

DSCI Comments on Draft Rules for Online Gaming Intermediaries

DSCI submitted its response to the Online Gaming Rules draft in January 2023. In its submission, DSCI welcomed the MeITY's move to bring regulatory certainty and legitimacy to India's growing online gaming sector. However, need for certain refinements were felt to ensure the regulatory framework is effective, proportionate, and innovation-friendly.

Key Comments & Recommendations

1. Classification of Gaming Platforms As Intermediaries

Concern: Gaming platforms are treated as “intermediaries” under the draft rules. This risks conflating them with entities that merely act as conduits (as per Section 2(1)(w) of the IT Act), despite their active control over game content.

Recommendation: Revisit the classification to prevent interpretational challenges, especially around safe harbour provisions (Section 79, IT Act).

2. Definitions of ‘deposit’ and ‘gaming intermediary’ within the draft rules

The current definition of “deposit” could unintentionally cover in-app purchases or game purchase payments, overextending obligations to low-risk games. The definition of “Online Gaming Intermediary” could include app stores and cloud service providers, imposing disproportionate compliance burdens.

Recommendation: Narrow the scope to cover games with significant financial risk and exclude entities that do not control game content.

3. Scope of Grievance Redressal

Grievance redressal may cover non-material issues (e.g., game lag, friendly fire) or overlap with other regulatory frameworks (e.g., personal data breaches).

Recommendation: Limit grievance scope to matters under the IT Act and these rules.

4. Compliance burden on the SMEs

Obligations to appoint multiple officers (Grievance, Compliance, Nodal) may deter startups and SMEs.

Recommendation: Adopt a graded approach — apply obligations based on size thresholds (e.g., revenue or user base).

5. Personal Liability of Chief Compliance Officer:

Recommendation: Remove personal liability except in cases of malafide intent, to support ease of doing business.

6. Transition Period

The proposed 3-month period is insufficient for implementation of new systems and appointments.

Recommendation: Extend the transition period to allow meaningful compliance.

7. Self-Regulatory Bodies (SRBs)

Current rules on SRB membership and game registration create a circular dependency.

Recommendation: Clarify sequence — SRB membership first, then game registration.

The requirement for conformity with “laws for the time being in force” is impractical due to conflicting State laws.

Recommendation: Provide clarity on applicable legal standards.

8. Notification of Addictive or Harmful Games

The phrase “causing addiction or harm among children” is ambiguous.

Recommendation: Define clear thresholds or parameters to ensure transparency and avoid overbroad application.