

## ERGO

*Analysing developments impacting business*

### MIB RAISES THE STAKES: PROHIBITS ADVERTISING FOR ONLINE BETTING PLATFORMS

17 June 2022

The Ministry of Information and Broadcasting (MIB) issued an advisory on 13 June 2022 to print media, private satellite television channels, and digital media to refrain from advertising online betting platforms / websites (Advisory).

#### **Background**

In December 2020, the MIB had issued an advisory to all private satellite TV channels to comply with the Guidelines on Online Gaming issued by the Advertising Standards Council of India (ASCI Online Gaming Guidelines). The ASCI Online Gaming Guidelines were issued in the backdrop of increased frequency of advertisements on television promoting online gaming, and fantasy sports and inadequate disclaimers warning consumers about the risks associated therewith.

The ASCI Online Gaming Guidelines set out the following guidelines:

- **Age Restriction:** The advertisements should not depict a person under the age of 18 (eighteen), or any person who appears to be under the age of 18 (eighteen) playing online games for real money winnings or suggest that such persons can play these games.
- **Disclaimer:** Every online gaming advertisement should carry the disclaimer that *"This game involves an element of financial risk and may be addictive. Please play responsibly and at your own risk."* in accordance with the following specifications:
  - **Print / Static Disclaimer:** The disclaimer should: (a) occupy at least 20% of the space in the advertisement; (b) be in the same language as the advertisement; (c) be in the same font as the advertisement or a sans serif font and not in italics; (d) be along the direction of the majority of the copy, except in case of small packs (e.g., *packaging less than 25 ml/grams*); and (e) be in a colour that contrasts with the background and not in a way that it keeps fading in and out of vision, to ensure legibility and readability.
  - **Audio / Video Disclaimer:** The disclaimer should be placed at the end of the advertisement in a normal speaking pace and be in the same language as the advertisement. In case of audio-visual mediums, the disclaimer should be in both audio and visual formats.

- No depiction as income opportunity: The advertisement should not present 'online gaming for real money winnings' as an income opportunity / alternative employment option or suggest that a person engaged in gaming activities is more successful than others.

## Advisory

Going one step further from the ASCI Online Gaming Guidelines, the Advisory completely prohibits advertising of online betting platforms in India. Print, electronic, online, and social media, including online advertisement intermediaries and publishers are now restricted from publishing, displaying, or targeting Indian audience with such advertisements.

The MIB notes in the Advisory that betting and gambling are illegal in most parts of the country and advertisements of online betting platforms are therefore promoting a largely illegal activity that poses significant financial and socio-economic risks for consumers, particularly youth and children. The Advisory comes in the aftermath of advertisements of online betting platforms that were telecasted during the streaming of the India-Australia ODI Series in 2020 and the UEFA European Football Championship in 2021.

The MIB observed that advertisements of online betting platforms currently seem to be misleading and do not appear to be in conformity with the Consumer Protection Act, 2019, the Advertising Code under the Cable Television Networks (Regulation) Act, 1995, and advertising norms under the Norms of Journalistic Conduct issued under the Press Council Act, 1978, which generally provide that advertisements should not be misleading and should not give a false guarantee about the nature, substance or quality of a product / service, should not deliberately conceal important information and should not advertise products / services which are prohibited by law.

## Comments

While the Advisory makes a reference to the ASCI Online Gaming Guidelines issued in December 2020 in relation to advertisements of online gaming platforms, the prohibition under the Advisory extends only to online betting and gambling platforms and not online gaming. As such, online games of skill and fantasy sports, the legality of which is determined under state specific laws, will not fall within the ambit of the ban.

Further, the Advisory is addressed to newspapers registered under the Press and Registration of Books Act, 1867, private satellite television channels, and publishers of news and current affairs content on digital media. It also makes references to online and social media, including online advertisement intermediaries and publishers to not display advertisements in relation to online betting platforms.

While the Advisory is not specifically addressed to publishers of online curated content, in our view, it is unlikely that MIB's intent would be to exclude publishers of online curated content from the scope of the Advisory. As such, publishers of online curated content may consider complying with the Advisory until further clarifications from the MIB.

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