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Research Article

The Gambler as Consumer: Protection of Rights Within the Indian Digital Gaming Market

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Abstract: The rapid expansion of India's digital gaming industry has transformed online gaming into one of the country's fastest-growing digital markets. While technological innovation has increased accessibility and commercial opportunities, it has simultaneously created significant challenges relating to consumer protection, transparency, and algorithmic accountability. Traditional Indian gambling jurisprudence, primarily derived from the Public Gambling Act, 1867, was developed to regulate physical gambling establishments rather than sophisticated online platforms driven by artificial intelligence, behavioural analytics, and personalized marketing. Consequently, the existing legal framework inadequately addresses the rights of users who increasingly function as consumers purchasing digital gaming services rather than merely participants in gambling activities. This paper argues that the legal discourse should shift from determining the legality of gambling to recognizing gamblers as consumers entitled to statutory protection under the Consumer Protection Act, 2019. Applying behavioural economics, the paper demonstrates how online gaming platforms exploit predictable cognitive biases including loss aversion, present bias, sunk cost fallacy, optimism bias, and the near-miss effect through algorithmically designed interfaces. Such practices generate substantial information asymmetry between platforms and users, undermining informed consumer choice and fair contractual relationships. The study further examines how dark patterns, personalized targeting, and opaque algorithmic decision-making may constitute unfair trade practices and unfair contracts under the Consumer Protection Act, 2019. Comparative analysis with regulatory approaches adopted in the United Kingdom and the European Union demonstrates that consumer-centric regulation emphasizing algorithmic transparency, mandatory disclosures, affordability checks, and platform accountability provides a more effective framework than traditional criminal prohibition. The paper proposes the establishment of a specialized Gaming Ombudsman under the Central Consumer Protection Authority, mandatory algorithmic audits, standardized disclosure requirements, and legally enforceable rights to self-exclusion. It concludes that recognising gamblers as consumers represents a necessary evolution of Indian consumer jurisprudence capable of balancing digital innovation with constitutional values of fairness, transparency, and consumer welfare.

Keywords: Consumer Protection Act, 2019, Online Gaming, Unfair Trade Practices, Behavioural Economics, Algorithmic Transparency.

INTRODUCTION

The digital economy has fundamentally transformed the manner in which consumers engage with commercial services, and the gaming industry represents one of the most significant beneficiaries of this technological evolution. Over the past decade, India has emerged as one of the world's fastest-growing digital gaming markets, driven by widespread internet penetration, affordable smartphones, digital payment infrastructure, and a young technology-oriented population. The rapid expansion of online gaming platforms has created an ecosystem in which millions of users participate daily in games involving elements of skill, chance, or a combination of both. These platforms generate substantial revenue through entry fees, in-app purchases, virtual currencies, subscription models, advertising, and personalized engagement strategies. While this growth has contributed significantly to India's digital economy, it has simultaneously exposed considerable deficiencies in the country's existing legal and regulatory framework governing online gaming and gambling.

Historically, Indian gambling law has been constructed primarily around the objective of prohibiting or restricting gambling activities rather than regulating the commercial relationship between gaming platforms and their users. The principal legislation governing gambling, the Public Gambling Act, 1867, was enacted during the colonial period to regulate physical gambling houses and public gaming establishments. The legislation reflects nineteenth-century conceptions of gambling as a public order concern rather than a consumer marketplace. Consequently, its provisions neither contemplate nor adequately regulate technologically sophisticated online platforms employing artificial intelligence, predictive analytics, behavioural profiling, and algorithmically generated consumer engagement mechanisms. Although several States have enacted independent gambling legislation under the constitutional distribution of legislative powers, these enactments similarly remain rooted in conventional understandings of gambling and fail to address the unique legal complexities generated by digital gaming markets.

The emergence of online gaming has therefore challenged traditional legal distinctions between gambling regulation and consumer protection. Modern gaming platforms operate as commercial enterprises providing digital services to users who pay consideration in exchange for access to entertainment products. In many instances, participants purchase virtual goods, subscribe to premium services, deposit funds into digital wallets, or engage in real-money gaming contests facilitated through sophisticated digital interfaces. These transactions resemble conventional consumer transactions far more closely than traditional gambling conducted in physical establishments. Consequently, individuals participating on digital gaming platforms increasingly occupy the legal position of consumers purchasing commercial services rather than merely gamblers participating in wagering activities.

Despite this commercial transformation, Indian legal discourse has largely remained focused on the binary distinction between games of skill and games of chance. Judicial decisions have primarily examined whether particular gaming activities constitute gambling under constitutional and statutory provisions. Landmark decisions such as State of Bombay v. R.M.D. Chamarbaugwala and K.R. Lakshmanan v. State of Tamil Nadu established the predominance test for distinguishing games of skill from games of chance, thereby determining whether particular activities fall within constitutional protection under Article 19(1)(g). More recently, courts have examined fantasy sports, online poker, rummy, and other digital gaming platforms through this doctrinal framework. Although these judgments have clarified questions concerning legality, they have devoted comparatively little attention to the contractual and consumer dimensions of the relationship between gaming operators and users.

This narrow legal approach inadequately reflects the realities of the contemporary digital marketplace. Online gaming platforms no longer function merely as neutral intermediaries facilitating gameplay; instead, they actively design digital environments intended to maximize user engagement, spending behaviour, and long-term retention. Advances in machine learning, artificial intelligence, and behavioural analytics enable platforms to monitor individual user behaviour in real time, predict spending patterns, personalize incentives, and optimize interface design according to individual psychological characteristics. These commercial practices blur the distinction between entertainment and consumer marketing, raising fundamental questions concerning informed consent, contractual fairness, transparency, and consumer autonomy.

Behavioural economics provides an important theoretical framework for understanding these developments. Traditional economic theory assumes that consumers behave rationally by evaluating available information and making decisions that maximize their welfare. However, extensive empirical research in behavioural economics demonstrates that consumer decision-making is frequently influenced by systematic cognitive biases and psychological heuristics. Individuals consistently exhibit predictable deviations from rational behaviour, particularly when confronted with uncertainty, immediate rewards, or emotionally stimulating environments. Online gaming platforms increasingly exploit these behavioural tendencies through carefully designed digital architectures intended to influence consumer behaviour.

Among the most significant behavioural biases exploited within digital gaming environments are loss aversion, present bias, optimism bias, sunk cost fallacy, and the near-miss effect. Loss aversion causes individuals to experience losses more intensely than equivalent gains, encouraging continued participation in an attempt to recover previous losses. Present bias leads consumers to prioritise immediate gratification over long-term financial consequences, increasing impulsive spending on digital gaming services. Similarly, the sunk cost fallacy encourages continued investment after previous expenditures have been incurred, while optimism bias causes users to overestimate their probability of future success despite objectively unfavourable odds. The near-miss effect further reinforces continued engagement by creating psychological perceptions of imminent success even where outcomes remain entirely random. Through algorithmically generated notifications, personalized promotions, variable reward schedules, and gamified interface designs, online gaming platforms may systematically exploit these cognitive vulnerabilities to increase consumer expenditure.

These practices generate substantial information asymmetry between gaming platforms and consumers. Platform operators possess superior technological knowledge, behavioural data, predictive algorithms, and commercial expertise that remain inaccessible to ordinary users. Consumers frequently lack meaningful understanding of algorithmic recommendation systems, probability calculations, payout mechanisms, promotional conditions, or personalized targeting strategies employed by digital platforms. Consequently, contractual consent obtained through standard online terms and conditions may not satisfy substantive standards of informed consumer choice where users remain unaware of the behavioural mechanisms influencing their decisions.

The Consumer Protection Act, 2019 offers a potentially transformative legal framework for addressing these concerns. Unlike earlier consumer legislation, the 2019 Act adopts a broad conception of consumer welfare that extends beyond defective goods and deficient services to include unfair trade practices, misleading advertisements, unfair contractual terms, product liability, and the protection of consumer rights within digital marketplaces. The establishment of the Central Consumer Protection Authority (CCPA) further demonstrates legislative recognition that digital markets require proactive regulatory oversight rather than solely private litigation. Moreover, recent regulatory initiatives addressing dark patterns and deceptive online interfaces indicate an emerging shift toward recognising manipulative digital design as a consumer protection issue.

Nevertheless, the application of consumer protection principles to online gaming remains underdeveloped within Indian legal scholarship and regulatory practice. Existing discussions continue to emphasise gambling prohibition, taxation, licensing, or constitutional competence while comparatively neglecting the rights of users as consumers of digital services. This omission is increasingly difficult to justify given the commercial character of contemporary gaming platforms and the sophisticated technological methods through which user behaviour is influenced. Recognising gamblers as consumers would enable application of established consumer law principles concerning transparency, fairness, disclosure obligations, unfair contractual terms, and misleading commercial practices. Such an approach would complement rather than replace existing gambling regulation by addressing the commercial relationship between operators and users.

Comparative international developments further support this evolving regulatory perspective. Jurisdictions such as the United Kingdom have progressively shifted from prohibition-oriented regulation toward consumer-centric oversight emphasizing operator accountability, affordability assessments, mandatory disclosures, and protection of vulnerable users. Similarly, the European Union has adopted a broader digital governance framework through instruments such as the Digital Services Act, the General Data Protection Regulation, the Artificial Intelligence Act, and consumer protection directives that collectively promote algorithmic transparency, fairness, and accountability within digital markets. These developments illustrate that effective regulation increasingly focuses on protecting consumers from exploitative commercial practices rather than solely determining whether gambling activities are legally permissible.

Against this background, the present study argues that Indian consumer jurisprudence must evolve to recognise participants in digital gaming platforms as consumers entitled to statutory protection under the Consumer Protection Act, 2019. Such recognition reflects the economic realities of contemporary digital markets, addresses growing concerns regarding algorithmic manipulation and behavioural exploitation, and aligns Indian regulatory policy with emerging international standards of digital consumer protection. The paper contends that the existing legal emphasis on the legality of gambling should be supplemented by a consumer rights perspective that prioritises transparency, fairness, informed consent, and platform accountability.

This research adopts a doctrinal and comparative methodology. It analyses relevant statutory provisions, judicial decisions, regulatory guidelines, and policy documents relating to online gaming and consumer protection in India. The study further incorporates insights from behavioural economics to examine how cognitive biases influence consumer decision-making within digital gaming environments. Comparative analysis of regulatory developments in the United Kingdom and the European Union is undertaken to identify best practices capable of informing future reforms in India. On the basis of this analysis, the paper proposes the establishment of a specialised Gaming Ombudsman under the Central Consumer Protection Authority, mandatory algorithmic audits, enhanced disclosure requirements, enforceable rights of self-exclusion, and greater regulatory oversight of personalized digital marketing. These recommendations seek to balance innovation within India's rapidly expanding digital gaming industry with the constitutional objectives of fairness, transparency, consumer welfare, and responsible digital governance. Accordingly, this study seeks to reposition online gaming within the broader framework of consumer law by arguing that effective regulation should no longer be confined to questions of legality but should equally encompass the protection of consumer rights in an increasingly algorithm-driven digital marketplace.

Behavioural Economics, Algorithmic Manipulation And Consumer Rights In Online Gaming

The exponential growth of India's online gaming industry has fundamentally transformed the relationship between gaming operators and users. Unlike traditional gambling establishments, digital gaming platforms function as technologically sophisticated commercial enterprises that employ artificial intelligence (AI), machine learning, predictive analytics, and behavioural profiling to influence consumer behaviour. Rather than merely providing a platform for participation, these operators continuously monitor user interactions, analyse spending habits, predict future behaviour, and personalise gaming experiences to maximise engagement and revenue.

These developments have shifted the legal debate beyond the traditional distinction between games of skill and games of chance. The principal concern is no longer confined to whether online gaming is legally permissible but whether digital gaming platforms employ commercial practices that undermine consumer autonomy through psychological manipulation and information asymmetry. Behavioural economics provides an important analytical framework for examining these concerns because it explains why consumers frequently make irrational decisions in environments specifically designed to exploit cognitive limitations.

Consequently, online gaming should increasingly be understood as a consumer protection issue. Participants purchase digital services, virtual goods, and platform access under contractual arrangements that ought to satisfy standards of fairness, transparency, and informed consent. When gaming operators intentionally exploit predictable behavioural biases through algorithmic design, their practices may constitute unfair trade practices, misleading representations, or unfair contractual terms under the Consumer Protection Act, 2019.

Traditional economic theory assumes that individuals act as rational decision-makers who evaluate available information objectively before making choices that maximise personal welfare. This assumption forms the foundation of classical market theory, according to which informed consumers discipline markets through rational purchasing decisions. Behavioural economics challenges this assumption. Developed through the pioneering work of Daniel Kahneman, Amos Tversky, Richard Thaler, and Cass Sunstein, behavioural economics demonstrates that consumer decisions are systematically influenced by cognitive biases, emotional responses, heuristics, and bounded rationality. Rather than processing all available information logically, individuals often rely upon mental shortcuts that produce predictable errors in judgment. Digital gaming platforms are particularly capable of exploiting these behavioural tendencies because they continuously collect behavioural data and adapt their interfaces according to individual user responses. Every click, pause, purchase, withdrawal attempt, game selection, and payment transaction contributes to personalised behavioural profiles that enable increasingly sophisticated consumer targeting.

Unlike conventional advertising, algorithmic manipulation occurs continuously throughout the consumer experience. Artificial intelligence analyses behavioural patterns in real time and modifies promotional strategies accordingly. Consequently, consumers often remain unaware that their purchasing decisions have been influenced through personalised digital architecture rather than independent choice. This creates a substantial imbalance between platform operators possessing sophisticated behavioural data and consumers who lack meaningful understanding of algorithmic decision-making

Cognitive Biases Exploited by Online Gaming Platforms

- **Loss Aversion**

Loss aversion refers to the psychological phenomenon whereby individuals experience losses more intensely than equivalent gains. Behavioural studies consistently demonstrate that losing ₹1,000 generates significantly greater emotional discomfort than the satisfaction derived from winning the same amount. Online gaming platforms frequently exploit this tendency by encouraging users to recover previous losses through continued participation. Features such as "instant recharge," bonus credits following unsuccessful gameplay, cashback incentives, and limited-time promotional offers create the perception that continued participation represents a rational opportunity to recover financial losses. Instead of accepting losses and exiting the platform, users are encouraged to continue spending despite diminishing prospects of recovery. Such practices increase platform revenue while exposing consumers to escalating financial harm.

- **Present Bias**

Present bias refers to consumers' tendency to prioritise immediate rewards over long-term consequences. Digital gaming environments deliberately emphasise immediate gratification through visual rewards, rapid gameplay, celebratory animations, notifications, and instant prize distributions. Conversely, potential long-term financial consequences remain largely invisible during gameplay. Easy integration of Unified Payments Interface (UPI), digital wallets, one-click deposits, and stored payment credentials further reduces the psychological barriers associated with monetary expenditure. Consequently, consumers spend money with significantly less deliberation than would occur in conventional cash transactions. Present bias therefore undermines informed financial decision-making by shifting consumer attention toward immediate excitement while obscuring cumulative losses.

- **The Sunk Cost Fallacy**

The sunk cost fallacy describes the tendency to continue investing resources merely because previous investments have already been made. Online gaming platforms reinforce this bias through progress bars, loyalty programmes, achievement levels, subscription tiers, and exclusive rewards that appear attainable after additional expenditure. For example, a player who has already invested considerable money may continue spending because abandoning the platform would appear to "waste" previous expenditures. Although rational decision-making requires evaluating future costs independently of past losses, platform design encourages consumers to remain committed regardless of deteriorating financial outcomes.

- **Optimism Bias**

Optimism bias causes individuals to overestimate favourable outcomes while underestimating potential risks. Most consumers believe they possess above-average skill or luck despite statistical evidence demonstrating otherwise. Gaming advertisements frequently reinforce this misconception by highlighting exceptional winners while omitting information concerning average player losses or winning probabilities. The resulting perception encourages excessive confidence regarding future success despite objectively unfavourable odds.

- **The Near-Miss Effect**

One of the most powerful behavioural mechanisms employed within online gaming is the near-miss effect. Psychological research demonstrates that outcomes narrowly missing success produce neural responses similar to actual victories. Consequently, consumers perceive themselves as being "close" to winning despite entirely random probability distributions. Digital slot machines, fantasy contests, card games, prediction games, and reward wheels frequently display outcomes that narrowly miss substantial prizes. Although objectively equivalent to ordinary losses, these outcomes increase motivation for continued participation and additional spending.

Algorithmic Manipulation and Artificial Intelligence

Artificial intelligence has fundamentally altered the commercial strategies employed by online gaming operators. Modern platforms utilise machine learning algorithms capable of analysing enormous quantities of consumer data including:

- playing frequency;
- average expenditure;
- preferred games;
- withdrawal behaviour;
- response to promotions;
- time spent on the platform;
- emotional engagement indicators;
- payment patterns; and
- demographic characteristics.

Using predictive analytics, algorithms identify consumers who are most likely to increase expenditure and personalise promotional offers accordingly. For instance, consumers demonstrating reduced engagement may receive bonus credits or free-entry incentives, whereas high-spending users may receive exclusive tournaments, cashback offers, or personalised rewards. Although such personalisation enhances commercial efficiency, it simultaneously creates significant concerns regarding consumer autonomy. Unlike traditional advertising directed toward the general public, algorithmic targeting is individually tailored according to behavioural vulnerabilities. Consumers therefore receive different commercial experiences without understanding the criteria governing algorithmic decision-making. This absence of transparency undermines informed consent and raises significant questions regarding fairness within digital consumer markets.

DARK PATTERNS AND MANIPULATIVE INTERFACE DESIGN

Dark patterns are interface designs intentionally created to influence consumers into making decisions contrary to their genuine interests. Recognising the increasing prevalence of such practices, the Central Consumer Protection Authority (CCPA) issued the Guidelines for Prevention and Regulation of Dark Patterns, 2023. These Guidelines prohibit numerous deceptive interface designs including:

- false urgency;
- basket sneaking;
- subscription traps;
- interface interference;
- confirm shaming;
- forced action;
- drip pricing;
- disguised advertisements;
- nagging; and
- trick questions.

Many online gaming platforms employ interface designs analogous to these prohibited practices. Examples include:

- countdown timers encouraging immediate deposits;
- misleading representations regarding winning probabilities;
- difficult withdrawal procedures;
- automatic participation in promotional contests;
- repeated pop-up notifications after unsuccessful gameplay;
- hidden conditions attached to bonus rewards; and

- visually prominent "Play Again" buttons accompanied by inconspicuous exit options.

Such practices distort consumer choice through psychological pressure rather than informed decision-making. The CCPA Guidelines therefore provide an important regulatory foundation for examining manipulative gaming interfaces through consumer protection law.

CONSUMER PROTECTION ACT, 2019 AND ONLINE GAMING

The Consumer Protection Act, 2019 represents India's most comprehensive legislative framework for protecting consumers within digital markets. Unlike earlier legislation, the Act expressly recognises electronic commerce and digital transactions. Several provisions possess direct relevance to online gaming platforms.

Consumer Rights

Section 2(9) recognises fundamental consumer rights including:

- protection against hazardous goods and services;
- access to complete information regarding quality and characteristics;
- protection from unfair trade practices;
- the right to consumer awareness; and
- access to effective grievance redressal.

Online gaming users who purchase digital services clearly possess an interest in receiving accurate information regarding game mechanics, probabilities, promotional conditions, algorithmic recommendations, and financial risks.

Unfair Trade Practices

Section 2(47) defines unfair trade practices broadly to include deceptive representations, misleading advertisements, false claims, and practices causing consumer harm. Where gaming platforms exaggerate winning opportunities, conceal material terms, manipulate probability disclosures, or employ deceptive promotional strategies, such conduct may constitute unfair trade practices. Similarly, advertisements portraying gaming primarily as an income-generating activity rather than entertainment may mislead consumers regarding financial risks.

Unfair Contracts

The Consumer Protection Act also recognises unfair contractual terms imposed through unequal bargaining power. Most gaming platforms require consumers to accept lengthy standard-form online agreements drafted exclusively by platform operators. Consumers possess virtually no opportunity to negotiate contractual provisions. Terms limiting platform liability, permitting unilateral modification of rules, restricting withdrawals, or authorising broad collection of personal data may therefore warrant scrutiny under principles governing unfair contracts.

Product Liability and Deficiency in Service

Where algorithmic errors, payment failures, security breaches, or misleading representations cause consumer loss, gaming operators may also incur liability for deficient services. The increasingly commercial character of online gaming strengthens the argument that users should receive protections comparable to consumers purchasing other digital services.

Information Asymmetry and Data Exploitation

Consumer protection law traditionally addresses situations involving unequal bargaining power and information asymmetry. Online gaming platforms possess extensive behavioural information unavailable to users. Algorithms calculate individual spending limits, engagement probabilities, preferred promotional formats, and psychological susceptibility. Consumers, however, remain unaware of:

- personalised probability adjustments;
- behavioural profiling;
- recommendation algorithms;
- promotional targeting criteria;
- data-sharing practices; and
- artificial intelligence decision-making.

This asymmetry undermines genuine contractual consent because informed decision-making requires meaningful understanding of commercial practices affecting consumer choices. The Digital Personal Data Protection Act, 2023 strengthens consumer rights by requiring lawful processing of personal data, informed consent, purpose limitation, and reasonable security safeguards. Nevertheless, the Act does not specifically regulate behavioural manipulation arising from algorithmic consumer profiling. Consequently, consumer protection law remains essential for addressing commercial exploitation beyond data privacy alone.

COMPARATIVE ANALYSIS: CONSUMER-CENTRIC REGULATION OF ONLINE GAMING IN

THE UNITED KINGDOM AND THE EUROPEAN UNION

The unprecedented growth of online gaming and digital gambling has compelled jurisdictions across the world to reconsider traditional gambling regulation. While earlier regulatory approaches largely focused on criminal prohibition or licensing of gambling activities, contemporary regulatory frameworks increasingly recognize online gaming as a consumer protection issue. The emergence of artificial intelligence, algorithmic decision-making, behavioural targeting, and personalized digital marketing has significantly altered the relationship between gaming operators and consumers. Consequently, regulators have shifted their attention towards ensuring transparency, fairness, responsible gambling, and platform accountability rather than merely determining the legality of gambling activities. Among the leading jurisdictions adopting consumer-centric regulation are the United Kingdom and the European Union. Both have progressively introduced legal measures addressing algorithmic transparency, responsible platform design, affordability assessments, consumer information, and protection against unfair commercial practices. Their experiences provide valuable guidance for India, whose legal framework continues to be fragmented between colonial gambling legislation, state-specific enactments, and general consumer protection law. This chapter examines the regulatory models adopted by these jurisdictions and identifies reforms capable of strengthening consumer protection within India's rapidly expanding digital gaming market.

The United Kingdom: A Consumer-Oriented Regulatory Framework

The United Kingdom possesses one of the world's most developed regulatory systems governing online gambling. Unlike India's predominantly prohibition-oriented approach, the UK seeks to balance commercial innovation with consumer welfare through a comprehensive licensing and regulatory regime. The primary legislation governing gambling is the Gambling Act 2005, enacted with the objective of modernizing gambling regulation in response to technological advancements. The Act established the UK Gambling Commission (UKGC) as an independent regulatory authority responsible for licensing operators, monitoring compliance, preventing gambling-related harm, protecting vulnerable persons, and ensuring fairness within gambling markets.

Unlike traditional regulatory models, the Gambling Act does not merely determine whether gambling is lawful; instead, it imposes continuous obligations upon licensed operators to maintain consumer protection standards throughout the operation of their services. Operators must demonstrate financial integrity, maintain transparent business practices, implement anti-money laundering measures, and protect consumers from exploitative commercial conduct. A significant feature of the UK regulatory framework is its emphasis on social responsibility obligations. The UK Gambling Commission requires operators to identify consumers exhibiting indicators of gambling-related harm and to intervene proactively through warnings, spending limits, temporary account suspensions, or referrals to support services. These obligations recognize that gambling operators possess superior behavioural information and therefore bear corresponding responsibilities towards consumer welfare.

The Gambling White Paper, 2023

Recognizing the rapid technological transformation of online gambling markets, the UK Government published the High Stakes: Gambling Reform for the Digital Age White Paper (2023). The White Paper represents one of the most significant reforms of gambling regulation since the enactment of the Gambling Act 2005. The White Paper acknowledges that online gambling differs fundamentally from traditional gambling because digital platforms possess unprecedented technological capabilities to monitor, predict, and influence consumer behaviour. Consequently, regulation must evolve beyond conventional licensing mechanisms.

(a) Financial Risk and Affordability Checks

The White Paper proposes frictionless financial vulnerability assessments for consumers exhibiting unusually high spending patterns. Rather than prohibiting gambling, affordability assessments seek to ensure that consumers do not incur financial harm beyond reasonable limits. This represents a significant shift towards consumer protection by recognising excessive gambling as a predictable commercial risk requiring preventive regulation.

(b) Algorithmic Accountability

The White Paper recognises that digital operators increasingly rely upon algorithms to personalise gambling experiences. Accordingly, regulators have recommended greater scrutiny of algorithmic systems influencing consumer behaviour, promotional targeting, and gambling intensity. Although algorithmic transparency remains an evolving area, the UK has clearly acknowledged that artificial intelligence should not operate beyond regulatory oversight.

(c) Consumer Information

Operators are expected to provide consumers with clearer information regarding risks, spending history, account activity, and available support mechanisms. Transparent disclosures enable consumers to make more informed decisions regarding continued participation.

(d) Self-Exclusion Mechanisms

The UK has implemented comprehensive self-exclusion programmes allowing consumers voluntarily to restrict access to gambling platforms. Systems such as GAMSTOP permit individuals to exclude themselves simultaneously from all licensed online gambling operators. Importantly, operators are legally required to respect such exclusions, thereby strengthening consumer autonomy.

The European Union: Regulating Digital Markets Through Consumer Rights

Unlike the United Kingdom, the European Union has not enacted a single comprehensive gambling regulation applicable to all Member States. Instead, the European regulatory approach integrates gambling within broader frameworks governing digital markets, consumer protection, competition law, artificial intelligence, and personal data. This integrated approach is particularly relevant because contemporary online gaming platforms increasingly resemble digital service providers rather than conventional gambling establishments.

Digital Services Act (DSA)

The Digital Services Act (Regulation (EU) 2022/2065) establishes extensive obligations for online platforms operating within the European digital marketplace. Although the DSA is not gambling-specific, many of its provisions directly affect online gaming platforms. The Act requires large online platforms to:

- assess systemic risks created by digital services;
- increase transparency regarding recommendation algorithms;
- implement risk mitigation strategies;
- improve advertising transparency; and
- permit regulatory oversight of platform operations.

These obligations recognise that algorithms significantly influence consumer decision-making and therefore require public accountability. For online gaming operators, compliance with algorithmic transparency obligations reduces opportunities for manipulative behavioural targeting.

General Data Protection Regulation (GDPR)

The General Data Protection Regulation (GDPR) represents one of the world's most influential data protection frameworks. Gaming platforms routinely collect extensive personal information including financial transactions, behavioural profiles, playing patterns, geolocation data, and psychological preferences. The GDPR establishes several principles directly relevant to digital gaming:

- lawful processing of personal data;
- informed consumer consent;
- purpose limitation;
- data minimisation;
- transparency;
- accountability; and
- rights relating to automated decision-making.

Particularly significant is Article 22 of the GDPR, which grants individuals certain protections against decisions based solely upon automated processing where such decisions significantly affect them. Although gaming recommendation systems may not always fall directly within Article 22, the GDPR establishes an important normative principle that algorithmic systems influencing consumer rights should not remain entirely opaque.

Artificial Intelligence Act

The European Union has further strengthened algorithmic governance through the Artificial Intelligence Act, which introduces a risk-based regulatory framework for AI systems. The Act requires providers of certain AI systems to ensure transparency, maintain technical documentation, conduct conformity assessments, and minimise foreseeable risks. While online gaming algorithms are not uniformly classified as high-risk AI systems, the legislation establishes an important regulatory philosophy: artificial intelligence should remain subject to legal accountability rather than unrestricted commercial discretion.

Unfair Commercial Practices Directive

The Unfair Commercial Practices Directive (2005/29/EC) prohibits misleading actions, deceptive omissions, aggressive commercial practices, and unfair consumer manipulation. Many digital gaming practices including hidden promotional conditions, misleading advertisements regarding winning probabilities, deceptive reward mechanisms, and psychologically manipulative interface designs may fall within this framework. The Directive demonstrates that consumer law can effectively regulate exploitative digital business practices without criminalising the underlying commercial activity.

Comparative Evaluation: India, the United Kingdom and the European Union

India's legal framework remains primarily concerned with determining whether particular games constitute games of skill or games of chance. Judicial decisions have largely focused upon constitutional competence, taxation, and gambling legality.

Although these questions remain important, they do not adequately address the commercial relationship between gaming operators and consumers. In contrast, both the United Kingdom and the European Union increasingly regulate online gaming through the broader principles of consumer protection and digital governance. Several distinguishing features emerge. First, the UK imposes continuous operator responsibility, whereas Indian regulation remains predominantly reactive. UK operators are expected to monitor consumer behaviour, identify risks, and intervene before significant financial harm occurs. Second, European regulation emphasises algorithmic transparency. Digital platforms must increasingly explain recommendation systems, advertising practices, and automated decision-making processes. Indian law presently contains no comparable obligation requiring gaming platforms to disclose algorithmic methods influencing consumer behaviour. Third, both jurisdictions recognise that consumer information constitutes a regulatory obligation rather than merely a contractual matter. Clear disclosures regarding financial risks, promotional conditions, and behavioural interventions are mandatory components of responsible platform governance. Finally, both jurisdictions increasingly acknowledge that consumer protection requires regulation of digital architecture itself. Platform design, interface manipulation, personalised targeting, and behavioural profiling are recognised as potential sources of consumer harm requiring legal oversight.

Lessons And Recommendations For India

The comparative analysis demonstrates that India should move beyond the traditional prohibition-versus-legality debate and adopt a consumer-centric regulatory framework for digital gaming. Such reforms need not legitimise gambling; rather, they should ensure that individuals who purchase online gaming services enjoy adequate statutory protection against deceptive and exploitative commercial practices. Several reforms emerge from international experience.

First, India should establish a Specialised Gaming Ombudsman under the Central Consumer Protection Authority (CCPA) to adjudicate complaints relating to online gaming, unfair trade practices, algorithmic manipulation, and digital consumer harms. A specialised institution would possess the technical expertise necessary to address disputes involving artificial intelligence, behavioural analytics, and platform governance.

Second, legislation should mandate independent algorithmic audits for gaming platforms employing artificial intelligence or behavioural targeting. Such audits should evaluate whether algorithms systematically encourage excessive spending, discriminate among users, or exploit cognitive vulnerabilities.

Third, gaming operators should be required to provide standardised consumer disclosures regarding winning probabilities, algorithmic recommendation systems, promotional conditions, data collection practices, and financial risks. Transparent disclosures would reduce information asymmetry and strengthen informed consumer choice.

Fourth, India should introduce a statutory right to self-exclusion, enabling consumers voluntarily to suspend or restrict access to all licensed gaming platforms for specified periods. Similar to the UK's GAMSTOP model, such a mechanism would reinforce consumer autonomy and assist individuals experiencing problematic gaming behaviour.

Finally, the Consumer Protection Act, 2019 should be supplemented through sector-specific rules issued by the Central Consumer Protection Authority addressing dark patterns, personalised marketing, algorithmic accountability, and behavioural manipulation in online gaming. These measures would align India's regulatory framework with evolving international standards while preserving technological innovation and market growth.

Conclusion And Recommendations

The rapid expansion of India's online gaming industry has fundamentally altered the legal and commercial landscape within which gambling-related activities operate. Digital gaming platforms are no longer merely virtual spaces where individuals participate in games of skill or chance; they have evolved into sophisticated commercial enterprises that leverage artificial intelligence, behavioural analytics, algorithmic recommendation systems, and personalised marketing to maximise consumer engagement and revenue. This technological transformation has rendered traditional gambling jurisprudence, which was primarily developed to regulate physical gambling establishments, increasingly inadequate for addressing the complexities of the digital marketplace. Consequently, the legal discourse surrounding online gaming must evolve beyond the conventional question of whether a particular activity constitutes gambling and instead recognise that users of online gaming platforms are consumers entitled to statutory protection under consumer law.

This study has demonstrated that the existing Indian legal framework governing online gaming is presently undergoing a significant transition. Historically, regulation centred upon the distinction between games of skill and games of chance under the Public Gambling Act, 1867, various state enactments, and judicial precedents such as State of Bombay v. R.M.D. Chamarbaugwala and K.R. Lakshmanan v. State of Tamil Nadu. However, the enactment of the Promotion and Regulation of Online Gaming Act, 2025 marks a decisive departure from this jurisprudential framework. The Act prohibits all online money games, irrespective of whether they involve skill, chance, or a combination of both, while simultaneously recognising and promoting e-sports and online social games. It also prohibits advertisements relating to online money games, restricts payment facilitation, provides for blocking of prohibited platforms, and establishes the Online Gaming Authority of India (OGAI) as the principal regulatory authority.

The enactment of the PROG Act represents a paradigm shift from regulation based upon the "skill versus chance" doctrine to regulation based upon the presence of monetary stakes. The legislative objective is to minimise gambling-related financial harm, addiction, fraudulent practices, and associated criminal activities by imposing a comprehensive prohibition on online real-money gaming. From a public policy perspective, the Act reflects the State's concern regarding behavioural addiction, consumer indebtedness, money laundering, and the social consequences of digitally accessible gambling. At the same time, however, the legislation has generated significant constitutional and commercial debate because it extends its prohibition to games that courts had previously recognised as predominantly games of skill.

The constitutional validity of the Act is presently under judicial scrutiny. Several gaming companies and industry stakeholders have challenged the legislation, contending that a blanket prohibition on online real-money games—including games of skill is arbitrary, disproportionate, and violative of Articles 14, 19(1)(g), and 21 of the Constitution. The pending proceedings raise fundamental questions regarding legislative competence, proportionality, freedom of trade, and the extent to which the State may prohibit digital commercial activities in the interest of public welfare. As the challenges pending before various High Courts have been transferred, the Supreme Court's eventual decision is likely to redefine the constitutional boundaries of online gaming regulation in India. Until a final judicial pronouncement is delivered, the legal position remains unsettled.

Irrespective of the eventual outcome of these constitutional proceedings, the central argument advanced in this study remains relevant. Whether online real-money gaming is prohibited, licensed, or partially regulated, consumers interacting with digital gaming platforms continue to require protection from unfair commercial practices. Even under the PROG Act, users engage with digital interfaces, are exposed to advertisements for permitted online games and e-sports, share personal data, and interact with algorithmically designed platforms. Consequently, issues relating to behavioural manipulation, dark patterns, opaque algorithmic decision-making, misleading advertisements, unfair contractual terms, and misuse of consumer data continue to demand robust consumer protection measures. The prohibition of online money gaming alone cannot eliminate concerns relating to algorithmic transparency or digital consumer rights.

The application of behavioural economics further demonstrates that consumer harm within digital environments extends beyond the legality of gambling itself. Cognitive biases such as loss aversion, present bias, optimism bias, the sunk cost fallacy, and the near-miss effect are exploited through interface design and personalised algorithmic interventions. Accordingly, consumer protection should function as a complementary regulatory framework alongside gambling legislation rather than as its substitute. The Consumer Protection Act, 2019 remains particularly significant because it addresses the fairness of commercial conduct irrespective of whether the underlying economic activity is subject to sector-specific regulation.

Therefore, the enactment of the Promotion and Regulation of Online Gaming Act, 2025 should not be viewed as rendering consumer law redundant. Instead, it highlights the necessity of integrating sector-specific gaming regulation with broader consumer protection principles. While the PROG Act seeks to prevent social and financial harms by prohibiting online money gaming, the Consumer Protection Act, 2019 addresses the manner in which digital platforms interact with consumers. Both statutes should be interpreted harmoniously to ensure that technological innovation, digital governance, and consumer welfare remain mutually reinforcing rather than mutually exclusive.

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