

## ERGO

*Analysing developments impacting business*

### HIGH STAKES ALERT: MIB ADVISORY ON BETTING AND GAMBLING ADVERTISEMENTS

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#### **Background**

The Ministry of Information and Broadcasting (MIB) issued an advisory dated 21 March 2024 to endorsers and influencers on social media, social media intermediaries and online advertisement intermediaries regarding surrogate advertisements of offshore online betting and gambling platforms (Advisory).

The issuance of the Advisory follows a previous advisory issued by the Central Consumer Protection Authority (CCPA) dated 6 March 2024 which cautioned against the direct and surrogate advertisements of gambling and betting activities (CCPA Advisory).

#### **Key points from the Advisory:**

- The Advisory states that MIB is empowered to issue notifications to intermediaries to remove access to illegal content including advertisements of betting and gambling platforms that operate from outside of India, published on such intermediary platforms and intermediaries should comply with such notifications to continue availing the safe harbour under Section 79 of the Information Technology Act 2000.
- **The Advisory requires:**
  - online advertising platforms not to direct advertisements of betting and gambling to audiences in India.
  - social media intermediaries to make efforts to create awareness amongst endorsers and influencers to refrain from publishing endorsements or promotional content of gambling or betting activities.
  - endorsers and influencers not to promote offshore online betting platforms, directly or through surrogate advertising.
- **Consequences of non-compliance:**

Non-compliance with the responsibilities stated in the Advisory by intermediaries or endorsers and influencers on social media as may be applicable, may attract regulatory and penal consequences under applicable laws, such as actions under the provisions of the Consumer Protection Act 2019 and removal / disabling of social media posts or accounts on which such advertisement or endorsement of online

betting and gambling platforms is published, in addition to penal action under applicable laws.

## COMMENTS

The Advisory and CCPA Advisory have been issued ahead of the Indian Premier League and T20 Cricket World Cup tournaments, amidst a concerning increase in instances of direct and surrogate advertisement and endorsement of offshore online gambling and betting platforms, whose activities are deemed unlawful across most states in India. The Advisory is the latest one from a series of advisories issued by the MIB cautioning various print, television, digital media entities and online advertisement intermediaries against publishing advertisements of betting and gambling platforms targeting Indian audiences. The Advisory has also been copied to the Ministry of Consumer Affairs, Ministry of Electronics and Information Technology and Advertising Standards Council of India in an effort to collaborate and ensure enforcement of the prescribed restrictions across all mediums of advertising.

- *Tanu Banerjee (Partner); Ishan Johri (Principal Associate); Heema Shirvaikar (Senior Associate) and Sankalp Jain (Associate)*

For any queries please contact: [editors@khaitanco.com](mailto:editors@khaitanco.com)