s. 194BA which made the deduction contingent on the annual income of the game user, attempts to much bring in much-needed clarity and direction with respect to the taxation policy.

The second concern was indirect taxation through GST (Goods and Services Tax), wherein a tax slab rate of twenty-eight percent for both games of skill and games of chance was being considered. He believed that this was an unsustainable tax policy, especially in context of the point of application of tax. He gave an example wherein for every Rs. 100 put into the game by the gamer, Rs. 5 goes as service charge and the rest to the escrow account of the gamer. In this case, giving Rs. 28 to the government, according to Mr. Nagappan, is unsustainable for the industry. Furthermore, he argues that this is in contravention to the acceptance of games of skill as a professional activity, and raises a strong constitutional ground for challenging the present taxation structure.

His third concern was that the recognition of the distinction between games of skill and games of chance has to be translated in the classification of winnings in the Income Tax Act as well, which should be considered as professional income rather than 'other income'. The definition of 'other income' is essentially casual and non-recurring income, which is not touch with the existing landscape of online gaming. According to him, this practice would conform to the precedent of the Karnataka High Court in *All India Gaming Federation v. State of Karnataka* as well.

**Mr. Joyjyoti Misra** similarly reflected on the positive developments in the taxation space for the online gaming industry. Mr. Misra believed that the introduction of clarification by the way of s. 194BA is a sign of the government's positive mindset towards the industry. This is since the section aims to avoid the problem of multiple interpretations, which was pervasive in the previous iterations. The second positive development was the clarification by MEITY (Ministry of Electronics and

Information Technology) which highlights the government's willingness to distinguish between a game of chance and a game of skill. However, he also highlighted that doubts exist over the calculation of net winnings which should be clarified by the way of a legislative concept note and would bring in much more certainty.

He highlighted that instead of engaging in voluminous litigations, the industry would rather spend in innovation. On this point, he also credited the legislature for stepping in and providing clarity, instead of the judiciary. He also believed that this intervention by the legislature would also translate in favourable rulings from the GST Council. He ended his note by pointing the academic question that indirect taxation of online gaming raises is, whether the online gaming industry even provides an 'actionable claim' for being taxed the same way.

**Mr. Nikhil Suri** concurred with Mr. Misra but believed that there is a silver lining even within these recent regulatory developments, that is the growing recognition of the importance of this industry. He believes that the creation of rules *per se*, both on the side of indirect taxation and direct taxation, is beneficial since the industry is still in its infancy and indicates a growing effort by the state to understand the nature and dynamics of the industry. There is much more acceptability of the industry in their interactions with the state.

Mr. Suri highlighted concerns on the side of direct taxation, where presently there was a lot of litigation not only on the applicable rate of interest but also on the value over which GST will apply. He agreed with the other panellists, that the rate of GST should be different for games of skill, and hoped that the litigation on this issue settled in favour of games of skill.

Mr. Suri further highlighted that, from a policy-making perspective, there is still considerable debate due to the perception of the industry as being one too close to betting or just a revenue generator, which needs re-evaluation. He concluded on an optimistic note as he believed that both from a policy maker as well as from the litigation perspective, issues regarding taxation would be settled in the time to come.

**Ms. Chowdhury** built upon Mr. Suri's point on revenue generation as a goal for tax policy, and pointed towards another goal of tax policy i.e., of incentivising or disincentivising of certain consumption expenditure. She asked whether there was a sufficient case for a change in tax policy from treatment of online gaming as a demerit good and how would the industry substantiate that case.

**Mr. Nagappan** highlighted that the key limbs of an ideal tax policy are certainty, sustainability, administrability, and simplicity. Presently, the industry's demand has simply been to create a tax policy which is reasonable and allows the industry to thrive, instead of an exemption at all fronts. He believes that at present, the demand has not been met adequately.

He further argued that the question should not be what sets it apart from demerit goods, when the courts themselves have provided protection to the industry as a professional activity and there is no reason why this perception should follow in policy-making. He believed that this case would be made out by the distinction between games of skill and games of chance.

**Mr. Misra** delved into first challenging the concept of demerit good and highlighted that it is the prevailing social morality has not changed from associating gaming and gambling, that becomes the predominant reason for treatment of online gaming as a demerit good. However, he also believed that the treatment of the industry as one engaged in the business of demerit goods is not entirely the consequence of the state's lack of understanding but also the industry which had not done enough to bring in a change in perceptions.

Mr. Misra argued that the primary reason for this perception arises from the card-based nature of such games in India. In other countries, poker players are at par recognition as tennis players, which is not the case in India and indicates this mentality. However, this has to be realised by the legislators first for online gaming to no longer be treated as a demerit good, which can effectively translate to the general population. This is also seen in other nations, where card-based games now enjoy a better reputation.

Ms. Misra highlighted that for the assessment of the current tax rate, two questions must be answered. *Firstly*, Can the industry sustain on the current taxation level? *Secondly*, what this would do the economy if the industry cannot thrive on the current tax rate, especially since the industry is getting profits. According to him, the answer to both questions when it came to the online gaming industry was in the negative. He also felt that the government should look at the industry more favourably considering companies in it were profitable unlike startups in other sectors.

*Lastly*, he directed attention towards the signalling effect such taxation policy can have on investors considering FDI (Foreign Direct Investment) in an industry, in context of the present unsustainability of the taxation policy. Mr. Misra concluded by mentioning the upcoming regulations on addiction and harm, which according to him were still debateable. Like the other panellist however, he also hoped that these issues will be settled in the time to come, and the industry deserves a pat in the back for the same.

**Mr. Suri** agreed with Mr. Misra that the industry must change perceptions from being a quick money scheme, for amateurs and school-kids, as it is looked at currently. He attempted to contextualise this debate by delving into the structure of the taxation policy, which includes *first*, the direct tax and *second*, the indirect tax.

He began with a historical note on the direct tax side, pointing out that before the current finance bill, there was only section 194B which provided a threshold limit of ten thousand for application of TDS. The government did not agree with this and wanted the industry to act differently. Therefore, they

removed the limit, with the tax only triggering when someone makes net winnings and withdraws the same. The new provisions also include a residuary clause for if there is a net increase in the gamer's wallets. He stated that this development was welcomed by the industry since it bought in much more stability. Mr. Suri also pointed out that the definition of net winnings has not come out in the public domain yet, but he was confident that the definition would be in line with industry expectations based on informal discussions with CBDT. Even if this was not the case, Mr. Suri believes that once the government starts realizing less taxes and revenues due to the high logistical cost imposed by this policy – the government's position will become much clearer.

He then moved to the aspect of indirect taxation, where the important element in the current debate is the distinction between games of skill and the games of chance. The GST legislation currently prescribes that for activities such as gambling and horse-riding is at twenty eight percent, and the point of application will be the value of the entire pot/amount invested. This position has been applied by some officers to games such as poker and rummy as well, which went to litigation and arguments from both sides have been heard extensively. He believed that once a ruling comes on the same there will be more certainty. He argued that the correct view, from a textual interpretation of the law, would be to tax the GGR (Gross Gaming Revenue) instead of the entire pot.

He concluded by highlighting how this tussle has come before the GoM (Group of Ministers) on GST in December 2022, whose report is not out currently but are discussing the indirect taxation on online gaming. Although there is information based on informal discussions, there are also some anxieties on whether the GoM report will accept the distinction between game of skill and a game of chance or will proceed to apply twenty eight percent to all gambling, or the application to GGR.

**Ms. Chowdhury** picked up the aspect of FDI which was suggested as a reason for change towards a better taxation policy and raised the question that although the FDI does provide super normal profits to private investors, what is the public benefit attached to this inflow. Furthermore, Ms. Chowdhury asked whether the intervention of Artificial Intelligence, especially generative AI affect employment, which is also a public benefit, by taking away opportunities from coders, game developers and graphic designers.

**Mr. Misra** believed that Generative AI tools such as ChatGPT would not be affecting employment that the industry would be able to provide in the near-term. He further reflected on the benefits that online gaming industry would provide, apart from employment, such as stock-earnings by employees when investors made money considering the fact that most employees hold stock in the company. He also felt that there is ample room to grow for the Indian online gaming industry considering that it currently only holds one to one and a half percent share of the global market. As such he felt that the benefits provided by the industry would only grow as the companies expanded.

He argued that the distinction between public and private benefit is not as clean as black and white, and there is considerable spillover public benefit and social impacts due to an increase in the

investments in the industry. Therefore, there is a need for a sustainable tax for the industry. According to Mr. Misra, the present social calculus of the tax is such that it would lead to the industry moving out of India altogether. He held that the same was not beneficial since Indian online gaming companies had allowed for a cleaner process through KYC (Know your customer) verifiable transactions, which would stop if the industry were to move outside India or even if there was to be a shift to underground markets.

**Mr. Nagappan** began by agreeing with Mr. Misra on the signalling effect that a tax policy can have to the market. He also agreed with Mr. Misra on the ability for companies to relocate if regulations remain unsustainable considering the borderless nature of digital goods. In his opinion, it was only regulations that were holding the Indian online gaming industry back. He cited the example of TDS on crypto transactions that lead to a bulk of transactions and exchanges shifting outside India to further support his point that the options in such an environment are going offshore or underground. According to him, a sensible and stable regulatory environment would reduce the possibility of these happening and would allow the industry to flourish.

**Ms. Chowdhury** summarised recent positive developments in the taxation sphere as was pointed out by the panellists. She then pivoted towards certain developments that have been treated as negatives such as the extension of penalty and imprisonment for non-compliance with TDS provisions as a deterrence. She then asked the panellists whether, there should be imprisonment for non-compliance or rather should the industry be arguing for monetary penalties for non-compliance.

**Mr. Nagappan** stated that decriminalisation under the GST was a welcome move considering civil penalties are sufficient. He primarily attributed the criminalisation under direct taxation to a knee-jerk reaction in a tax policy that only looks at the edge cases, rather than how most taxpayers act. He believed that no one wanted to avoid paying taxes but rather were just unsure of the correct amount considering confusion with respect to the interpretations of the provisions, and clarity itself would have bought much of the industry within the present tax ambit.

**Mr. Suri** highlighted that policy always depends on the bureaucrats of the day. While conceding that there will always be cases where policies will be construed strictly or misused, he stated that there had not been any alarming situations where the industry felt that the provisions were being misused. He hoped that in such provisions will eventually become theoretical provisions, with the government not feeling a need to use them as they create fear in the industry. As such in due time, it was hoped that the government would realise that it would also not need such provisions in the first place.

**Mr. Misra** began by pointing out that a part of the responsibility as to such provisions also exists on the part of the industry. He pointed out the intention behind the introductions of such provisions was a lack of trust in private enterprise during a phase of nationalisation. However, it was merely a phase. He felt that as the industry gained the trust of the government through a long process, such

provisions would go away. Till such a time, however, he hoped that such provisions would not be misused.

**Ms. Chowdhury** thanked the panellists for their responses and proceeded to open the floor to the questions of the audience.

### **Questions and Answers**

The first question dealt with the impact of shorter frame of application of the TDS provisions a part of which came in April 1<sup>st</sup> and the rest is yet to come on July 1<sup>st</sup>, on the online gaming industry.

**Mr. Nagappan** highlighted that this issue was flagged by companies as well as soon as the notification came, since the obligations have to come into effect from July 1<sup>st</sup>. However, there were concerns on calculation of TDS and the shift from the older to the new regime, and most companies were calculating TDS based on an informal understanding, the industry requested for an earlier application – and was accepted by the government.

Mr. Nagappan argued that the decision by the government to apply these provisions from the first of April on the request by the industry highlights the growing trust between the government and the industry. On to compliance costs, he highlighted that there would be a rise in compliance costs for smaller companies considering they will have to start KYC as well, which they did not have to do so previously. He argued that the broader question that remains unanswered with respect to the provision is what a game in the first place is, considering gamification as a trend cuts through various platforms. He believed there were also multiple other questions with respect to direct tax policy such as how the rules will treat the calculation of net winnings or deal with subscription-based games. According to him, this will depend on how upcoming regulations and clarifications by the government which would have to be looked out for.

The next question was concerning the seemingly contradictory developments in law regarding online gaming with the positive developments such as the intermediary guidelines or development on both the fronts of taxation with the GoM, along with their pursuance of the tax department on legacy issues.

**Mr. Nagappan** began by highlighting how even though the government may come across as one entity externally, its different arms are always furthering different interests. He pointed out how there may be a buy in at the central government's level, but also a constant pushback from certain states. He concluded his answer by also highlighting that a lot of litigation is also the result of government counsel adopting different positions in front of different tribunals. He felt that litigation could be reduced considerably if government counsel were held to a consistent position.

**Mr. Suri** agreed with Mr. Nagappan on the different arms of the government being at play with the judicial arm interpreting the law as it stands now. While he held that the current situation was unfortunate, the same was also leading to an acceleration of attention from the policy makers from which we can move towards clarity, which was a positive sign.

The next question was concerning the taxation and regulatory policies of market leaders such as China or the USA and whether the Indian government should adopt policies from other more well settled jurisdictions.

**Mr. Misra** stated that there is no need to copy but simply shift to a regulatory structure that must be conducive in a country for an industry to thrive. As such there wasn't a need for copying policies from another nation but rather formulating policies that are rational in all spheres whether it be taxation or corporate laws, FEMA in general.

**Mr. Suri** began by offering an international perspective, which was to tax the GGR. He pointed out how the two most prevalent mechanisms, whether it be having the company calculate the GGR or taxing the gross receipts and giving a credit for any outflows, both taxed GGR and only differed in timing. He also pointed out that, internationally, the taxation of the GGR was always at the normal rate and not at the sin tax rate. These rates refer to the flat rate at which an item is taxed to discourage its consumption. He concluded by pointing out that in his view this method and rate of taxation exists in the provisions as they stand today if they are not misinterpreted and as such the same must be followed keeping in mind international jurisprudence on the issue.

The final question dealt with the recent gaming amendment, which has bought in an adequate definition of games but winnings have been defined to include both in cash or in kind. It enquired about the compliance requirement with respect to grey games such as Call of Duty Mobile that could include buying loot-boxes, which is effectively gambling as well digital assets such as battle-passes.

**Mr. Nagappan** began by pointing out how multiple provisions overlap when it comes to such games. According to him when a digital asset is given as winnings one considers 194S, in such a situation valuation is an issue. Similarly, 194O applies whenever there is a trading of digital assets. All these provisions are 'notwithstanding each other' and apply in concurrence. He pointed out how the definition of a game as one where a user pays and possibly gets winning, which is how it is currently imagined by law makers is quite restrictive. Especially with the changes in online gaming landscape, multiple other platforms and industries have started using gamification layers. According to him, gamification and tokenization are two essential themes digital industries are opting into, not with a particular motive to run games but simply to increase user engagement and ensure stickiness. The application of law in these cases, effectively becomes something that makes the job of lawyers difficult. In his opinion law makers should consider broadening the definition of games and consider winnings in the form of virtual digital assets as well.

The moderator then thanked all the panellists for their insights, with Shikhar Sharma presenting a token of gratitude on behalf of the Law and Technology Society, NLSIU and AIGDF.

### **PANEL III - NAVIGATING THE GAMING LANDSCAPE: NEW BUSINESSES & M&A OPPORTUNITIES**

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#### **Panel Members**

1. Ms Anupriya Sinha Das, Head of Corporate Development, Nazara Technologies.
2. Mr Akshat Rathee, Co-Founder and Managing Director, NODWIN Gaming.
3. Mr Rachit Rastogi, Chief Operating Officer, Good Game Exchange.
4. Mr Manish Agarwal, Co-Founder and Elder Council Member, IndiGG.

**Moderator:** Mr. Rahul Singh, Associate Professor of Law, National Law School of India University, Bengaluru.

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#### **Executive Summary**

The panel discussion on Navigating the Gaming Landscape: New Businesses & M&A Opportunities highlighted the significant growth potential of the gaming industry in India, fuelled by changing consumer behaviour and business models. The panelists noted that India's gaming market is the largest in the world and presents immense opportunities for new players. The discussion also touched on the Compound Annual Growth Rate (“CAGR”) in the gaming and Web3 industries, outbound Mergers & Acquisition (“M&A”) considerations, and the merits of organic growth versus growth through aggressive M&A.

The panelists agreed that the gaming industry could experience a triple-digit CAGR, while noting that the Web3 industry is still in its early stages and may take a few more years to unlock its full potential. The speakers also discussed the legal systems, intent behind the acquisition, taxation, and regulations that need to be considered in outbound M&A in gaming and Web3. They emphasized that clarity of purpose is crucial before an acquisition takes place, as it provides a foundation for the clauses or sections of the M&A agreement. Lastly, the panelists noted that the entry of blockchain technology in the Web3 space has huge potential for law students, as it would necessitate the evolution of intellectual property law.

## **Panel Discussion**

**Prof. Rahul Singh** started the discussion with introduction of the panellists. Manish is the Co-Founder and Elder Council Member at IndiGG and is an expert on both gaming and Web3. He has also been involved in multiple M&As throughout his career. Rachit is the Chief Operating Officer at Good Game Exchange (“GGX”) and is an expert in Web3. Akshat is the Co-Founder and Managing Director of NODWIN Gaming and is an expert on gaming. Completing the panel is Anupriya Sinha, who is the Head of Corporate Development at Nazara Technologies and shares her expertise on gaming with Akshat.

**Mr Manish** started off by commenting on the growth in the gaming industry. He said it was so immense that it could be categorised as madness. He commented on the continuous growth the sector had been witnessing for the past 15 years. The change in the sector is largely owed to the change in consumer behaviors and business models. The problems that an entrepreneur in this sector faces are multidimensional and therein lies the challenge.

**Ms Anupriya** added that the gaming market in India is the largest in the world in terms of scale. While the propensity to pay in the market has been increasing, the increase in in-game purchases is still awaited. The change in conservative consumer behaviour in this regard has been changing slowly. Coming to the opportunities that the gaming market withholds, she said that, given that the top gaming companies hold only a small portion of the market share, the market is still opportune for new entrants to come in. Adding to the lucrativeness of the market is the potential of astronomical returns. Once the requisite Intellectual Properties are established, the returns can skyrocket. The same is evinced by the profits earned by Rovio and Super Mario. She added that, as an investor, she found gaming assets thrilling. The same was because the decision to invest in them is based entirely on mathematical framework.

**Mr Akshat** agreed with Anupriya and Manish on the point that the gaming industry is continuously changing and evolving.

Mr Singh initiated the discussion with the preliminary question asking the panellists an overview of the CAGR in the gaming industry vis-à-vis the Web3 industry.

On gaming, **Mr Akshat** said that NODWIN rounded up around 90% CAGR and they have been profitable since the beginning. He added that the gaming is an emerging market and has the potential of having a triple digit CAGR. **Anupriya** said that Nazara Tech had a CAGR of 70%.

On Web3, **Mr Manish** said it is still early days for it to have a CAGR. **Mr Rachit** agreed with Manish and emphasised on the need for development of an understanding within developers, with regards to the potential of Web3; and within consumers, with regards to realisation of what Web3 has to offer. He said that a couple of more years are needed for Web3 to unlock its true potential.

Given the yet to be unlocked potential of Web3, **Akshat** said that the field is promising for law students. For the same he gave an example by citing the possibility of negotiating better forms of contract. Given the introduction of newer medium of transaction, which includes [tokens](#), [iSAFE notes](#), [Safenotes](#) and [SAFT notes](#), one would need to figure out other forms of [smart contract](#). However, he also added a caveat that the chance of failing is high too. On this point **Manish** disagreed and asserted the contrary. He said that even if developers fail, given that Web3 is all about IP, students will gain. As Web3 develops, it will get more complex as to who actually owns the IP, and specially with the entry of blockchain, IP leveraging blockchain would be huge. In this regard, the IP law would need to evolve and hence lies the opportunity for law students. **Akshat** and **Anupriya** agreed with Manish on this.

**Mr Singh**, building on this state of the industry, then asked the panelists the considerations underlying [outbound M&A](#) in gaming and Web3 industry.

[On gaming](#), **Ms Anupriya** started off with terming India as the gaming nation of the world. Further, she said although India creates IP for the world, the market that pays for it is the US. However, that does not entail working on distribution and export. The business model that Nazara and other players in the industry follow is that of creation of IP and then getting the user acquisition right. Having done that, one can build IP for the world by sitting in India and leveraging the cost here. The business model has been highly profitable for the players in the industry.

**Mr Akshat** highlighted two important considerations for outbound M&A in gaming industry. The first consideration is the [nature of the legal system](#) of the country in which the foreign company is based. The principles governing a civil law system differs from those governing a common law system, and hence there exists a lot of difference between buying a German company and buying a Singaporean company. The second consideration is the intent behind the acquisition. Clarity of purpose is required before an acquisition takes place as it is the purpose around which clauses or sections of the M&A agreement are built.

**Mr Manish** said that in an inbound M&A the nuances are fairly standard. However, when it comes to an outbound M&A, various other nuances come into play which include taxation, fund flow and regulations by the RBI. One also needs to be mindful about the statutory requirements around key factors, for instance social benefits, exits, firing and optimisation, that exist in that particular jurisdiction.

**Mr Rachit** broadly agreed with the other panellists. He added that when it comes to M&A in Web3, given that Web3 is still in nascent stage, a lot of opportunities are yet to be unlocked. Specifically, when it comes to blockchain, the M&A would depend on how the dialogue takes place, the intent of the merger and the strategic innovation underlying the same. Right now, it is unfair to even call these structures as companies given their decentralised nature. On this point **Manish** added that although

the Web3 industry will be in flux for a couple of years, eventually there will be companies with a formal structure as per the law of the land.

**Mr Singh** then moved onto the next question, regarding the normative choice model for the industry – whether it includes organic growth or growth through M&A, and what are the trade-offs involved in these two choices.

**Ms Anurpiya** said that both growth strategies need to work in tandem and race towards a bigger number. The strategies have to supplement each other and thus, for inorganic growth to happen, organic core also has to grow. One should aim towards a synergistic acquisition which also leads to a higher organic growth.

**Mr Akshat** said that it is the purpose which drives the decision of making a choice between organic or inorganic growth. Both have their own risk factors. He suggested that when one wishes to enter the market of a foreign country, the first response should always be to build but given the [current global economic slowdown](#) due to wars and inflation, it is a good time to buy distressed assets. Therefore, it is the time, purpose and the location that decides whether one should build or buy.

**Mr Manish** highlighted the aspect of source of funding of the M&A as an important factor. He said one should have a strong operational cash flow funding their growth for going ahead with an M&A. However, if the funding is from equity, one should focus on acquiring a business that gives them a strong operational cash flow.

**Mr Rachit** agreed with the other panellists and said that the focus should be on growth which might require adoption of either of the strategies depending on various factors including economic conditions, balance sheet and operating expenses.

**Mr Singh** then highlights the concern regarding 'harms' from online gaming for users, and whether there could be user-centric approaches to the present architecture of gaming and its availability in India.

Mr. Singh ended the discussion with the last question, asking panelists on the safe and responsible adoption of Web 3.0 in India, and what would be the necessary measures and frameworks to address privacy concerns that emerge from it.

**Mr Manish** noted that the emergence of Web 3.0 technology brings with it a host of privacy concerns, particularly with the increasing prevalence of decentralized applications and the use of blockchain technology. In India, it is crucial that we adopt a comprehensive set of measures and frameworks to address these concerns and ensure that the technology is embraced in a way that is both safe and responsible. One key measure that we need to implement is a robust data protection framework that ensures that users' personal data is not misused or exploited by third parties. This framework should

be based on the principles of transparency, consent, and accountability, and should be designed to give users greater control over their personal data.

**Ms Anupriya** further added that an important step is to establish clear guidelines and regulations around the use of decentralized applications and blockchain technology. This includes measures to prevent fraud and other criminal activities, as well as to ensure that the technology is used in a way that is socially responsible and does not infringe on individuals' rights or freedoms. The potential benefits of Web 3.0 technology, particularly in terms of enabling greater financial inclusion and empowering individuals to take control of their own data. To this end, we need to foster an ecosystem of innovation and entrepreneurship that encourages the development of new and innovative decentralized applications and services. Ultimately, the key to embracing Web 3.0 technology in India lies in striking the right balance between innovation and regulation. By adopting a thoughtful, nuanced approach to this new technology, we can ensure that it is used to its full potential while also protecting the privacy and security of our citizens.

### **Question and Answers**

The first question pertained to Web3. The query pertained to the lesser number of people creating a blockchain wallet. The enquirer asked whether changing the terminology from blockchain wallet to a blockchain account would make a difference in the adoption of blockchain.

**Mr Rachit** highlighted the importance of adopting a user-focused approach to the development and implementation of blockchain technology in India. The architecture that stores cryptographic code should be designed in a way that is relevant to the user base being targeted. For instance, in India, the architecture should be offered in a way that is easy for the Indian customer to comprehend. This could mean simplifying the language used to describe the technology or offering more user-friendly interfaces. He further noted that in the West, the method of onboarding customers to blockchain technology is often rigid and conformist. There is a certain understanding of the way in which users should be able to extract value from the system. However, this approach may not be effective in India, where the user base may have different expectations or needs. Instead, Rachit suggests that we should look at the value that blockchain technology can offer to users and then design the architecture and onboarding process to make it easier for them to access that value. This could involve tailoring the onboarding process to the specific needs of different user segments or offering more personalized support and education.

The second question pertained to the discussion on Intellectual Property and the stakeholders therein—media empires, gaming engine (for instance, Unity), and Game Developers. The enquirer questioned the concept of 'play and own'—that you can take a purchased asset to another game—as a realizable outcome. What is the next technological question evolving in gameplay?

**Mr. Rachit** said that Web3 allows interoperability means that you can reciprocate for the value that an individual holds in a wallet. However, this does not mean that a gun in Fortnite will be available,

in the same way, in GTA V. What interoperability allows for is, however, the carry forward of an asset in case of a game shutting down. It creates a permanence of asset.

**Mr Akshat** added that the definition of what is a game is changing itself. Earlier, people used to sell games DVDs. So, everything in a game was monetized upfront. Games as a service was based on the valuation method that there is a customer acquisition cost ('CAC') that comes upfront and then there's a monetization cost. The latter basically means the cost of making an acquired customer into a paying customer. There's one last cost- Lifetime Value ('LTV'), which is the amount of value a company makes from a customer in their lifetime.

A lot of companies are nowadays saying- why am I having the game as service? A lot of games are collaborating with media houses and creating movies or web series (for instance, the Last of Us). Interactive media and non-interactive media will become the valuation drivers in the future, and companies will stop mindlessly running games as a service. This is desirable because a one-size-fit-all approach does work.

The third question questioned development in Web3. It asked what measures and frameworks are required for development in and of Web3.

**Mr Rachit** highlighted that the earlier model in Web3 was 'Play to Earn'. It depended on new users constantly coming up. However, the flaw with it was that eventually the company will run out of new people. This would mean not enough people coming into the ecosystem to give out to people who had earlier come up. This failure has led to new models evolving. Currently, the correct understanding is that there is no perfect model. However, sustainability of a particular business model is key. On the issue of security, he admitted that we are in a better space than where we were 2-3 years ago, and systems continue to become more secure.

**Mr Manish** cautioned against getting into jargon of Web3. He emphasized that if someone can't make a game that is fun, they should forget about any other principles, frameworks or measures. He reminded us that Web3 is just a technology, it's not some *brahmastra*. Companies should just stick to perseverance. Regarding security- he maintained that even banks fail, and the primary reason they fail is human greed. The same is with respect to Web3. People, out of greed, will resort to security attacks. Others will respond to it, and the cycle will go on.

The fourth question pertained to the issue of Live Service Games ("LSGs") that has come to define modern gaming (with content drips, etc.). LSGs often come out as unfinished products. As the pivot to LSG happens, do the panelists think that the customers would want to shift to the upfront model (pay for one-time Downloadable content)?

**Mr Akshat** started by saying that he belonged to the time of shareware games- he would pay for a game only if he liked it in trial. He maintained that the principle of *caveat emptor* should apply to LSGs.

So, if companies are overpromising and underdelivering, people should not buy their games. People should wait for reviews to come out and then buy it. But enough people buy. This is why companies continue releasing in-complete LSGs.

**Mr Manish** said that there are different cohorts in gaming. One should identify their cohort, and they can decide where and what stage to buy-in: beta stage, post-beta stage and pre-beta stage, etc.. There are advantages and disadvantages to each stage, and it should depend on the individual.

**Mr Akshat** asked the enquirer to think about Kickstarter- it doesn't refund your money if the product doesn't materialize. This is an apt analogy here. Different individuals have different risk-appetites, and they should purchase games accordingly.

The moderator then thanked all the panellists for their insights, with Siddharth Johar presenting a token of gratitude on behalf of the Law and Technology Society, NLSIU and AIGDF.

## PANEL IV - MAKING INDIA A GLOBAL GAMING POWERHOUSE

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### Panel Members

1. Mr Anuj Tandon, CEO – Gaming, JetSynthesys.
2. Mr Manish Agarwal, Elder Council Member, IndiGG.
3. Mr Sai Srinivas, Co-Founder & CEO, MPL.
4. Mr Sean Hyunil Sohn, CEO, Krafton India.

**Moderator:** Dr T.S. Somashekhar, Professor of Economics, National Law School of India University, Bengaluru.

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### Executive Summary

The discussion began with preliminary questions regarding the panellist's perspective on the online harms that could be attributable to online gaming, which requires resolution as the panel discusses on the significance of increasing the market share of the gaming industry.

Mr. Anuj believed that online gaming is similar to other forms of entertainment in this regard which could produce the similar deleterious consequences of addiction. Mr. Sai also believed that online harms should not be seen as an inhibition, since gaming is an intrinsic part of human communication, but rather the focus should be on resolving it. The panel then considered the influence of 'violence' in games, which Mr. Sai and Mr. Manish believed to also exist in other games of physical nature. Therefore, the concern should be towards the regulation of violence. Mr. Sean highlighted that systems which demarcate games as suitable for children and mass consumption, can be a good practice even though it has its flaws.

The discussion then shifted across multiple themes, ranging from the spillover public effects of the industry to the dynamics of this growing industry in terms of relationships with gatekeeper Big Tech and the production and adequacy of skill and hardware.

On the aspect of spillover effects the industry can have as it increases its market share, in terms of employment, innovation and essential revenue for the state – the panellists concurred on the potential the industry offers. Mr. Sean and Mr. Manish highlighted the huge consumer base of India which can be tapped into. Mr. Manish in particular believed that India can become a site of creation of multiple digital assets by such consumers which can be further exported. Mr. Sai also highlighted that the industry is such that there can be no centralisation or monopolisation by a single game, which has led to multiple Indian developers to come to the centre. However, even then Mr. Sai highlighted concerns regarding funding persist.

The discussion then shifted towards the effects of pandemic on the industry especially in terms of consumption and funding, and consideration whether the pandemic was a boon or a bane for them. The panellists largely agreed that in terms of consumption, the pandemic has been a boon since it tapped into the appetite of India, whereby as Mr. Manish highlighted not only do both children and parents play together but also as Mr. Sai states, play games consistently.

From here, the discussion spun around the dynamics of the industry, **first**, on the relationship of the industry with Big Tech gatekeepers such as Google and Apple. Mr. Manish believed that the fees charged by gatekeepers for offering access to these platforms of 30% was arbitrarily high. Although Mr. Sean diverged on this and believed that platforms do provide value to the game, there are competition concerns which require redressal in the following case. However, Mr. Sai believed that the gatekeepers presently do not offer much to the industry apart from hosting their games.

**Second**, the panel discussed the nature of skills required by the industry as well as the availability and adequacy of skills in India. Mr. Anuj and Mr. Manish believed that there is lack of structured skill-set in professionals in this field, and is a consequence of a lack of skill design courses as compared to other countries. Mr. Sean highlighted that this is also a result of the government not investing enough on skill development in the industry as compared to the manufacturing sector. Furthermore, he believes that the top talent don't necessarily be part of the profession since the industry is still in a nascent stage.

The discussion moved to conversation on the element of gaming hardware in India, where the panellists agreed that phones occupied a majority chunk of the gaming hardware in India at present and there is still a long way from producing peripheral devices as well as PlayStations and X-boxes. The discussion ended with the panellists highlighting regulatory uncertainty due to the nascent stage of the industry, where there are still areas such as investment policy which requires a re-look and assessment by the industry.

The discussion ended on final notes by the panelists, and moved towards a question-answer session between the panel and the audience, followed by a vote of thanks from the Convenor and Joint Convenor of the Law and Technology Committee.

### **Panel Discussion**

**Prof. T.S. Someshekhar** introduced the panellists and started the discussion with some preliminary questions. He highlighted that although increasing the size of the gaming market might be a legitimate objective, some concerns need to be resolved before that can be done. Primarily, why should people even play games given that they can be an addictive good with deleterious consequences.

**Mr. Anuj** responded that playing games is not drastically different than other forms of entertainment, including cinema and music. Entertainment goods of these kinds can be good for some, while they may not be for some. Even mobile games can be brought under the umbrella term 'online games' and they have become a mainstream form of entertainment. He highlighted that taking a larger perspective to the issue, online games produce more good than harm.

**Mr. Sai** responded that the normative question of whether people should play games does not arise, since it is something that has been wired into the human DNA. Gaming, he highlighted, is almost like a form of communication.

**Mr. Manish** proposed a counter-question, as to how does one define a game in the first place?

**Dr. Someshekhar** responded by saying that a game is something that involves two or more than two players, contains a strategy, an action set and psychological inputs. However, he highlighted that the concern regarding how do we design games in a way that reduces their ill effects still remains.

**Mr. Manish** responded by saying that even physical games like boxing can be classified as 'violent'. The fundamental issue here is about self-control, as long as people can self-regulate their temper, the concern regarding violence can be addressed adequately.

**Mr. Sean** highlighted that designing games is a difficult exercise and it cannot be a simple yes or no question of whether a game is violent. He highlighted those countries have systems to judge what games are suitable for children and what games are suitable for mass consumption. This, perhaps, as per him, could be a way of regulating the industry more maturely.

**Mr. Anuj** added to the same by highlighting that even with rating systems being available, children playing games that are beyond their age limit is similar to them watching movies they are not supposed to watch. Even news, he highlighted can be violent. Merely because certain games can be violent, should not be a point to blame the industry as whole.

**Dr. Someshekhar** then presented the second question. He highlighted that the industry has a lot of potential related to employment, innovation and as a revenue source for the government. What could then be the spillover effects of the gaming industry?

**Mr Sean** responded by highlighting that there is a huge scope in the gaming industry. He provided an example of markets like K-Pop and K-Drama, whose consumption is minimal 30-40% of the

consumption in the gaming industry. Therefore, India should ideally aim to build globally competitive games and tap into this consumption.

**Mr. Sai** highlighted that most successful games in India today make more money than some of the most successful movies. Further, gaming, by default, is an industry that can never be centralized since it cannot be predicted as to which game is going to capture the market next. However, although a big chunk of games has also been developed by Indians, there has been a lack of funding. Even though youngsters have started making games now, the problem of funding remains.

**Mr. Manish** highlighted that one of the biggest advantages that India has is a huge consumer base and it has become the default market. There is a growing environment within games for gamers to make their own assets, which can potentially lead to India becoming one of the sites for digital assets creation. This can help in raising exports. India having a demographic and geographic dividend will add to the same.

**Dr. Someshekhar** then moved to the discussion on analysing the impact of the pandemic on the gaming industry. He asked the panelists about how funding and consumption were impacted because of the pandemic.

**Mr. Sai** responded by highlighting that the pandemic benefitted the gaming industry since within a compressed time period, a lot of people tried playing online games for the first time. There was a point where the industry hit a low, but it has been growing since then. The appetite among Indians for playing games is huge and there has been a sustained high post the pandemic, and the industry stands at a higher point than it before COVID-19.

**Mr. Anuj** responded with the fact that habit formation is critical for games and for consumers to start playing. In the last two years, people have started wanting to play online games and the habit formation to an extent, has been irreversible.

**Mr. Manish** highlighted that given that parents and children started playing together because of the pandemic, parents finally know what their children are doing online and this has alleviated their concerns to an extent. Further, gaming has been a sort of bond formation exercise for families. Lastly, there has been a growth in opportunities for games given that professionals have started playing as well.

**Dr. Someshekhar** then asked the panelists about their relationship with gatekeepers like the Android operating systems and Apple Play Store. Given these systems charge a fee for offering access to their platforms, how does that affect the potential for the gaming market?

**Mr. Manish** replied that the current 30% tax rate that these gatekeepers levy is equivalent of 'extortion', which needs to be fixed. He believes that rate would be reduced in the next 7-8 years.

**Mr. Sean** differed from Mr. Manish. He highlighted that such gatekeepers often have great value. For instance, the game PUBG was able to grow because of Steam. However, he also flagged that the situation is different when there is a duopoly in the market, like the duopoly of Play Store and App Store on mobile. He further highlighted that the private companies would always try to maximize profit and that there needs to be state intervention to remedy the situation since there are competition concerns involved.

**Mr. Sai** said that no one realistically has a problem with paying. The important question is what the game developer is receiving in return. Currently, developers only get to host their game on a specific sever from where it is downloaded. Further, if they do choose to upload the game on an online server on the internet, mobile companies unnecessarily flag their files as 'harmful', which acts as a deterrent.

**Mr. Anuj** mentioned that when the 30% rate was initially introduced, it was seen as revolutionary. This is because Telecoms would earlier charge 70%. Since then, the business model has evolved. Further, he highlighted that there needs to be a rulebook to regulate such a fee.

**Dr. Somashekhar** then asked the panellists if India generates sufficient skill in the gaming industry for the industry to grow? He further inquired about what kind of skills are required in the gaming industry.

**Mr. Manish** replied that there is a lack of a structured skill set, unlike countries like USA and Singapore. There are various courses for skill designs in place. However, the lack of structured courses is an issue.

**Mr. Anuj** highlighted that there is also a lack of high skilled people. He recounted how during his first start-up in 2010, they spent time teaching people who just finished college. They had to invest in skill-building because of the lack of structured courses. He mentioned how more companies like [Zinga](#) need to be set up.

**Mr. Sean** mentioned that more experienced people are needed on the job. He highlighted how the [manufacturing industry has received support from the government](#), whereas no such help is given to the gaming industry, despite of its growth potential. Further, top talent of the country does not go to the gaming industry because it is at its nascent stage.

**Mr. Sai** said that he believes that it is a chicken-and-egg problem. He highlighted how there needs to be a developed industry to attract top talent and top talent needs to be attracted to develop the industry.

**Dr. Somashekhar** then asked how the industry is doing in terms of hardware?

**Mr. Sai** mentioned how phones that the consumer rely on are mostly produced in India and that these phones are the lion's share of the industry.

**Mr. Anuj** highlighted how India still has a long way to go in terms of making items like Xboxes and PlayStations. However, these are peripheral devices.

**Dr. Somashekhar** asked about the regulatory challenges that game developers and companies face?

**Mr. Sai** replied that in the gaming industry, the regulatory uncertainty is the biggest challenge. He mentioned that institutional capital can only come if the regulatory framework is certain, irrespective of what it is. He also highlighted how certainty has improved over time.

**Mr. Anuj** flagged that the gaming industry is a young industry and regulating it is a hard thing to achieve. He mentioned how the government has [notified certain guidelines](#) and how the stakeholders are looking forward to how the guidelines will pan out for them.

**Mr. Manish** highlighted how the current policy framework regarding investment in the gaming industry is a quagmire. Currently, everyone believes that India is a lucrative market, and much investment can be attracted through the right policy measures.

**Mr. Sean** mentioned that if there is sincerely from the government and the industry players, the size of the Indian gaming industry can be considerably increased.

**Dr. Somashekhar** finally asked if there is anything else that the panellists would like to add.

**Mr. Manish** mentioned how if you want to reinforce positive behavior, gaming mechanics is the place to look at. It is not to create new behavior but to reinforce behaviors.

**Mr. Anuj** added that gaming had monetized behaviors and it will continue to do so.

**Ms. Chowdhury** thanked the panellists for their responses and proceeded to open the floor to the questions of the audience.

The Panel then proceeded to take questions from the audiences.

### **Questions and Answers**

The first question concerning other industries which would be able to adapt to the various gaming mechanics and the gaming sector in the future.

**Mr. Manish** replied how gaming mechanics could primarily be used to reinforce the gaming behavior in a positive manner for unification of the current gaming mechanics rather than creating newer ones. He then highlighted how any sector with a consumer base having continuous interaction with the product will be able to adapt into the gaming sector.

**Mr. Anuj** added how gaming mechanics specifically catered for Indian users have had a positive impact on monetization of these games and how social companies expanding for interaction have found success following this monetization.

The second question tracked back to the 30% commission for the distributors and inquired about a viable alternative for the issue.

**Mr. Sai** highlighted the need for a free-market economy to ensure fairness within the gaming companies and to abort this current framework of distributors by giving their power to the consumers.

**Mr. Manish** added how there should exist a different viable payment getaway, charging commission according to the sales of the game rather than a fixed 30% cut.

The third question concerned the future of structural development following Jio which had tremendously increased access to consumers. It proceeded to ask about the connection of interactive gaming with immersion and the changes in the gaming industry solely due to hardware constraints.

**Mr. Manish** replied stating the importance of UPI in the growth of this gaming industry and the essential need for implementing a new structured framework surrounding Web 3.0 specifically for India under government and legal support to truly ensure the effective usage of a newer blockchain.

**Mr. Anuj** highlighted how interactive gaming was possible through lesser immersion stating past success of companies employing SMS as a way of interaction.

**Mr. Sean** traced back the importance of hardware through the evolution of phones such as the iPhone, which revolutionarily bought in the era of smartphones completely changing the past dynamics of gaming models.

The fourth question concerned advice relating to starting a gaming start-up with new individuals.

**Mr. Manish** replied stating the obvious risks surrounding any start-ups within any industry and the importance of exploring newer models keeping in mind the complexities and risks.

**The Audience** further asked about the competitors of gaming stating different forms of newer entertainment media such as Instagram reels, YouTube shorts and more and whether gaming can compete against such different forms of entertainment.

**Mr. Sai** mentioned how gaming is already one of the largest forms of entertainment throughout all the different available platforms.

**Mr. Sean** further added how gaming is already one of the largest forms of media consumed in the mentioned platforms and is the most viewed genre of videos available on these platforms.

The final question was regarding the validity of the games available which are subject to pop-ups previously mentioned and how their legitimacy is determined.

**Mr. Sai** explicated how this complexity is already solved as there exist various third-party sites which can check certain embedded game codes to determine the legitimacy of these games.

The Panel was then followed by a vote of thanks from the Convenor of the Law and Technology Society.

Friday, 21st April | Bengaluru

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