

# Indian fantasy sports industry can surmount recent legal hurdles, say experts

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**IPL driving growth in Indian fantasy sports sector**

**Users predicted to hit 100m this year**

**Sector continues to face legal challenges**

**T**he burgeoning fantasy sports industry in India is facing challenges around its legal status, but local legal experts say they believe it can overcome the hurdles.

Fantasy sports platforms in India have grown rapidly in recent years. A report by the Federation of Indian Fantasy Sports said the userbase of online fantasy platforms in India is expected to pass the 100 million mark by the end of 2020. According to KPMG, industry revenue in the country is already \$43.8bn (€36.9bn) and is projected to reach \$118.8bn by 2023.

Indian fantasy sports platforms have attracted heavyweight investors like Sequoia India and Chinese technology conglomerate Tencent, while a number of high-profile Indian sports stars endorse them or work with them as brand ambassadors.

This growth has caught the attention of critics and legislators who see the sector as back-door promotion of betting and gambling. What has concerned them are the cash prizes offered by several of the platforms. These operators require users to make a payment when they register and pay out cash prizes to winners of competitions.

## Old law, new game

The rapid expansion of fantasy sports in India has been powered by the lack of legal sports betting and the grey area that exists regarding the

applicability of anti-gambling legislation to online platforms running “games of skill”.

Gambling in India is governed by various pieces of state and federal legislation and is largely prohibited. One of the central pieces of federal legislation, the Public Gambling Act of 1867, forbids the operation of gambling houses, visiting a gambling house, or being in possession of a gambling device.

However, the act exempts games of skill, where the skill and knowledge of the player can influence the outcome of the game. This compares to games of chance, where the results are chiefly determined by luck, and which are prohibited.



*(Photo by Robert Cianflone/Getty Images)*

Following a state high court decision in 2017 that fantasy sports platforms were running games of skill, fantasy sports operators have continued to grow their platforms.

Ranjana Adhikari, who heads the media entertainment and gaming practice groups at law firm Nishith Desai Associates, says that, for now,

fantasy sports is a different concept from sports betting in Indian law.

"I'm sure different people have different views on whether the market for sports betting and fantasy sports is common or separate," she tells

*SportBusiness.*

"If the Supreme Court decides in favour of sports betting being a game of skill, it would be very interesting to see how things play out."

In December 2019, a two-judge bench of the Indian Supreme Court upheld an order of the Bombay High Court that leading fantasy sports operator Dream11 was running a game of skill.

But the decision was challenged by a three-judge Supreme Court bench in April this year and is pending a ruling on the issue again. There have been other legal challenges too.

In September, Dream11, the biggest fantasy sports operator in India, stopped allowing residents of the state of Andhra Pradesh to play its games, after a change in state gambling laws. The state decided to ban even games of skill which were previously permitted, including rummy and poker, along with fantasy sports.

Perni Venkataramaiah, Andhra Pradesh Minister for Information and Public Relations, says: "Nowadays, online gambling has become misleading and is harming the youth so we have decided to ban all such online gambling."

Players and operators of online gaming platforms could be sentenced to prison for breaking the new laws.

Dream11 also does not permit players from the states of Assam, Odisha, Telangana, Nagaland and Sikkim, [where it says regulations “are unclear on \[whether\] games of skills may be played for a fee”](#).

## “No clampdown”

However, India-based legal professionals that *SportBusiness* spoke to in recent weeks broadly agreed that the industry would continue to stave off the legal threats, although they would continue to cause jitters for fantasy sports operators.

Adhikari says: “While there are multiple public interest litigations pending in different courts and at different stages, so far none of them have had the effect of clamping down on fantasy sports in any state. However, presumably these public interest litigations must be leading to some amount of instability in decision-making for the fantasy sports operators and their investors.”

Jasneet Kaur, an independent legal practitioner, says: “It would not be correct to term the recent events as a ‘clampdown’, considering how large the online gaming industry has become in India over last couple of years.”

She adds: “We need to remember that gaming under the gambling laws is a state subject in India, and hence there are bound to be differences in the manner and form of regulation from one state to another...

Accordingly, any challenge to online gaming platforms arising out of a particular state before the respective High Court may also result in a difference of opinion and ruling, depending upon the prevailing laws.”



*(Photo by Mike Hewitt/Getty Images)*

Adhikari notes that, while there are public interest litigations pending against fantasy sports platforms: “Solely on the basis of that I don’t think it would be right to say that there is a momentum of any kind building against the industry.” Public interest litigations are legal cases that can be launched in Indian courts on matters that are deemed to be in the public interest.

Further, she points out that a move in the other direction, towards the legalisation and regulation of the entire betting and gaming industry in India, is a possibility. Such a move was recommended by the Law Commission of India in 2018.

Were this to happen, it could actually be a major challenge for fantasy sports, says Vidushpat Singhania, managing partner at Krida Legal.

“If sports betting is legalised it is correct that a lot of revenue will be lost from fantasy sports games...Fantasy sport providers will have to shift towards utilising their real money gamer database to pivot to sport betting operations, while free and small gaming on fantasy will still continue for the purposes of fan engagement.”.

## Maturing industry

In 2017, fantasy sports operators established the self-regulatory body the Federation of Indian Fantasy Sports to protect consumer interest and create standardised best practices for the industry. The body has a created charter which outlines a framework within which the industry must function.

The July 2020 report *The Business of Fantasy Sports*, from KPMG and the FIFS, estimated the number of fantasy sports platforms in India in 2019 to be 140, with the top four or five players accounting for 95 per cent of market share.

Increasing competition, high customer acquisition costs and the disruption caused by Covid-19 are likely to lead to some market consolidation in the short to medium term, the report said.

Dream11, which was established in 2008, is the largest and most popular platform, with MyTeam11 and My11Circle the second and third most popular, followed by Halaplay.

Mumbai-based Dream11 has commercial links with several major sports rights-holders. It is the official fantasy cricket platform partner for the International Cricket Council, a designation it also holds with the IPL. In August, Dream11 was awarded the title sponsorship rights to the Indian Premier League 2020 season after Chinese mobile phone brand Vivo postponed its sponsorship of the title role for a year because of political tensions between China and India.

*SportBusiness* reported recently that, following its latest round of fund-raising, [the firm's valuation could break the \\$2.5bn \(€2.1bn\) mark.](#)

Fantasy sports has become a large and important sub-sector of the Indian sports industry. There are many stakeholders that now rely on a continued favourable legal regime for it, and will be watching the related legal action closely.