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## **India needs a channel for Fantasy League and Online betting**

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### **ABSTRACT**

Pandemic life doesn't get easier or more forgiving we get stronger and more resilient. The world adopted the new normal as maximum of us shifted to the online mode. All the meetings, schools, companies, and everything which is possible to shift online have already shifted. But in the time of pandemic when the whole world is locked in their house and everyone is making themselves busy in online things. Life is all about changes and adaptations of new things. In recent times we have noticed in our society that Fantasy Leagues and online betting had made a great market and raise a good number of consumers.

According to an article in economic times the industry is expected to have recorded a CAGR of 212 % inbetween 2017 to 2019. They also mentioned that a FICCI-EY report says the online gaming segment was worth Rs 6,500 crores in 2019 and would touch RS. 18,700 crores in 2022. Anything that generates such a huge revenue and is contributing to economic growth should be channeled with a proper law in our country, fantasy Leagues and online betting are not regulated with any central law. The concept of fantasy sports has been constantly growing and seen in different areas of sports. In this paper, we will introduce and try to define Fantasy Leagues and Online betting, brief history, and make you understand, its impacts on society as well as on government. We will try to evaluate fantasy sports in respect of game of skill vs chance. We will also discuss the legal overview of the topic in terms of what we have or how fantasy sports currently regulated is and what exactly we need. We will understand what are the problems that are being faced by the sports industry and players how these problems can be resolved and how this area is regulated around the world.

**KEYWORDS-** Pandemic, Online, Changes, Adaptations , Society, Consumers , Fantasy Leagues

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and Online betting

## **India needs a channel for Fantasy League and Online betting**

### **1. INTRODUCTION**

As per the FICCI-EY report, online gaming was worth Rs 6,500 crore in 2019 and is anticipated to touch Rs. 18,700 crores in 2022<sup>3</sup>. The number of participants in online fantasy sports has grown at a compounded annual growth rate of 212 percent, from 2 million users in 2016 to 90 million users in 2019 according to the KPMG report. In 2020 the revenue generated by the OFSP sector was over 16,500 crores. Gaming Industry has taken a massive shift, now it is not just an entertainment industry but is a huge source of earning revenue. With the advent of technology, online gaming came to light and now this has gained popularity in the country. The Online Fantasy sports platforms offer fantasy sports through several players like Dream 11, My Team 11, My 11 Circle, etc. Fantasy sports offer online gaming contests where sports fans can compete with other participants, they can create virtual teams containing counterparts of real-life players. Based on the performance of real-life players in a match, these participants score points and compete with other fan participants. The sector has seen tremendous growth over the past few decades. With the outbreak of the Covid-19 pandemic, the number of internet users has increased, and now the industry will continue to have more users. Covid-19 has open doors for fantasy sports as more people started playing and taking interest in fantasy sports. Technology is evolving and a large number of internet users are creating a huge market for fantasy sports. Its proper regulation and governance would benefit the country. It would contribute to the economic growth and systematically functioning will protect the interest of consumers and other stakeholders in fantasy sports. Fantasy sports will generate new employment opportunities and potentially attract foreign direct investment.

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<sup>3</sup> Venkat Ananth, Fantasy sports in India gaining fast popularity on the back of IPL, THE HINDU, (17 Oct, 2020), <https://economictimes.indiatimes.com/news/sports/fantasy-sports-in-india-gaining-fast-popularity-on-the-back-of-ipl/articleshow/78722078.cms>.

## **2. HISTORY**

Fantasy sports and online sports betting are a major concern. By enabling sports betting to prosper in Indian marketplaces, fantasy sports have managed to go beyond the restrictions. Football isn't the only sport in which fantasy sports leagues exist.

Fantasy sports allows members to construct online teams comprised of real performers from a professional league. Players in fantasy sports compete against one another to see who can put together the best team. Players who are the most successful can get incentives. Players who want to participate in fantasy sports must first choose a website where they can join a fantasy league. After that, they must assemble the entire team according to their preferences. Cricket and football are two popular Indian fantasy sports.

With eight teams, Winkenbach founded the Greater Oakland Professional Pigskin Prognosticators League (GOPPPL) in Oakland in 1962, which was the first known fantasy football league. In 1963, George Blanda was the first player selected in the first round of the draught. In Boston, the first fantasy baseball league was formed in 1960. The "Baseball Seminar" was developed by Harvard University sociologist William Gamson, in which colleagues formed rosters that gained points based on the players' final standings in batting average, RBI, ERA, and victories.

Rotisserie League Baseball, which debuted in 1980, was a significant breakthrough in fantasy sports. Daniel Okrent, a magazine writer/editor, is recognized for developing it, naming it after the New York City restaurant La Rotisserie Francaise, where he and several pals used to gather and play.

## BLIND FOLD LEGAL JOURNAL

Since its inception nearly two decades ago, India's fantasy sports landscape has undergone considerable changes. In 2001, ESPN-Star Sports released the 'Super Selector fantasy game,' which was one of the first fantasy games to gain momentum in the United States. The game's format involves players registering their teams for free, with contests lasting anywhere from a month to a series. Other popular tournaments, such as the English Premier League, UEFA Champions League, ICC events, and the Indian Premier League (IPL), have developed games where fans may manage their teams for specific tournaments. OFSG has seen tremendous growth in India during the last two to three years.

The emergence of several athletic leagues in India over the last few years (e.g., football, kabaddi, badminton, basketball, and volleyball) has boosted the number of fantasy sports options available to users. While the Indian Premier League (IPL) remains India's most popular sporting event, both in terms of sports and fantasy sports, the introduction of these new leagues assures that people can participate in numerous sports throughout the year.

The Unlawful Internet Gambling Enforcement Act of 2006 was enacted to make it illegal to gamble online and to safeguard users. Fantasy sports leagues are particularly exempt from this regulation.

### **3. IMPACT OF FANTASY LEAGUE AND ONLINE BETTING IN OUR SOCIETY AND ITS LEGAL CONSEQUENCES**

Fantasy sports are certainly on the rise as a social phenomenon and a developing enterprise. Fantasy sports have made their way into the collective awareness of a rising mainstream audience, and they seem to be having a good time. From casual matchups between colleagues and coworkers to the more competitive online range of highly engaged professional players, fantasy sport has opened the collective awareness of a developing mainstream audience, and it appears to be enjoying its stay.

Knowledge is important, and this advantage could turn into a negative if used incorrectly. You can lose money if you invest money in a fantasy league without knowing what you're doing. Even fantasy sports experts believe that when you invest a lot of money, your chances of losing money increase.

The stakes have been elevated, and winning is no longer a simple feat. You might lose a lot of money simply by attempting to become wealthy. Your desire for great wins may end up costing you money. The winning margin is not as large as it appears. Even if you win two of three games with the same amount, you will still receive a small amount because fantasy applications deduct a small amount from your entry fee.

#### **LEGAL CONSEQUENCES**

Each state can resolve whether or not to order online betting. And only some Indian states have enacted a law banning online betting. With the exception of a few states, this means that online

betting is allowed in India.

Many Indians are unsure whether or not online betting is permitted in their country. There are numerous land-based and internet casinos functioning in India, with many of them operating both legally and illegally. The majority of online casino websites are licensed and governed in the jurisdictions in which they function. None of India's federal gambling rules, on the other hand, prohibit foreign websites from operating and admitting Indian players.

The Information Technology Act of 2000<sup>4</sup>, which governs India's online activity, excludes the terms "gambling" and "betting." Because the courts have refused to hear the case, it is left to interpretation.

The no bet act makes online gambling illegal in the states of Maharashtra and Bombay. According to a recent report, 40% of Indian internet users like online gambling<sup>5</sup>. Betting on skill games is legal in India, which is why fantasy games are lawful because they are included in skill games. In Indian law, a game of cleverness is distinguished from a game of coincidental.

In the case of gambling, the federal and state governments have different restrictions, yet there are still a lot of ways to make money in India through playing games. But keep in mind that you should only play on a legitimate website that is also safe and secure.

#### **4. LEGAL OVERVIEW**

##### **NATIONAL**

Fantasy sports that are gaining popularity and have been a huge source of revenue generation are often questioned upon its legality. So far there is no separate law that deals with fantasy sports but under the Constitution of India, gambling and betting is recognized.

Public Gambling Act, 1867<sup>6</sup> and state laws

Before the adoption of the Constitution, gambling was regulated by the central law that is Public Gaming Act, 1867. Even today in some states gambling laws are regulated by this Act. After the

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<sup>4</sup> The Information Technology Act of 2000, Act No. 21, Act of Parliament, (India).

<sup>5</sup> Around 54 percent of the Indian internet user base was between 20 and 39 years old according to a survey conducted in 2019. People over the age of 40 formed the lowest share, while youngsters in the age group of 12 to 15 years made up about 14 percent share of the total internet user base.

<sup>6</sup> Public Gambling Act, 1867, Act No. 03, Act of Parliament, (India)

adoption of the constitution, gambling and betting became the state subject under List II, Entry 34 of Schedule VII. Now the states have the power to make laws related to gambling and betting. However, the legitimacy of fantasy sports is depending upon whether it is a game of chance or a game of skill. Games that require some knowledge, expertise are considered a game of skill and are legal in India by state gambling rules. Certain states do not allow this classification of skill vs chance.

- Assam Game and Betting Act, 1970<sup>7</sup> and Orissa (Prevention of) Gaming Act, 1955 – these two states do not permit any game or sport for money or other stakes.
- Telangana gaming act, 1974<sup>8</sup>- it was amended in 2017 and prohibits any money risking on uncertain events including the game of skills and includes such risking of money under wagering or betting.
- Sikkim online gaming(regulation) (amendment) act, 2015 restricts offering the online games and sports games under the licenses issued to physical premises under the said act.

## **INTERNATIONAL**

### ***Fantasy sports in the United States***

In the U.S sports occupies a special cultural role. Fantasy sports legislation in the U.S is subject to federal and state laws. Congress has made attempts to ensure that sports is not influenced by betting to prevent manipulation of the game and protect the athletes they came up with the Professional and Amateur Sports Protection Act (PASPA), 1992 to restrict states from legalizing gambling in sports. Other forms of legalized gambling were not falling under the purview of this Act. So, to counter illegal internet sites the Unlawful Internet Gambling Enforcement Act (UIGEA), 2006 was enacted. However, fantasy sports, trading, insurance, and share trading were exempted from the ambit of bet or wager under UIGEA.

This exemption of fantasy sports under UIGEA raised arguments by the pro-fantasy sport's stakeholders that fantasy sport is not gambling but a game of skill. But the subsequent negative reaction from U.S states proved that the exemption was not intended to shield fantasy sports.

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<sup>7</sup> Assam Game and Betting Act, 1970, Act No. 3, Department of LEGISLATIVE DEPARTMENT, Assam.

<sup>8</sup> Telangana gaming act, 1974, Act No. 27, Telangana state Acts.

Federal and State lawmakers were working to enact legislation to deal with fantasy sports separately. In 2016, New York Governor signed the Interactive Fantasy sports bill, which was intended to license and regulate daily fantasy sports within the state. It had a significant impact and from early 2016 several states have started to introduce and pass new bills regarding fantasy sports.

### ***Fantasy Sports in the United Kingdom***

In the UK, fantasy sports are regulated by the UK Gambling Commission. Fantasy football league if their activities fall within the definition of betting under the Gambling Act 2005 then must have a license to operate lawfully from the commission. The commercial license is granted based on the following questions:

- a. Does it look like commercial gambling?
- b. Is it for earning a profit?
- c. Is there any deduction for running costs?
- d. Is the participation beyond the genuine circle of friends and relations?
- e. Is advertising done to obtain PARTICIPANTS?
- f. Is the size of the league beyond the normal size for a private league?
- g. What is the level of activity required in running the league?
- h. Are there any wider revenue sources?

The UK Gambling Act 2005, regulates gambling in the United Kingdom and ensures fair and open conduct with the object of protecting the children and vulnerable people that are being affected by gambling.

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### **5. SKILLS VS CHANCE**

The game of chance is based purely on unpredictable factors like luck which is quite uncertain. It is difficult to predict the outcome. They are considered gambling because they involve uncertainty and mere prediction without any prior knowledge or data. Game of Skills is like an investment with experience, knowledge, the devotion of time, expertise. When people invest their time in understanding the prior outcomes, analyzing the records, using statics and calculative reasoning they decide to take decisions to choose a player or form a team such games are called the game of



skill and do not falls under the ambit of gambling. There might be an element of chance in every game but the dominance of skill over chance makes it a game of skill. Game of skill is allowed. And as the game of skills are not defined anywhere time and again courts have come up with the distinction between the game of chance and game of skill.

***RMD Chamarbaugwala vs Union of India (1957)***<sup>9</sup>

In this case, the Supreme court held that if a game involves a certain level of skill, then it cannot be considered gambling. In determining whether a game involves skill or chance, the “predominance of skill” test is adopted by the courts. In this test, it is ascertained that whether a particular game involves a substantial degree of skill or not. Though the element of chance may be present but skill should be a dominant factor.

***State of Andhra Pradesh v. K Satyanarayana (1968)***<sup>10</sup>

In deciding whether the game of rummy is a game of mere skill or mere chance. The Supreme court held that rummy is not entirely a game of chance and there is a considerable amount of skill required in it. Also, it allowed the establishment to collect a small fee for maintaining and running the games of skill.

***K.R Lakshmanan vs the state of Tamil Nadu***<sup>11</sup>

Horse racing was excluded from gambling and it was held that it is a game of skill. Horse racing does not merely dependent on accident or chance but several other factors like training of the horse, training given to the rider, the pedigree of the animal, etc.

***Gurdeep Singh Sachar v. Union of India***<sup>12</sup>.

The Bombay high court discussed the scope of services offered by Dream11 in light of the Central goods and services tax act, 2017. The money pooled in the dream11 escrow account would be deemed as an ‘actionable claim’ under Entry 6 of Schedule III referred to in Section 7(2). It was observed by the court that Dream11 fantasy sports is a game of skill as success depends upon the participant’s skill based on superior knowledge, judgment, and attention. Thus, it is outside the purview of betting, gambling, or lottery.

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<sup>9</sup> RMD Chamarbaugwala vs Union of India ,1957 AIR 699.

<sup>10</sup> State of Andhra Pradesh v. K Satyanarayana, 1968 SCR (2) 387.

<sup>11</sup> K.R Lakshmanan vs the state of Tamil Nadu ,1996 SCC (2) 226.

<sup>12</sup> Gurdeep Singh Sachar v. Union of India SLP (crl.) Dairy no. 42282 of 2019

Fantasy sports are not the game of chance but the game of skill where the team is formed based on the knowledge and experience of the participant and the outcome is not influenced by any selection made by the participant but on the performance of the real-life players. Therefore, they are not falling under the ambit of gambling and betting.

## **6. NEED FOR REGULATION**

Fantasy sports have grown rapidly in the last few decades and have the potential to contribute enormously to the economic growth of the country. Also, a large number of people are involved in fantasy sports proper regulation will be beneficial for the country. The advent of the digital platform makes fantasy sports a borderless sport that cannot be regulated by a state law that can be applied within its territorial limits. But there is a need for central law that can be uniformly applied to people in any state.

- The regulation of fantasy sports is necessary to ensure Transparency in terms and conditions for the users.
- To protect the interest of participants it is essential to have regulation.
- Currently, there is no specific authority against whom actions could be taken in case of any dispute arises between the parties. It is important to make the authorities Accountable for any problem arising out in such fantasy games which affect not only individuals but also people at large.
- The emergence of online platforms offering fantasy sports without any proper regulation is causing problems especially with children who are minors. Therefore, proper regulation and safeguards are important to see and ensure it is not been misused.
- It will reduce corruption.
- Fantasy sports have a great potential to boost the economy of the country, but due to no proper regulation, it faces challenges upon legality. Therefore, regulating it with proper laws will assist in its contribution to economic growth at a much faster rate than it has been in the last few years.
- Regulating fantasy sports will curb the generation of black money.

## 7. CONCLUSION

The rapid acceptance of fantasy cricket in a country with vast income disparities and low internet literacy can have unintended consequences for many. The Indian courts have decided overwhelmingly in favour of fantasy cricket, describing it as a game of talent rather than chance. State governments, on the other hand, have taken action against fantasy cricket platforms. Academic research is ambiguous, despite a thorough evaluation of the literature on the subject concluding that the majority (68 percent) of research treats fantasy sports as an element of consumer behaviour.

According to several studies, fantasy sports are not gambling because there is no element of chance in determining success. Some sports psychologists, on the other hand, believe that fantasy sports are similar to gambling and can contribute to the development of pathological gambling behaviour.

The outcome of the research is that outright prohibition in an age of decentralised and encrypted communication will just drive platforms to the dark web. A well-considered and comprehensive regulatory structure is required. Allowing the industry to self-regulate means allowing the platforms to create the terms of the game in which they will be the only winners.

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